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October 14, 2009

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Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, DC 20554

Re: WT Docket No. 02-353 (Advanced Wireless Services); GN Docket No. 09-157 (Fostering Wireless Innovation); GN Docket No. 09-51 (National Broadband Plan); WT Docket No. 09-66 (Mobile Wireless Services Competition Report); WT Docket No. 08-27 (CMRS Competition Report); WT Docket No. 07-195 (AWS-3); WT Docket No. 04-356 (AWS-2); WT Docket No. 06-150 (700 MHz Service Rules); PS Docket No. 06-229 (700 MHz Public Safety Network); GN Docket Nos. 09-47 and 09-137 (Spectrum for Broadband) Oral *Ex Parte* Communication

Dear Ms. Dortch:

On October 13, 2009, Mark Stachiw, Executive Vice President, General Counsel and Secretary of MetroPCS Communications, Inc. (“MetroPCS”) and Carl W. Northrop of Paul, Hastings, Janofsky & Walker LLP (“Paul Hastings”) met separately with Commissioner Mignon Clyburn and Renee Crittendon, Chief of Staff for Commissioner Mignon Clyburn and with David Goldman in the office of Chairman Julius Genachowski.

During these conferences the participants discussed MetroPCS’ Long Term Evolution (“LTE”) technology deployment, with particular reference to the deployment of LTE in the AWS and PCS bands using dual mode CDMA/LTE handsets. MetroPCS also encouraged the Commission to seriously consider combining the current AWS-3 block with spectrum in the 1755-1780 MHz band in order to provide additional paired spectrum that is definitely needed for commercial use.

Other oral presentations during these conferences were consistent with the pleadings and *ex partes* filed on behalf of MetroPCS in the above-referenced proceedings. In particular, MetroPCS focused on (1) the critical need for additional paired spectrum to be offered in manageable spectrum block sizes and geographic areas to meet substantial unsatisfied needs; (2) the importance of finalizing the licensing rules for the AWS-2 H Block and J Block and returning the 700 MHz; and (3) the need for revised auction procedures to increase opportunities in the auction for a broader array of companies, including new entrants and others who have limited spectrum resources in a market. In this latter respect, MetroPCS advocated the adoption of the Broadband Incentive Discount (“BID”)

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program, in which auction applicants receive a sliding scale of bidding discount credits in inverse proportion to the amount of attributable spectrum the applicant holds in the territory covered by a particular license. The attached handout, which describes the innovative BID program, was distributed at the meetings.

Messrs. Stachiw and Northrop also met briefly with Angela Giancarlo, Legal Advisor to Commissioner Robert McDowell. During this meeting the participants discussed combining the current AWS-3 block with spectrum in the 1755-1780 MHz band in order to provide additional paired spectrum for commercial use.

Kindly refer any questions in connection with this letter to the undersigned.

Respectfully submitted,



Carl W. Northrop  
of PAUL, HASTINGS, JANOFSKY & WALKER LLP

cc: (via email) Commissioner Mignon Clyburn  
Renee Crittendon  
Angela Giancarlo  
David Goldman

# **ATTACHMENT 1**

## **The Broadband Incentive Discount (BID)**

The Broadband Incentive Discount program is designed to foster new and increased competition in the wireless marketplace. Rather than according designated entity (DE) credits based upon an applicant's size, credits should be given to applicants in inverse proportion to the amount of attributable spectrum that the applicant holds in the auctioned license territory.

Specifically, MetroPCS proposes the following sliding discount scale:

<u>Attributable Spectrum</u>	<u>% Discount</u>
0 to 20 MHz	60%
20 to 40 MHz	40%
40 to 60 MHz	20%
60+ MHz	0%

In addition, incumbent applicants would be precluded at the initial auction stage from acquiring any license that would cause the applicant to exceed the pre-auction spectrum screen.<sup>1</sup>

Applicants also would be attributed with all spectrum held by the applicant, the applicant's affiliates, all disclosable interest holders in the applicant, and all companies with which the applicant had an auction-related agreement.

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<sup>1</sup> By "pre-auction spectrum screen" MetroPCS means the screen in effect *prior to* the allocation of the spectrum that is the subject of the auction. The prior Commission practice of constantly adjusting the screen upward as each new spectrum block came on line has fostered the recent concentration that has occurred in recent months.

## **Benefits of the BID Plan**

- Creates incentives for investment in broadband wireless incentives
- Promotes innovation by creating opportunities for licensees most likely to introduce disruptive, cutting-edge technologies and services
- Serves the public interest and statutory mandates by promoting the dissemination of licenses to a broader group of licensees
- Creates licensing opportunities for a broader range of participants including rural, small, mid-tier carriers, new entrants and traditional designated entities
- Counteracts the inherent cost advantages of incumbents with substantial spectrum resources resulting from recent concentration of the wireless industry
- Attribution rules eliminate the prospect of gaming the discount program