

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

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Media and Wireless Telecommunications	)	
Bureaus Seek Comment on Recommendation	)	
of the Advisory Committee on Diversity for	)	GN Docket No. 10-244
Communications in the Digital Age for	)	
a New Auction Preference for Overcoming	)	
Disadvantage	)	

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**COMMENTS OF METROPCS COMMUNICATIONS, INC.**

MetroPCS Communications, Inc. (“MetroPCS”),<sup>1</sup> by its attorneys, hereby respectfully submits its Comments in response to the *Public Notice* (the “*Notice*”) issued by the Federal Communications Commission (the “FCC” or “Commission”) in the above-captioned proceeding.<sup>2</sup>

**I. INTRODUCTION**

As an initial matter, MetroPCS applauds the Media and Wireless Telecommunications Bureaus for seeking comment on the Advisory Committee on Diversity for Communications in the Digital Age’s (the “Committee’s”) recommendations.<sup>3</sup> MetroPCS agrees with the Committee that the Commission “should undertake a notice of proposed rulemaking to consider how the

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<sup>1</sup> For purposes of these Comments, the term “MetroPCS” refers to MetroPCS Communications, Inc. and all of its FCC-licensed affiliates and subsidiaries.

<sup>2</sup> *Media and Wireless Telecommunications Bureaus Seek Comment on Recommendation of the Advisory Committee on Diversity for Communications in the Digital Age for a New Auction Preference for Overcoming Disadvantage*, GN Docket No. 10-244, DA 10-2259, rel. Dec. 2, 2011. (“*Notice*”).

<sup>3</sup> Recommendation on Preference for Overcoming Disadvantage, FCC Advisory Committee on Diversity for Communications in the Digital Age (October 14, 2010), available at <http://www.fcc.gov/DiversityFAC/meeting101410.html>.

Commission could design, adopt, and implement an additional new preference program in its competitive bidding process.”<sup>4</sup>

While MetroPCS does not yet have a position on the Committee’s specific proposal to allow persons or entities who have overcome substantial disadvantage to be eligible for bidding credits, it does believe that the Commission should take comment on the proposal, as well as on other bidding credit proposals that may foster new and increased competition. To that end, the Commission should solicit comment in the notice of proposed rulemaking on other proposals to level the playing field in auctions, including MetroPCS’ Broadband Incentive Discount (“BID”) program.<sup>5</sup> Under MetroPCS’ BID program, auction applicants would receive a sliding scale of bidding discount credits in inverse proportion to the amount of attributable spectrum the applicant holds in the geographic area covered by a particular license. A discount program of this nature would help persons or entities that have overcome substantial disadvantages, including new entrants and smaller providers who have to overcome such disadvantages in order to compete against the large incumbents, and as a helpful by product, creates a prospect of a more diverse and entrepreneurial licensee base.

## **II. THE COMMISSION SHOULD SEEK COMMENT ON METROPCS’ BID PROPOSAL**

The BID program is designed to foster new and increased competition in the wireless marketplace. Traditionally, bidding credits have been based on business size and/or ownership characteristics. However, a downside with using business size as a characteristic is that the

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<sup>4</sup> See Notice at 1.

<sup>5</sup> MetroPCS originally proposed the BID program in its Comments in response to *Fostering Innovation and Investment in the Wireless Communications Market; A National Broadband Plan for our Future*, Notice of Inquiry, GN Docket No. 09-157, GN Docket Nos. 09-157 and 09-51, FCC 09-66, rel. Aug. 27, 2009 (Comments filed September 30, 2009) at 49-58. A separate copy of the BID program is attached.

provision of telecommunications services is a capital intensive business. This leads to a paradox where companies with small amounts of revenue bid on licenses which, if they win, would require many times the amount paid for the licenses to actually deploy and operate. Another approach, such as the BID proposal, would help fix this inconsistency. 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, the BID program would have 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>6</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.<sup>7</sup>

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<sup>6</sup> “Pre-auction spectrum screen” 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.

<sup>7</sup> This has two significant benefits. First, it keeps companies with large spectrum positions from using new companies to acquire spectrum at a discount (a concern expressed previously with respect to DE bidding credits). And, second, it would allow for auction rules that establish smaller geographic license areas, which will further benefit companies who have had to overcome disadvantages.

Under this proposal, persons or entities overcoming disadvantages, including those who are new entrants and small existing carriers desiring to expand and improve services within existing markets and to enter new markets, would have an increased likelihood of being successful bidders in auctions. The result would be increased competition and, as a result, increased innovation and investment. This sliding credit scale generally would allow market forces, rather than regulatory command and control processes to work, while still increasing the prospects that new entrants, innovators and other persons needing spectrum would be able to end up as licensees.

There are numerous benefits surrounding a plan of this nature, for instance, the BID program:

- Creates incentives for investment in broadband wireless deployment;
- 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;
- Eliminates the prospect of gaming the discount program, due to attribution rules.

In addition, the BID program would not require the Commission to conduct an exhaustive review of any particular applicant's qualifications for a bidding credit. Rather, an applicant's eligibility would be self-evident based on the Commission's own records and the Form 175 provided prior

to any auction. This would save the Commission significant administrative time, effort and resources.

Notably, the Commission has ample statutory authority to implement the BID program. Section 309(j)(3) empowers the Commission “to design and test multiple alternate methodologies under appropriate circumstances” when coming up with systems of competitive bidding.<sup>8</sup> In designing the methodologies for use under the Communications Act, the Commission is expected to promote “the development and rapid deployment of new technologies, products and services for the benefit of the public” and to promote “economic opportunity and competition” and to avoid “excessive concentration of licenses...by disseminating licenses among a wide variety of applicants including small businesses, rural telephone companies and businesses owned by members of minority groups and women.”<sup>9</sup> Notably, many entities falling into these categories would qualify for the highest bidding credit under the MetroPCS plan because they do not control large blocks of spectrum in many markets in the United States.

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<sup>8</sup> 47 U.S.C. § 309(j)(3).

### III. CONCLUSION

The foregoing premises having been duly considered, MetroPCS respectfully requests the Commission to initiate a notice of proposed rule making to take comment on the MetroPCS BID program.

Respectfully submitted,



Mark A. Stachiw  
Executive Vice President, General  
Counsel and Secretary  
MetroPCS Communications, Inc.  
2250 Lakeside Boulevard  
Richardson, TX 75082  
Tel. (214) 570-5800  
Fax (866) 685-9618

Carl W. Northrop  
Michael Lazarus  
Paul, Hastings, Janofsky & Walker LLP  
875 15th Street, NW  
Washington, DC 20005  
Tel. (202) 551-1725

*Counsel to MetroPCS Communications, Inc.*

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<sup>9</sup> 47 U.S.C. § 309(j)(3)(B).

## **The Broadband Incentive Discount (“BID”) Program**

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, the proposed BID program would have 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>10</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>10</sup> “Pre-auction spectrum screen” 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.