

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
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)

Auction of AWS-1 and Broadband PCS Licenses)
Scheduled for July 29, 2008)
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_____)

AU Docket No. 08-46

COMMENTS OF METROPCS COMMUNICATIONS, INC.

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Summary

MetroPCS Communications, Inc. (“MetroPCS”) respectfully submits its Comments on the proposed procedures for the upcoming auction of Advanced Wireless Services (“AWS”) and broadband Personal Communications Services (“PCS”) licenses in FCC Auction 78 (“Auction 78”).

In order to foster a competitive auction, create a more level playing field for all potential bidders, and limit the amount of disruption caused by the anti-collusion rule, MetroPCS recommends that the Wireless Telecommunications Bureau:

- remove all closed license set-asides;
- create a safe harbor from the confidentiality and anti-collusion rules for auction participants who make good-faith disclosures required by the SEC and remove the post-auction anti-collusion prohibitions following release of a Public Notice announcing the winning bidders;
- postpone the auction start date into Fall 2008;
- begin the auction by allowing bidders to utilize eight additional bid amounts;
- allow bidders to withdraw an unlimited number of bids in a single round or up to three bids placed in more than one round; and
- otherwise adopt the simultaneous multiple-round (SMR) auction format as proposed.

The public interest justifications for these proposed changes to the auction procedures are set forth in detail within.

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MetroPCS Communications, Inc. (“MetroPCS”),¹ by its attorneys, hereby respectfully submits its comments on the *Public Notice*, DA 08-767, released April 4, 2008 (the “*Notice*”)² in which the Wireless Telecommunications Bureau (the “Bureau”) of the Federal Communications Commission (the “FCC” or the “Commission”) seeks input on the procedures to be used in the upcoming Auction 78 for licenses in the Advanced Wireless Services (“AWS”) 1710-1755 MHz and 2110-2155 MHz bands (“AWS-1”) and the broadband Personal Communications Services (“PCS”). In response to the *Notice*, the following is respectfully shown:

¹ For purposes of these Comments, the term “MetroPCS” refers to the parent company, MetroPCS Communications, Inc., and all of its FCC-licensed subsidiaries.

² *Auction of AWS-1 and Broadband PCS Licenses Scheduled for July 29, 2008; Comment Sought on Competitive Bidding Procedures for Auction 78*, AU Docket No. 08-46, Public Notice, DA 08-767 (rel. April 4, 2008).

I. INTRODUCTION

MetroPCS has been a successful bidder in all of the recent auctions of broadband wireless spectrum,³ and an active participant in the proceedings in which the competitive bidding procedures for the auctions have been established. Further, the principals of MetroPCS have been involved in a number of other auctions including the first auction ever conducted by the Commission. In light of this significant experience, MetroPCS has a substantial basis for informed comment in this proceeding. And, as a current holder of both AWS-1 and broadband PCS licenses, MetroPCS has an interest in certain of the licenses to be offered in Auction 78.

II. OVERVIEW

In many respects, the proposed competitive bidding procedures for Auction 78 are patterned after the simultaneous multi-round auction procedures that have evolved over time for the assignment of broadband wireless licenses. As an active participant in these auctions, MetroPCS generally commends the Commission for sticking to an approach that has proved to work quite efficiently and smoothly, and MetroPCS generally supports the approach the Commission is taking for Auction 78. In many instances, MetroPCS is not commenting on particular auction procedures because MetroPCS agrees with the Commission's conclusions, the auction procedures have become well settled over time, or there is no reason to take or consider taking a different approach for the AWS and PCS spectrum to be auctioned in Auction 78. Instead, MetroPCS focuses these comments mainly on a handful of auction procedures which merit closer consideration, either because particular aspects of the licenses being offered in

³ For example, MetroPCS was the fourth largest bidder in the AWS-1 Auction (FCC Auction 66), with winning bids totaling approximately \$1.4 billion. MetroPCS was one of the top 14 bidders in the recently concluded 700 MHz Auction (FCC Auction 73) with a winning bid totaling approximately \$313 million.

Auction 78 require a different approach, or because lessons learned in prior auctions, including the recently concluded Auction 73, should be applied in this auction.

III. ALL CLOSED LICENSE SET-ASIDES SHOULD BE REMOVED

Auction 78 includes, *inter alia*, 20 PCS licenses, some of which are located in the C and F spectrum blocks.⁴ The FCC rules originally designated certain of these C and F block PCS licenses to be subject to an eligibility restriction making them available only to “entrepreneurs” in “closed” bidding.⁵ For Auction 78, the Commission wisely has decided not to maintain this eligibility restriction for those closed licenses that were offered but went unacquired in any auction beginning on or after March 23, 1999.⁶ Such licenses instead will be offered in open bidding, along with C5 block licenses and all D, E, and F block licenses.⁷ Bidding credits for applicants that qualify as small or very small businesses will be available for C and F block licenses subject to open bidding.⁸

MetroPCS strongly supports this approach. The Commission has fulfilled its statutory obligation under Section 309(j)(3)(B) of the Communications Act of 1934, as amended (the “Act”),⁹ to seek to foster the participation of designated entities in the provision of spectrum-based services by offering these licenses on a “closed” basis before. With the licenses having gone unsold in prior auctions, and with the economy being under even more stress now than before, there is a serious risk that they would go unsold again if the sale of these licenses were

⁴ Notice at para. 5 and Attachment A.

⁵ Specifically, C1, C2, C3, and C4 block licenses in Tier 2 markets are generally available only to entrepreneurs at auction in closed bidding. See 47 C.F.R. § 24.709.

⁶ See 47 C.F.R. § 24.709(a)(4)(ii); see also Notice at para. 7.

⁷ Notice at para. 7.

⁸ See 47 C.F.R. § 24.712, 24.717; see also Notice at para. 7.

⁹ See 47 U.S.C. § 309(j)(3)(B).

restricted solely to entrepreneurs. The better course is to open up eligibility, but to continue to encourage designated entity (“DE”) participation by making bidding credits available. This approach will increase the prospect that the licenses will be put to beneficial public uses.

Indeed, MetroPCS submits that the Commission has not gone far enough in revisiting the closed license designation. In the *Notice*, the Commission plans to maintain the closed designation for four C1 block licenses that were acquired by entrepreneurs in Auction No. 35 but went unconstructed during the build out period.¹⁰ In addition, the Commission plans to maintain the “closed” license designation for two C3 block licenses that have not previously been offered in a closed auction conducted after March 23, 1999.¹¹ These plans are based upon the prior Commission determinations in the *C/F Block Sixth Report and Order*.¹²

MetroPCS respectfully submits that circumstances have changed dramatically since 2000, and the Commission should reconsider its prior closed license retention policy for multiple reasons. First, economic conditions are such that the Commission can have no reasonable expectation that closed licenses that went unconstructed before by entrepreneurs will be acquired and placed in service today. Second, Auction 78 will be more efficient and robust if licenses are made more fungible. Third, eligibility restrictions tend to skew auction results and interfere with the efficient assignment of licenses. For example, the price for closed licenses may not be comparable to the price for open licenses not because of market factors but rather because of artificial government imposed restraints on participation. Fourth, the Commission in 2006 changed the rules with respect to DE participation in auctions by substantially reworking the DE

¹⁰ See *Notice* at note 14. The markets are BTA208, BTA333, BTA388 and BTA453.

¹¹ See *Notice* at note 15. The markets are BTA205 and BTA406.

¹² Amendment of the Commission’s Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, *Sixth Report and Order and Order on Reconsideration*, 14 FCC Rcd 16,266 (2000).

rules. The DE rules now contemplate considerably longer (10 year) holding periods and other safeguards that did not exist when the PCS spectrum was originally set aside for entrepreneurs. Comparable safeguards have not been incorporated into the closed license process, which enables an entrepreneur to acquire and flip a closed license within 5 years without penalty.¹³ Fifth, having more open licenses will create additional licensing opportunities for mid-tier wireless carriers who, frankly, got largely shut out in the 700 MHz auction due to the spectrum appetites of Verizon Wireless and AT&T Wireless.¹⁴ Mid-tier carriers, such as MetroPCS, Alltel, Leap and U.S. Cellular, have had a very positive pro-competitive impact on the wireless market, and the Commission should focus its efforts on creating increased opportunities for them. MetroPCS, however, does not suggest DEs have no place in this auction or bidding on this spectrum. Rather, it is MetroPCS' position that recent auctions have shown bidding credits to be a sufficient mechanism to create meaningful opportunities for DEs. In the meantime, by providing bidding credits to DEs on all formerly closed licenses, the Commission can continue to foster DE participation in the wireless business.

In sum, MetroPCS submits that the unique nature of this Auction 78 merits the designation of all licenses as "open," while continuing to allow small and very small business bidding credits for the C and F block licenses subject to such open bidding. These licenses are the "bits and pieces" left over from prior auctions, were not constructed by DEs who acquired them, and the public interest will be served by allowing all interested parties to bid on them and to have an opportunity to supplement and expand discreet service areas in a precise manner. The

¹³ Compare 47 C.F.R. § 1.2111(b)(2) (5 year unjust enrichment period for set aside licenses) with § 1.2111(d)(2) (10 year bidding credit unjust enrichment payback period).

¹⁴ See Statement of Commissioner Robert M. McDowell, Federal Communications Commission, Before the Subcommittee on Telecommunications and the Internet, Committee on Energy and Commerce, United States House of Representatives, dated April 15, 2008.

fact that economic forces in a particular market have rendered it impossible for an entrepreneur to maintain the license and use it in a viable business is persuasive evidence that such market may pose particularly challenging barriers to entry. Further, Section 309(j) of the Act does not require the Commission to establish two distinct classes of licenses - - those which will always go to DEs and others not. The Commission should take this opportunity to eliminate the historical distinctions and auction those without restriction.

The Commission repeatedly has espoused the public policy goal of placing licenses in the hands of those who will use them most efficiently and to the benefit of the public. The fact that a license has been returned to the Commission due to termination or cancellation provides just as compelling support for altering the closed license status viability as does the fact that a license went unsold in an auction. In situations like this where the licenses have already been "tested" in the marketplace, the Commission should let market forces determine the person who will place the highest value and put the license to the best use by allowing all parties to compete. Entrepreneurs should still receive the benefit of bidding credits so that the playing field remains level, but other parties should be invited to bid on the licenses as well. MetroPCS has always favored auctioning licenses as fungible resources and letting the market determine their relative values. Subjecting different licenses to different restrictions creates anomalies, just as occurred in the C block of Auction 73. The Commission should learn from these past experiences and open all licenses to all bidders. If the Commission concludes that it needs to initiate a prompt notice and comment rulemaking proceeding to make this change, it should do so.

IV. AUCTION DESIGN

The Bureau seeks comment on the details of its proposal for implementation of anonymous bidding in Auction 78.¹⁵ Specifically, the Bureau proposes that “the amount of every bid placed and whether a bid was withdrawn would be disclosed after the close of every round...”¹⁶ However, the Bureau proposes withholding, until after the close of all bidding, the public release of “(1) bidders’ license selections on their short-form applications (FCC Form 175), (2) the amounts of bidders’ upfront payments and bidding eligibility, and (3) information that may reveal the identities of bidders placing bids and taking other bidding-related actions.”¹⁷ In taking this approach, the Commission is planning to perpetuate the anonymous bidding approach employed in Auction 73. However, based upon its day-to-day involvement in Auction 73, and the now-known results, MetroPCS can state unequivocally that the blind bidding process in Auction 73 served, as feared, to deprive bidders of useful pro-competitive bidding information, to reduce the level of participation in the auction, and ultimately to depress revenues as a result of bidders not having vital market information in which to make decisions on price.

In deciding to employ anonymous bidding in the recently-completed Auction 73, the Commission engaged in a balancing of competing interests, noting that “revealing all

¹⁵ Notice at paras. 16-21.

¹⁶ *Id.* at para. 17.

¹⁷ *Id.* at para. 16. As discussed *infra*, MetroPCS submits that the Commission should abandon anonymous bidding. If, however, the Commission declines to do so, MetroPCS agrees that at the very least the Commission should, after the close of each round, disclose the amount of every bid placed and whether a bid amount was withdrawn. This information is critical for bidders to make informed decisions as to the licenses they will bid on and how much to bid. Knowing how many bidders placed bids on a particular license, and the amount of each bid, is extremely beneficial to potential bidders from a valuation perspective but does not reveal the identity of any particular bidders. The Commission also should make available other auction process information such as activity in the auction. Activity information will give bidders crucial information which will allow them to better prepare for changes in phases of the auction and for when the auction may end.

information during the auction process potentially may result in harms as well as benefits.”¹⁸

The Commission recognized that there were some pro-competitive uses that could be made of bidder identity information in the course of an auction, but ultimately decided that the risks of providing such information during the course of an auction, in terms of the potential for blocking bids, bid signaling, etc, outweighed the benefits of disclosing additional information that could be beneficial to bidders.¹⁹

The results of Auction 73 demonstrate that the harms of withholding bidding information were significant to the point where the balance has shifted in favor of disclosing bidder identity information in Auction 78. As the Commission recognized in the auction procedures notice it released in Auction 66, “information that has typically been provided during FCC auctions may be of value in helping bidders to form more accurate and confident assessments of license values”²⁰ Announcing the identities of the high bidders in each round of the Auction would have the same benefit of providing potential bidders in any subsequent rounds with useful reference points to assess license values in a particular market. The experiences of Auction 73 prove this point. Price per pop bidding levels rose rapidly in Auction 73, and there was no way to determine whether this bidding was the result of sophisticated, experienced participants developing a national market, or rather if the bidding was coming from inexperienced newcomers whose valuations would quickly be disregarded by the market making it difficult for

¹⁸ *700 MHz Order* at para 275.

¹⁹ *Id.* at para. 282.

²⁰ *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction No. 66*, AU Docket No. 06-130, Public Notice, FCC 06-47 at para. 149 (rel. Apr. 12, 2007) (“*Auction 66 Procedures Notice*”).

bidders to finance their bids.²¹ For rural, designated entity and mid-sized carriers, the willingness and ability to raise capital to participate in the auction would increase materially if it were a case of the former type of bidder.

For instance, if the identity of AT&T and Verizon as the dominant bidders had been known during Auction 73, investors likely would have been willing to bid more robustly in the auction. This is because AT&T and Verizon are market leaders whose valuations are given credence by the financial community, and because their broad presence in the market virtually assured that equipment was going to be readily available for construction and build-out, and roaming opportunities throughout a national market would likely exist. But, without this knowledge, bidders had to consider that prices were being inflated irrationally by an inexperienced NextWave-type participant who was placing bids that neither it nor the market could support. In the end, the anonymous bidding procedures of Auction 73 ended up benefiting the large, incumbent carriers above all others, which is anathema to one of the driving public policy forces behind the auction concept – namely to encourage the participation of rural, DE and mid-tier companies.

A. Anonymous Bidding and the Accompanying Anti-Collusion Restrictions Place Participants in an Untenable “Catch 22”

In addition to the anti-competitive economic effects of anonymous bidding, there also are serious adverse legal implications to this approach. The Commission must craft a safe harbor for auction participants to relieve the tension between currently irreconcilable federal reporting requirements. Specifically, there is a serious discrepancy between the FCC’s requirement that auction applicants maintain absolute secrecy about bid-related information

²¹ This was especially true since the per MHz price for the A and B licenses quickly passed the original C block prices which the Commission and the industry both recognize were unsustainable.

during the auction process and the Securities and Exchange Commission's ("SEC") requirement of reporting companies to divulge certain material financial information to the public. Auction participants, especially mid-size public companies such as MetroPCS, can be placed in a precarious position if financially material auction-related actions that, under FCC rules cannot be publicly disclosed, occur at time when SEC financial disclosures become due. For instance, the size of the upfront payment for a small or mid-size carrier could be material to the overall finances of the company and therefore reportable as part of a company's public financial statements or other information included in their SEC disclosures. In addition, in some instances SEC regulations could require a high bidder to list long-standing high bids as a "contingent liability" on its financial statements, especially in the waning days of an auction when the likelihood that a bid will not win diminishes. Yet, the FCC has indicated that information pertaining to upfront payment amounts and high bid amounts cannot be disclosed under the FCC anti-collusion rule even after the FCC has announced the winners. As a consequence, companies are forced to maneuver at great peril between two sets of diametrically opposed federal regulations – one which values disclosure above all else and one which values confidentiality above all else. Several parties in the past have pointed out this problem,²² but as yet it has gone unresolved by the FCC. Based on the foregoing, MetroPCS strongly urges the Commission to craft a safe-harbor for auction participants who make a good-faith disclosure required by the SEC that otherwise could be deemed to violate the FCC's confidentiality and anti-collusion rule requirements.

²² See, e.g., *Google Inc. Notice of Ex Parte Presentation*, AU Docket No. 07-157, WT Docket No. 06-150, Nov. 21, 2007. See also, Reply Comments of United States Cellular Corporation at 3, in *In the Matter of Public Notice Requesting Comment on Competitive Bidding Procedures for Auction of 700 MHz Licenses Scheduled for January 16, 2008*, AU Docket No. 07-157, Sept. 7, 2007.

B. The Post-Auction Anti-Collusion Rule Should be Clarified

If the Commission retains anonymous bidding, it needs to clarify that the broad restrictions on the disclosure of specific bidding information do not apply after the Commission publicly announces the winning bidders. As it stands, participants still are bound by strict anti-collusion regulations -- which are heightened even further in anonymous auctions -- after the close of an auction until the down payment deadline.²³ Theoretically, the confidentiality requirements could still be enforceable against the auction participants even after the Commission has made public announcements revealing the identity of the winning bidders and the amount of the high bids. For example, in Auction 73, the Commission issued a Public Notice on March 20, 2008 announcing the winning bidders,²⁴ but the post-auction anti-collusion restriction remained in effect until April 3, 2008.²⁵ As a result, winning bidders were still subject to the anti-collusion rule and the related pronouncements indicating that bidders were prohibited from issuing press releases or making other disclosures regarding their bids and bidding strategies. The fact that the public is able to discuss these results freely while the winners often feel constrained to remain silent is illogical. As a result, MetroPCS proposes that the Commission modify the post-auction anti-collusion rule so that it remains in effect only until the Commission issues an official Public Notice identifying the winning bidders and the high bid amounts. This change will not affect the FCC's ability to limit post-auction settlements that foster defaults because the Commission has robust default penalties and also can monitor this behavior in the long-form application review process. Alternatively, the Commission should

²³ See 47 C.F.R. §§ 1.2105(c)(1), 1.2107(b).

²⁴ See *Auction of 700 MHz Band Licenses Closes - Winning Bidders Announced for Auction 73*, Report No. AUC-08-73-I (Auction 73), Public Notice, DA 08-595 (rel. March 20, 2008).

²⁵ See 47 C.F.R. §§ 1.2105(c)(1), 1.2107(b).

make clear that there is no prohibition on applicants disclosing during this post-auction period any bidding-related information that the Commission has made public.

C. The Commission is Correct Not to Use Combinatorial Bidding

MetroPCS supports the Commission's proposal that all Auction 78 licenses should be subject to the standard simultaneous multiple-round ("SMR") auction format.²⁶ Although MetroPCS has made it clear in the past that it does not support combinatorial bidding,²⁷ it takes this stance in the case of Auction 78 for different, though equally compelling, reasons. Unlike the C block licenses in Auction 73, for instance, which at least offered participants the opportunity to gain a nation-wide footprint through a single combinatorial bid, the Auction 78 licenses have no readily identifiable inter-relationships or inter-dependencies with each other. As noted in Section III above, these licenses were offered previously in other auctions but went unsold or were returned to the Commission as a result of license cancellations or terminations. They essentially are the "bits and pieces" left over and participants should be free to bid on them in isolation. The Commission repeatedly has espoused the public policy goal of placing licenses in the hands of those who will use them most efficiently and to the benefit of the public. Creating a situation in which participants may be forced to bid on large swaths of often unrelated licenses merely encourages a waste of valuable natural resources. Allowing combinatorial

²⁶ Notice at para. 22.

²⁷ See, e.g., Comments of MetroPCS at 10-12 in *In the Matter of Auction of 700 MHz Band Licenses Scheduled for January 16, 2008*, AU Docket No. 07-157, Public Notice, DA 07-3415 (rel. Aug. 17, 2007) ("MetroPCS 700 MHz Auction Procedures Comments"). See also MetroPCS 700 MHz Comments at 20-22; MetroPCS 700 MHz Reply Comments at 12-17 in *In the Matter of Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, Former Nextel Communications, Inc. Upper 700 MHz Guard Band License and Revisions to Part 27 of the Commission's Rules, WT Docket No. 06-169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, Further Notice of Proposed Rule Making, FCC 07-72 (rel. April 27, 2007) ("FNPRM"), 72 Fed. Reg. 24238 (May 2, 2007). ("MetroPCS 700 MHz Comments" and "MetroPCS 700 MHz Reply Comments").*

bidding would add unneeded complexity to the auction without providing any substantial public interest benefits.

V. AUCTION STRUCTURE AND PROCEDURES

A. General Discussion

MetroPCS agrees with and supports many aspects of the Commission's proposals with respect to the Auction Structure and the Auction Procedures.²⁸ As earlier noted, the majority of these proposals are patterned after the structure and procedures used and lessons learned in recent broadband auctions, which have run smoothly and efficiently from an administrative point of view. For instance, MetroPCS supports the Commission's proposal that each bidder be provided with three activity rule waivers to be used at the bidder's discretion during the course of the auction.²⁹ MetroPCS also supports the proposal that reserve prices are not warranted in Auction 78.³⁰ As the Commission noted, reserve prices were adopted for the auction of AWS-1 licenses in Auction 66, but not for the auction of broadband PCS licenses in Auction 71.³¹ Given the fact that both auctions were a financial success, and that the net winning bids exceeded the reserve price in Auction 66 and that there was no separate reserve price in Auction 71, the market appears to be fully capable of establishing license values without the imposition of an artificial reserve price by the Commission. Further, if the Commission does establish reserve prices, it runs the real risk that these licenses may not sell. Since these licenses are the remnants of prior auctions and the spectrum already has lain fallow for a long time, there is no real public need for the Commission to retain them if an artificial reserve price is not met.

²⁸ *Notice* at paras. 24-75.

²⁹ *Notice* at paras. 44-48.

³⁰ *Notice* at para. 52.

³¹ *Id.*

Rather, the Commission can set the minimum opening price to ensure that the licenses are not given for free. As an alternative, the Commission could set the minimum open price as the reserve price which would achieve the same result.

B. Bid Amounts

In response to the Bureau's request for comment on whether to start with no additional bid amounts or with eight additional bid amounts,³² MetroPCS recommends that the Commission begin with eight additional bid amounts.

Bidders deserve to have the flexibility to bid different bid increments. This will allow bidders to bid closer to the proper amount at which they value particular licenses, and allow bidders to get as close as possible to what they consider their "final" bidding amount. For example, MetroPCS has encountered situations in past auctions in which it has more than enough bidding authority to place a bid greater than a single increment, but not enough bidding authority to be likely to be able to top a subsequent winning bid. In this circumstance, MetroPCS should be free to bid more than one acceptable bid amount in the first instance thereby taking full advantage of its bidding authority. Bidders need this flexibility in order to properly manage their bidding eligibility, as well as enable them to place bids for licenses that are equal to the amount they value such licenses. Allowing bidders to get as close as possible to their final bidding amount will increase the prospect that licenses get into the hands of those who value them most highly and will limit the advantage large bidders have in the auction. As to whether the same number of amounts should be used for each of the blocks, licenses, and services, MetroPCS recommends that the staff be delegated authority to manage and change these parameters in the course of the auction.

³² Notice at para. 66.

C. Bid Withdrawal

The auction *Notice* proposes relatively strict and limited bid withdrawal opportunities.³³ MetroPCS disagrees with this approach. While severe restrictions on bid withdrawals may have seemed to be necessary in Auction 73 where combinatorial bidding was used for some licenses and bid withdrawals could prove disruptive, there does not appear to be any compelling need for such restrictions on these less inter-related licenses particularly when package bidding is not contemplated. As properly noted by the Commission in the *Notice*, bid withdrawal options can assist a bidder in pursuing back up strategies. MetroPCS contends that this pro-competitive benefit outweighs the risk that bids will be withdrawn for improper reasons. The Commission should allow bidders to withdraw an unlimited number of bids in a single round or up to three bids placed in more than one round, and permit bidders to re-bid for the individual licenses at any time during the auction. These restrictions, in combination with a suitable withdrawal penalty will ensure that robust competition develops for all of the Auction 78 licenses.

VI. AUCTION START DATE SHOULD BE CHANGED

Auction 78 currently is scheduled to start on July 29, 2008. MetroPCS respectfully suggests that the Commission postpone the start date into the Fall of 2008. Participation in an auction is time-consuming for all companies, but it is especially challenging for small and mid-sized companies which tend to have fewer personnel to devote to auction management issues. The time and attention required during the auction process can often tax the staff and resources of these companies to a great extent. These burdens will be compounded by an August auction when businesses already are thinly staffed due to employee vacation schedules. Further, many of the potential bidders in Auction 78 just completed the grueling Auction 73 and they need time

³³ *Notice*, para. 74.

to finance their current winnings and get back to their business. This provides a compelling reason to postpone the auction, but only by 4 or 5 weeks into September.

VII. CONCLUSION

In light of the foregoing, MetroPCS respectfully requests that the Bureau adopt auction procedures in conformance with these Comments.

Respectfully submitted,

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