

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
)	
Auction of Advanced Wireless Services)	AU Docket No. 14-78
Licenses Scheduled for November 13, 2014)	
Comment Sought on Competitive Bidding)	
Procedures for Auction 93)	

COMMENTS OF VERIZON WIRELESS

The Commission’s recent order adopting service rules for the AWS-3 auction was an important step toward bringing additional spectrum to market that is needed to benefit consumers.¹ With a few changes to the Bureau’s proposals, the Commission’s auction rules can build on this important step by helping to maximize both participation in the auction and the resulting revenues.² Specifically, Verizon Wireless suggests changes to a few proposals in the Public Notice, including the deadlines for filing short-form applications, down payments, and final payments; the scope of the defaulter rule for upfront payments; how the Bureau intends to calculate the minimum acceptable bid percentage, minimum opening bids, and eligibility; and whether the Bureau should offer some portion of the licenses with package bidding. These changes, taken together, will promote greater bidder participation by facilitating applicants’ ability to execute their auction strategy, obtain necessary financing, and manage cash outlays.

¹ *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands*, GN Docket No. 13-185, *Report and Order*, FCC 14-31 (Mar. 31, 2014).

² *Auction of Advanced Wireless Services Licenses Scheduled for November 13, 2014*, AU Docket No. 14-78, *Public Notice*, DA 14-669 (May 19, 2014) (“Public Notice”).

I. The Bureau Should Set a Date Certain for the Down Payment and Final Payment Deadlines.

Verizon supports the request of CTIA – The Wireless Association and NTCA – The Rural Broadband Association that the Bureau establish dates certain in early 2015 for the auction down payment and final payment.³ As CTIA and NTCA note, the timing of the auction makes it impossible for potential bidders to determine in which calendar year post-auction payments will be due. This uncertainty significantly complicates bidders’ financial planning for the auction and their management of cash outlays. Given the likelihood that individual bidders will be spending millions, if not billions, of dollars in the auction, bidders must have some certainty regarding when these costs will be incurred so they can determine the most efficient means of financing their auction participation. In addition, setting down and final payment dates in January will ameliorate bidders’ concerns about simultaneously finalizing financing arrangements and wrapping up year-end financial reports. To address these concerns, the Bureau should require down payments to be made by the later of January 15, 2015 or ten business days after the auction closes and final payments to be made by the later of January 29, 2015 or twenty business days after the auction closes.⁴ Such an approach will provide the Bureau with ample time to grant licenses before the February 22, 2015 deadline, while also providing bidders the certainty they need to raise and manage the capital necessary to participate in the auction.

³ Letter from Scott K. Bergmann, CTIA, and Jill Canfield, NTCA, to Marlene H. Dortch, FCC, GN Docket No. 13-185 (filed May 18, 2014).

⁴ While historically the Bureau has required down payments and long-form applications to be submitted on the same day, this approach is not required. Instead, the Bureau could keep the same date for long-form applications and change only the payment deadlines, thereby providing it with plenty of time to review the applications.

II. The Commission Should Waive Application of the Former Defaulter Rule to Certain Small and/or Resolved Debts.

Verizon supports the requests from DIRECTV, EchoStar, the Competitive Carriers Association, the Consumer Electronics Association, CTIA, and NTCA that the Commission waive application of the former defaulter rule to certain prior debts.⁵ Under the Commission's existing rules, any applicant that has been in default or delinquent on any debt – no matter how small or long ago – must make a substantial additional upfront payment before it can participate in an auction.⁶ While there may have been a valid premise for this rule at one time,⁷ the rule as adopted is overly broad and applies to any and all debts, regardless of how small and whether the debt has long since been paid. As a result, an auction applicant whose affiliate was delinquent on a single \$10 payment five years ago must pay a 50 percent penalty on top of the applicant's already required down payment. In the AWS-3 auction, a long-since paid \$10 late payment could result in a monetary penalty of millions of dollars. Waiver of this rule will ensure that the former defaulter penalty is not wildly disproportionate to the debt. In addition, this waiver will allow the Commission to distinguish minor defaults and delinquencies that have long since been resolved from significant defaults that may warrant an auction penalty. Finally, waiver of this

⁵ See Letter from Rebecca Murphy Thompson, CCA, Julie Kearney, CEA, Scott K. Bergmann, CTIA, and Jill Canfield, NTCA, to Marlene H. Dortch, FCC, RM-11395, GN Docket No. 13-185, AU Docket No. 14-78, GN Docket No. 12-268 (filed May 30, 2014); *DirectTV Group, Inc. and EchoStar, LLC, Petition for Expedited Rule Making to Amend Sections 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver*, RM-11395, Public Notice, Report No. 2829 (Aug. 22, 2007).

⁶ See 47 C.F.R. § 1.2106(a) (“Any auction applicant that has previously been in default on any Commission license or has previously been delinquent on any non-tax debt owed to any Federal agency must submit an upfront payment equal to 50 percent more than that set for each particular license.”).

⁷ This rule was adopted in 2000 in the wake of some winning bidders' defaults on installment payments on auctioned PCS licenses. These defaults were financially significant and, in adopting this rule, the Commission concluded that an upfront payment penalty would provide more assurance that future winners would not engage in similar license payment defaults. See *Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures*, WT Docket No. 97-82, *Order on Reconsideration of Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rulemaking*, 15 FCC Rcd 15293, 15317 (2000).

rule entails no risk to the Commission of license payment defaults, because all applicants must pay for their licenses in full before they will be granted.

Accordingly, the Bureau should waive the former defaulter provision in Section 1.2106(a) of its rules for either (1) debts that were resolved more than three years prior to the application deadline or (2) debts that were less than the lesser of \$100,000 or 0.1% of the average annual revenues of the applicant (as computed under the FCC's competitive bidding rules). In addition, the Bureau can – and should – grant this waiver in its Public Notice announcing the auction procedures that will apply to the AWS-3 auction. This proposal has long been ripe for Commission action.⁸ And late last month, the Competitive Carriers Association, the Consumer Electronics Association, CTIA, and NTCA filed a letter in this and several other proceedings asking the Commission again to grant immediate interim relief from this rule, consistent with the DIRECTV-EchoStar Petition.⁹ For these reasons, action in this proceeding is appropriate.

III. The Bureau Should Reduce the Minimum Acceptable Bid Percentage, Minimum Opening Bid, and Eligibility Amounts.

The Bureau should adopt lower minimum acceptable bid percentages,¹⁰ minimum bids,¹¹ and eligibility requirements than those proposed in the Public Notice. The auction rules should

⁸ In 2007, DIRECTV and EchoStar filed a petition asking the Commission to initiate a rulemaking reexamining this rule and to waive the rule, pending action in the rulemaking, for delinquent debts that were fully paid more than three years prior to a spectrum auction, involved small amounts, or involved delinquencies other than by the applicant itself or persons who controlled the applicant. *DirecTV Group, Inc. and EchoStar, LLC, Petition for Expedited Rule Making to Amend Sections 1.2105(a)(2)(xi) and 1.2106(a) of the Commission's Rules and/or for Interim Conditional Waiver*, RM-11395, Public Notice, Report No. 2829 (Aug. 22, 2007). No one opposed this petition.

⁹ See Letter from Rebecca Murphy Thompson, CCA, Julie Kearney, CEA, Scott K. Bergmann, CTIA, and Jill Canfield, NTCA, to Marlene H. Dortch, FCC, RM-11395, GN Docket No. 13-185, AU Docket No. 14-78, GN Docket No. 12-268 (filed May 30, 2014).

¹⁰ Public Notice at ¶ 62.

¹¹ *Id.* at ¶ 54.

be set up to encourage participation both at the beginning of the auction and throughout the auction. Setting minimum acceptable bids, minimum opening bids, and eligibility amounts at the right level are critical to ensuring this participation.

First, the Bureau should require each subsequent bid to increase between 10 and 20 percent over the prior bid, rather than up to 30 percent, as proposed. Setting the minimum acceptable bid percentage in this range will allow applicants to bid up to their maximum amount, thus promoting bidders' ability and willingness to continue to participate in the auction. Adoption of a higher minimum acceptable bid percentage, in contrast, could discourage bidder participation, resulting in the license selling for less than another bidder would have been willing to pay, simply because the other bidder was not willing to bid the mandatory minimum acceptable bid amount. Indeed, the Bureau's proposed highest minimum acceptable bid percentage is significantly higher than those used in prior major auctions. For example, in both the AWS-1 and 700 MHz auctions, the Bureau required bid increases in the 10-20 percent range.¹² With a minimum acceptable bid percentage of 30 percent, however, bids for each license will double every third round and increase by tens, if not hundreds, of millions of dollars every round for certain larger licenses. Such a high mandatory minimum acceptable bid percentage could cause applicants to drop out of the auction, resulting in lower auction revenues. Similarly, such a large minimum acceptable bid percentage will reduce applicants' bidding flexibility with respect to their entire auction budget. For example, a bidder may be willing to bid an additional \$75 million but not the required \$150 million. As a result, a license may sell for less than a bidder is willing to pay, resulting in lost revenues. While every round may not

¹² *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006*, AU Docket No. 06-30, *Public Notice*, FCC 06-47, at ¶ 215 (Apr. 12, 2006); *Auction of 700 MHz Band Licenses Scheduled for January 24, 2008*, AU Docket No. 07-157, *Public Notice*, DA 07-4171, at ¶ 227 (Oct. 5, 2007).

require a 30 percent bid increase, the potential for such a large increment could nevertheless quell interest in the auction. A minimum acceptable bid percentage of 20 percent will allow the auction to proceed quickly, ensure auction revenue is maximized by allowing bidders flexibility to bid up to their true value but not over, and provide bidders with adequate time to assess their bidding options without being forced into bidding more than they are ready to bid during the auction or, alternatively, dropping out of the auction altogether.

Second, the Bureau should use \$0.05 per MHz-POP to set the minimum opening bids for each license area, rather than the proposed average of \$0.15 per MHz-POP. In the AWS-1 auction, the Bureau used minimum opening bids of \$0.05 per MHz-POP in urban areas and \$0.03 per MHz-POP for rural areas.¹³ These amounts promoted participation from a wide variety of bidders in both urban and rural areas while allowing the auction to proceed quickly and would do so here as well. For similar spectrum, however, the Bureau now proposes to triple the amount (at least) for minimum opening bids. Tripling the required minimum opening bid could discourage bidders both from participating in the auction and from bidding on a wide array of licenses in the auction.¹⁴ Indeed, setting minimum opening bids too high could undo everything the Commission already has done to promote broad participation in the auction by a variety of bidders. Reducing the average minimum opening bid to \$0.05 per MHz-POP, therefore, not only is more consistent with prior auctions for similar spectrum but also will encourage a wider range of bidders in the auction.

¹³ *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006*, AU Docket No. 06-30, *Public Notice*, FCC 06-47, at ¶¶ 205-206 (Apr. 12, 2006).

¹⁴ In Auction 96, the Bureau set minimum opening bids using an average of \$0.07 per MHz-POP. That auction, however, barely hit the reserve price and resulted in one party winning all of the licenses.

Third, the Bureau should adopt a straight value-per-MHz-POP for eligibility and minimum opening bids, rather than increasing – or decreasing – the value based on prior auctions. Such an approach will ensure markets are appropriately priced based on their size without prejudicing particular markets or encouraging auction gamesmanship. The Bureau’s proposal to stratify eligibility requirements on a license-by-license basis by requiring greater eligibility on a per MHz-POP basis due to the end result of prior auction results in a continual cycle of penalizing certain markets such as New York, Los Angeles, Chicago, RSA Missouri 8, and RSAs Wisconsin 2 and 5 as a result of bidding patterns from six to eight years ago. By weighting both the eligibility and minimum opening bid for these licenses, the results are geared to making these licenses more expensive and “tainting” them for future auctions. For example, the New York and Chicago CMAs represent eight percent of the country’s population but are attributed with twenty percent of the proposed eligibility in the AWS-3 auction. As a result, bidders that are interested in winning these high-eligibility markets must bid on them every single round or else risk losing eligibility and being unable to acquire them in a future round. Stratifying eligibility similarly promotes speculation and eligibility parking. In other words, bidders will be encouraged to sit on particular licenses that require larger amounts of eligibility solely to maintain eligibility and bid up the license, even if they have no interest in acquiring that license. Once bidding for that license gets high enough, they could then switch their eligibility to licenses they are interested in winning. By doing this, bidders will bid up licenses that competitors are interested in so they can then acquire other licenses cheaply as their competitors’ capital will be wrapped up in the larger markets. In short, the Bureau’s proposal could lead to auction gamesmanship and decreased competition for licenses in more rural areas.

Adoption of all of these proposals greatly compounds the problem. The impact of these proposals can be seen by looking at application of the 30 percent increment to a single license in one market. Specifically, in the New York EA, the AWS-3 J Block would reach over one billion dollars by the 9th round and over one trillion dollars by the 35th round, with continually active bidding that triggers the 30 percent increment. Although these results may seem improbable, they illustrate the perils of the proposed 30 percent increment. Similar trends can be seen in other markets. By way of comparison, the primary AWS-1 auction went on for 161 rounds but lasted only 28 days. Adoption of high eligibility requirements, minimum opening bids and bid increments, therefore, is not necessary to ensure the auction moves quickly to a conclusion. Further, if the Commission continues to take this approach in future auctions, the problem will self-perpetuate, resulting in even more extreme results for high-eligibility markets.

Given the potential impact on bidder participation in the auction and auction gamesmanship, the Bureau should adopt lower amounts for the minimum acceptable bid percentage, minimum opening bids, and eligibility requirements.

IV. The Bureau Should Allow Package Bidding for the H, I, and J Blocks.

Verizon continues to support the Commission's use of package bidding in the AWS-3 auction.¹⁵ Specifically, Verizon proposes that the Commission allow applicants to bid on a nationwide package in each of the H, I, and J blocks in the AWS-3 auction.

As Verizon has previously detailed, some providers offer mobile broadband services on a nationwide basis. Accordingly, some applicants will participate in the AWS-3 auction either to complement or expand existing spectrum holdings, or to develop new mobile broadband services

¹⁵ See Comments of Verizon Wireless, GN Docket No. 13-185, at 16-17 (filed Sept. 18, 2013); Reply Comments of Verizon Wireless, GN Docket No. 13-185, at 9-10 (filed Oct. 28, 2013).

that will compete with existing nationwide services. The risk of failing to acquire all licenses in a business plan (the “exposure problem”) may inhibit participation in the auction because, for some bidders, the potential for acquisition of all desired licenses is needed to support the amount of a bid for an individual license.¹⁶

In addition, facilitating the ability of AWS-3 auction participants to acquire nationwide spectrum licenses will benefit their broadband deployment plans. And by allowing the winning bidders to take advantage of the economies of scale of a nationwide license area, package bidding will facilitate more rapid build-out of licensed AWS-3 services, which in turn will benefit consumers. The Commission recognized these public interest benefits for package bidding in Auction 73:

Minimizing the exposure problem with package bidding should facilitate the entry of applicants whose business plans require the economies of scale that only can be obtained with nationwide operation. We anticipate that package bidding can be implemented so as to shield such bidders from a potential significant exposure problem. Importantly, we also anticipate that it can be implemented without imposing disadvantages on parties that wish to bid on individual licenses comprising the nationwide footprint.¹⁷

Package bidding also is likely to increase participation and bidding competition in the AWS-3 auction. Package bidding allows auction participants to bid not just on the value of the individual EA licenses, but also on the value of obtaining spectrum nationwide over a consistent set of frequencies.¹⁸ Thus, AWS-3 auction participants can commit more of their resources

¹⁶ See *Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, et al.*, Second Report and Order, 22 FCC Rcd 15289, ¶ 287 (2007).

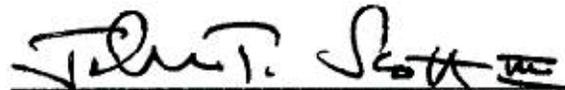
¹⁷ *Id.*, ¶ 290.

¹⁸ In past auctions, winning bids on larger licenses have raised more per MHz/POP than have bids on smaller licenses. In Auction 66 for AWS spectrum licenses, the REAG licenses sold for an average of \$0.705 per MHz/POP, while CMA licenses sold for \$0.417 per MHz/POP. The EA licenses for Block B sold at \$0.451 and for Block C at \$0.548. See Jeremy Bulow, Jonathan Levin, and Paul Milgrom, *Winning Play in Spectrum Auctions*, at 25 (Mar. 2009), <http://www.stanford.edu/~jdlevin/Papers/AWS.pdf>.

toward acquiring licenses in the auction, rather than trying to meet their goals later in the secondary market.

Finally, nothing about package bidding prevents bidders from competing for a single license, or a small handful of licenses. Indeed, in Auction 73, Verizon did not win its licenses by bidding on a package. To the contrary, it successfully bid against Google's nationwide package bid, resulting in Verizon acquiring some but not all of the licenses that were part of the proposed package.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John T. Scott III", written over a horizontal line.

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