

**Congress of the United States**  
**Washington, DC 20515**

July 16, 2013

0735

The Honorable Mignon Clyburn  
Acting Chairwoman  
U.S. Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Dear Acting Chairwoman Clyburn:

We write concerning the Commission's implementation of the spectrum auction authorized by section 6403 of the Middle Class Tax Relief and Job Creation Act of 2012 ("the Act"). In carrying out that section, the Commission will play a critical role in determining whether the Act achieves one of its intended primary objectives: funding of the construction of a nationwide interoperable public safety communications network, also known as FirstNet. Our purpose in writing you is to encourage you and your colleagues to adopt rules that will achieve this important congressional objective.

Congress passed the Act in order to achieve several distinct and important goals. First, the Act is designed to alleviate the spectrum shortage that now constrains wireless providers' ability to meet consumer demand. Second, the Act incents broadcasters to participate in the auction by permitting them to receive a portion of the auction proceeds when their frequencies are acquired by wireless providers. Third, the Act contains provisions to compensate broadcasters which do not participate in the auction for the costs involved in moving to new channel assignments in order to maximize the amount of spectrum available for mobile broadband services. Fourth, Congress provided that up to \$7 billion of the proceeds from the auction will be used to fund the construction of FirstNet. Finally, Congress intended that the auction generate sufficient revenues to make a meaningful contribution to reducing the national deficit.

Congress is relying upon the Commission to ensure that each of these important goals is met. The Commission faces an enormously complex task of adopting technical and auction design rules to make certain that the auction authorized by the Act serves the interests of broadcasters, wireless providers, public safety, and the American public. Doing so may well entail compromises, but we urge you not to adopt policies in this or any other proceeding that will jeopardize the ability of the auction to generate winning bids that are sufficient to fund each of these important public policy goals.

In closing, we hope the Commission will avoid any action that would serve as an impediment to the successful build-out of FirstNet. More specifically, we are concerned that the Commission may take action which would have the effect of excluding entities in the forward auction authorized by the Act. All carriers should have a meaningful opportunity to bid for spectrum. Since September 11, 2001, Congress, the Commission, the 9/11 Commission, and others have recognized the urgent need for nationwide interoperable public safety communications. Nearly 12 years later, however, we have failed to achieve this goal. Indeed,

the Commission's prior effort to auction the Upper 700 Megahertz D Block spectrum for public safety use failed due to overly complex and uncertain auction rules adopted by the Commission. We very respectfully request that the Commission avoid repeating that mistake in carrying out the Act's forward auction. Instead, we hope that the Commission will adopt transparent and simple rules to encourage participation by the broadest possible group of broadcasters and wireless providers because doing so will contribute in great part to a successful auction that, in turn, will generate the revenues needed to fulfill our shared commitment to public safety and achieve the other goals of the Act.

Sincerely,



John D. Dingell  
Member of Congress



Eliot L. Engel  
Member of Congress



G.K. Butterfield  
Member of Congress



Gene Green  
Member of Congress



Bruce Braley  
Member of Congress



Jim Matheson  
Member of Congress



John Barrow  
Member of Congress



Paul Tonko  
Member of Congress



## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
Commissioner

The Honorable John D. Dingell  
U.S. House of Representatives  
2328 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Dingell:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I recognize the importance of each of the goals that Congress established in the Middle Class Tax Relief and Job Creation Act of 2012. A key objective of the incentive auction is to raise sufficient revenues to meet each of the policy objectives of the Spectrum Act, including raising funds for the construction of FirstNet. Other auctions required under the Spectrum Act, such as the H Block auction scheduled for January of next year, will also be a source of funding for FirstNet.

In terms of eligibility to participate in the forward auction, Section 6404 of the Spectrum Act states that the Commission may not prevent a qualified person from participating in the auction and also makes clear that nothing in Section 6404 affects the authority of the Commission to adopt and enforce rules of general applicability, including rules of spectrum aggregation that promote competition. It is against this back drop that numerous parties have filed multiple competing proposals concerning eligibility, participation, and spectrum holdings in the forward auction. These proposals offer very different perspectives on how to design an auction that generates significant revenues to meet the goals established by Congress while also ensuring a competitive wireless marketplace.

Commission staff is currently reviewing the record of the incentive auction proceeding and the complementary spectrum holdings proceeding and developing recommendations for the full Commission's consideration. While it is premature for me to determine the outcome of this issue at this time, I can assure you that the Commission will adhere to the requirements of the statute in a manner designed to raise significant funds necessary to fund FirstNet and meet the other goals identified by Congress while continuing to promote competition and innovation in the wireless marketplace.

Sincerely,

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Mignon Clyburn



## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
Commissioner

The Honorable John Barrow  
U.S. House of Representatives  
2202 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Barrow:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I recognize the importance of each of the goals that Congress established in the Middle Class Tax Relief and Job Creation Act of 2012. A key objective of the incentive auction is to raise sufficient revenues to meet each of the policy objectives of the Spectrum Act, including raising funds for the construction of FirstNet. Other auctions required under the Spectrum Act, such as the H Block auction scheduled for January of next year, will also be a source of funding for FirstNet.

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## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
Commissioner

The Honorable Bruce Braley  
U.S. House of Representatives  
1727 Longworth House Office Building  
Washington, D.C. 20515

Dear Congressman Braley:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

I recognize the importance of each of the goals that Congress established in the Middle Class Tax Relief and Job Creation Act of 2012. A key objective of the incentive auction is to raise sufficient revenues to meet each of the policy objectives of the Spectrum Act, including raising funds for the construction of FirstNet. Other auctions required under the Spectrum Act, such as the H Block auction scheduled for January of next year, will also be a source of funding for FirstNet.

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## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
Commissioner

The Honorable George K. Butterfield  
U.S. House of Representatives  
2305 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Butterfield:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
Commissioner

The Honorable Eliot L. Engel  
U.S. House of Representatives  
2161 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Engel:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
Commissioner

The Honorable Gene Green  
U.S. House of Representatives  
2470 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Green:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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## FEDERAL COMMUNICATIONS COMMISSION

November 21, 2013

Mignon L. Clyburn  
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The Honorable Jim Matheson  
U.S. House of Representatives  
2211 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Matheson:

Thank you for your letter expressing concern about the Commission's proceeding to implement the incentive auction provisions of the Spectrum Act. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

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November 21, 2013

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The Honorable Paul Tonko  
U.S. House of Representatives  
2463 Rayburn House Office Building  
Washington, D.C. 20515

Dear Congressman Tonko:

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