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## *Via Electronic Filing*

Chairman Kevin J. Martin  
Commissioner Michael J. Copps  
Commissioner Deborah T. Tate  
Commissioner Jonathan S. Adelstein  
Commissioner Robert M. McDowell

**Re: WT Docket No. 06-150; CC Docket No. 94-102; WT Docket No. 01-309;  
WT Docket No. 03-264; WT Docket No. 06-169; PS Docket No. 06-229;  
WT Docket No. 96-86**

On behalf of Barat Wireless, L.P. (“Barat”) and Carroll Wireless, L.P. (“Carroll”), we right to reiterate the importance of having an auction design that is fair to small bidders and compliant with the Telecom Act.

When Congress authorized the FCC to conduct spectrum auctions more than a decade ago, it specifically provided that the authority to do so was dependent upon giving small businesses a right to participate in a meaningful way. Judging from numerous published accounts of the draft item circulating regarding the upcoming 700 MHz item, that auction will pay only lip service to small carriers. Whereas, the reported provisions may well pass judicial scrutiny, they will neither serve the public interest nor comply with the intent of Congress in enacting auction legislation.

While the reported proposed band plans do provide some small markets, they are slanted towards larger markets. That is a good thing for large bidders, who will face much less competition for the markets than would otherwise be the case. It is bad in every other way. With less competition, there is less likelihood of new entry, and projected revenues will be lower than otherwise would be the case. Only a handful of applicants will have the financial resources to even bid for large markets. It is also unnecessary in that history is replete with examples of carriers assembling large (even nationwide) market licenses by accumulating multiple small markets. (Witness the success of Spectrum Co and Aloha Partners in prior, recent auctions.)

Unfortunately, an emphasis on larger markets brings other problems as well. History shows us that large market licensees do not service rural areas, electing instead to focus on the more rewarding more populous areas. Indeed, the submissions to the Commission made by large market PCS carriers at the time of initial license expiration show that, on average, after ten years of licensing they left unserved 20% of the population, even accepting the carriers very liberal interpretation of what constitute "coverage". In reality, they left unserved far more than 20% of

the population, and far more than that amount of the geographical coverage. Small markets alleviate that issue, without having to mandate anything, simply by virtue of every area in a small market being important to the carrier.

Other aspects of the decision reportedly being circulated serve to further exacerbate the plight of small companies. "Blind bidding" disadvantages small carriers far more than larger ones. This is because they need the added "barometer" of knowing who values various licenses in order to obtain needed lender support as prices rise during the course of an auction. The added cost of blind bidding to small carriers is particularly disappointing given that there is no demonstrated need for such revisions to the rules, and recent auctions have worked fine without it.

Combinatorial bidding, even if limited to select markets, further disserves small bidders. It also raises untested issues regarding eligibility and purchase obligations. Whereas, there may be mechanisms that the Commission can use to ameliorate these concerns, they are neither tried nor proven in large auction contexts. Indeed, when applied in the Air Ground auction of last year, they proved unavailing, with the result being a forced halt to the auction. The upcoming 700 MHz auction is too important to use as a test bed for those techniques. And to be clear, if there are problems associated with combinatorial bidding, in all likelihood they will cascade into other markets and thereby infiltrate much of the overall 1 auction.

In view of the above, Barat and Carroll urge the Commission to (1) cut into two the reportedly proposed 22 MHz block for the Upper Band, and make one available for smaller markets without any obligation for open access; (2) abandon combinatorial bidding; and (3) not utilize blind bidding in the 700 MHz auction. These actions will make the upcoming 700 MHz auction less uninviting to small applicants; and thereby further both Congress' intent and the public interest.

Respectfully Submitted,

BARAT WIRELESS, L.P. &  
CARROLL WIRELESS, L.P.

/s/ Thomas Gutierrez

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