



July 24, 2007

Honorable Kevin J. Martin
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Re: Ex Parte Presentation
WT Docket Nos. 06-150, 06-169, 96-86, 05-265 and 00-139
PS Docket No. 06-229

Dear Chairman Martin:

We and numerous commenters have described important contributions which local, rural and regional providers have made over several decades in providing wireless services in rural and underserved areas and in providing a competitive alternative to the diminishing number of national providers. The Commission should recognize these achievements and adopt a band plan for 700 MHz spectrum which affords companies of all sizes a realistic chance to compete for this unique spectrum. This will enable such companies to enter new markets, to expand coverage in existing markets, and to deploy advanced services. We believe this important objective can be achieved by altering your proposed band plan to create an additional bidding opportunity for smaller bidders, while preserving incentives for Open Access and making possible public-private partnership arrangements which the Public Safety community supports.

Trade press descriptions of your proposed band plan for the Upper band indicate that the plan proposes two license blocks, a 22 MHz REAG block which collectively can be reasonably expected to command a winning bid in excess of \$4.6 billion and a 10 MHz public-private partnership nationwide block. Both blocks are well beyond the financial capabilities and operational needs of smaller bidders and will most likely be won by national carriers implementing nationwide business plans.

The bidding opportunities of smaller bidders for EA and CMA licenses are diminished under your plan because there are only two such license blocks. It is possible, even likely, that large bidders with deep pockets will be able to bid successfully for one or both of these Lower band licenses and completely shut out smaller bidders.

This access problem can, however, be solved if the 700 MHz band plan is modified to add one block in the Upper band which is smaller than REAGs. With three smaller than REAG bidding opportunities in each market area (combining the Lower and Upper bands), a single large bidder would face a significantly greater challenge to win all three such licenses and even where multiple large bidders are involved the odds of a smaller bidder winning at least one license are dramatically increased.

Specifically, the Commission should adopt its Lower band proposal for EAs in the A Block and CMAs in the B Block and should adopt an Upper band plan which provides at least one additional EA or CMA bidding opportunity. We propose that this Upper band EA/CMA block be created by modifying your proposed plan by splitting the 22 MHz REAG block into two license blocks, one 12 MHz REAG block (subject to an Open Access condition and to package bidding) and one 10 MHz EA or CMA block (not subject to an Open Access condition and not subject to package bidding). If the Commission intends to propose a winning bid reserve amount for the 12 MHz REAG block, we would suggest \$2.5 billion.

We are aware that Google and the Coalition for 4G in America ("Coalition") have argued that 22 MHz is needed to implement Open Access. While we don't disagree that deployment of Open Access (including a "wholesale to requesting resellers" feature) could be a valuable experiment in some of the spectrum to be auctioned we also believe that committing 22 MHz of valuable spectrum to implement Open Access commitments is neither necessary nor good public policy if it means that the needs of smaller bidders must be sacrificed.

A bidder interested in deploying a network which supports Open Access should be able to do so with a 12 MHz block which could be a nationwide platform if package bidding on this block were used. In those individual markets where more spectrum capacity might be needed, the opportunity exists to aggregate contiguous spectrum, as with the Guard Band A block or with the 10 MHz EA or CMA block as proposed here. In the case of aggregation with the EA or CMA block, the combined total of contiguous spectrum would be 22 MHz, the same as that proposed by Google and the Coalition. See our attached proposed Upper band spectrum plan.

We reaffirm that our proposal is not intended to alter in any way the Upper band plan as relates to the public-private partnership nationwide block adjacent to designated Public Safety spectrum. We support the Commission's efforts to use this block to help provide a robust, suitable and comprehensive solution to meet the urgent interoperability needs of the Public Safety community.

Finally we welcome the opportunity to answer any questions you might have concerning any aspect of these proposals.

Respectfully submitted,



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Chairman, United States Cellular
President and CEO Telephone & Data Systems, Inc.

Proposed Revision to Band Plan 3.1

