

**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 97)

COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc.^{1/} (“T-Mobile”) submits these comments in response to the Public Notice issued by the Wireless Telecommunications Bureau (“Bureau”) in the above-referenced proceeding,^{2/} seeking input on procedures for auctioning licenses in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz bands for Advanced Wireless Services (“AWS”) (together the “AWS-3 Bands”).

I. INTRODUCTION AND BACKGROUND

T-Mobile appreciates the Bureau’s continued action to make the AWS-3 spectrum available for commercial use. T-Mobile actively participated in the Commission’s proceeding that resulted in the designation of the AWS-3 spectrum for auction and continues to cooperate with the National Telecommunications and Information Administration (“NTIA”) and other federal stakeholders to make the AWS-3 spectrum as productive as possible for non-government use and ultimately the public. As T-Mobile previously explained, the spectrum covered by this

^{1/} T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

^{2/} See *Auction of Advanced Wireless Services Licenses Scheduled for November 13, 2014; Comment Sought on Competitive Bidding Procedures for Auction 97*, Public Notice, AU Docket No. 14-78, DA 14-669 (rel. May 19, 2014) (“*Public Notice*”).

auction is critical to meet carriers' growth requirements, particularly as it extends existing commercial allocations.^{3/}

T-Mobile supports most of the auction processes proposed by the Bureau in the *Public Notice*. To better ensure a successful auction, however, T-Mobile requests that the Bureau recognize the differences between the paired and unpaired AWS-3 spectrum when adopting its auction structure and procedures. The Bureau should also recognize the need for auction participants to have as much information as possible before they sign the proposed acknowledgement statement regarding interference from federal users. Finally, the Bureau should limit the scope of the proposed acknowledgement statement so as not to impede the operations of non-federal users and their relationships with federal users.

II. AUCTION STRUCTURE AND PROCEDURES

A. The Stopping Rules Should Not Apply Across Both the 1695-1710 MHz Band and the 1755-1780 MHz/2155-2180 MHz Bands.

The Bureau proposes conducting the AWS-3 auction using a simultaneous multiple-round ("SMR") auction format.^{4/} Consistent with this approach, the Bureau plans on employing a simultaneous stopping rule, under which all licenses would remain available for bidding until bidding stops on every license.^{5/}

^{3/} See, e.g., Comments of T-Mobile USA, Inc., GN Docket No. 13-185, *et al.*, at 4-6 (filed Sept. 18, 2013); Reply Comments of T-Mobile USA, Inc., GN Docket No. 13-185, *et al.*, at 2-3 (filed Oct. 28, 2013).

^{4/} See *Public Notice* ¶ 17.

^{5/} See *id.* ¶ 28 (clarifying that "bidding will close on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids (if withdrawals are permitted)").

T-Mobile has generally supported the use of the Bureau’s standard SMR approach for other auctions.^{6/} However, the Bureau should recognize that this auction features two distinct spectrum blocks. As the *Public Notice* points out, the 1695-1710 MHz band will be licensed in an unpaired configuration for low-power uplink operations, and the 1755-1780 MHz band will be licensed for low-power uplink operations paired with the 2155-2180 MHz band for downlink operations.^{7/} Not only will licensees in these bands have different technical requirements,^{8/} but they will also have different obligations with respect to coordination with federal users.^{9/} The different requirements and configuration of these bands mean that they are not substitutes for each other.

In light of these differences, the Bureau should consider whether the stopping rules associated with its SMR approach should apply to the auction based on activity across all licenses or just within a particular band. T-Mobile suggests that the Bureau adopt the latter approach. If, for instance, bidding activity stops on the 1695-1710 MHz band, the auction for that band should close. There is no reason to keep the auction open for that spectrum, even if bidding activity continues for the paired 1755-1780 MHz/2155-2180 MHz bands. Such an approach will add certainty to the auction process and avoid delaying the close of the auction any longer than necessary, which is particularly important in light of the upcoming statutory deadline

^{6/} See, e.g., Comments of T-Mobile USA, Inc., AU Docket No. 13-178, at 2-3 (filed Aug. 5, 2013); Reply Comments of T-Mobile USA, Inc., AU Docket No. 13-178, at 6-7 (filed Aug. 16, 2013).

^{7/} See *Public Notice* ¶ 4.

^{8/} See *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands*, Report and Order, GN Docket No. 13-185, FCC 14-31, ¶¶ 79-92 (rel. Mar. 31, 2014) (“*AWS-3 Order*”) (discussing the different power limits and protection zones applicable to the AWS-3 Bands).

^{9/} See *id.* ¶¶ 219-222 (setting forth the different coordination requirements for the AWS-3 Bands).

to auction the AWS-3 Bands.^{10/} A contrary approach – leaving the entire auction open even when interest in one band diminishes – may prompt insincere bidding by, for example, allowing bidders interested in one band to “park” bids in another merely to preserve eligibility, artificially prolonging the auction.

B. The Inability to Reach the Reserve Price in One Band Should Not Affect the Validity of the Auction for the Other.

More importantly, the Bureau should treat the unpaired 1695-1710 MHz and the paired 1755-1780/2155-2180 MHz bands differently with respect to meeting the reserve prices. As the Bureau observes, the Commercial Spectrum Enhancement Act (“CSEA”) requires that the total cash proceeds of the auction of certain AWS-3 frequencies (*i.e.*, the 1695-1710 MHz and the 1755-1780 MHz bands) must be equal to at least 110 percent of the total estimated relocation or sharing costs associated with those bands.^{11/} If this condition is not met, the CSEA requires that the Commission cancel the auction.^{12/} Consistent with this requirement and the notice provided by NTIA to the FCC of the total estimated relocation or sharing costs,^{13/} the Bureau proposes establishing separate reserve prices for the 1695-1710 MHz band and the paired 1755-1780/2155-2180 MHz bands at \$579,775,900 and \$10,066,326,600, respectively.^{14/}

Although the two bands are included in the same auction, there is no reason that the entire auction should be declared invalid if the reserve price is not met for one band. The

^{10/} See *Public Notice* ¶ 2 (citing the Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, 126 Stat. 156 (2012), codified at 47 U.S.C. § 1401 *et seq.*).

^{11/} See *id.* ¶¶ 46-47 (citing 47 U.S.C. §§ 309(j); 923(g)).

^{12/} See *Public Notice* ¶ 47.

^{13/} See Letter from Lawrence E. Strickling, Assistant Secretary for Communications and Information, NTIA, U.S. Dep’t. of Commerce, to The Honorable Tom Wheeler, Chairman, FCC (dated May 13, 2014) (“NTIA Notice”), *available at* http://www.ntia.doc.gov/files/ntia/publications/notification_to_fcc_re_est_costs_for_1695_and_1755_bands_05132014.pdf.

^{14/} See *Public Notice* ¶¶ 49-50.

CSEA’s direction to “cancel the auction” must be read to mean the auction for the *particular spectrum*, not the entire auction that includes that spectrum. The reserve prices for each of the bands are based on the needs of different federal systems in those bands. For instance, the relocation and sharing costs for the 1755-1780 MHz band are based on the needs of the National Aeronautics and Space Administration, Department of Defense (“DoD”), Justice Department, and Department of Transportation, among others.^{15/} On the other hand, the relocation and sharing costs for the 1695-1710 MHz band are based on the needs of only DoD, the Department of Commerce, and the Department of the Interior.^{16/} There is no reason why the inability to reach the reserve price in one band should invalidate the auction for the remaining band since the federal agencies relocating or sharing from the remaining band would still be able to recover their costs from the separate reserve price. Only the auction for the particular band that failed to meet the reserve price should be cancelled, not the entire auction.

III. AUCTION DESIGN

A. Auction Participants Must Have Sufficient Information Prior to Signing Statements of Acknowledgement Regarding Federal Operations.

In order to address the temporary and indefinite sharing of the 1755-1780 MHz band between federal and non-federal users, the Bureau proposes to require auction participants to submit with their short-form applications a signed statement in which the bidder would acknowledge that its operations in the 1755-1780 MHz band may be subject to interference from federal systems in certain geographic zones, that it must accept interference from such federal

^{15/} See NTIA Notice at Attachments A and B2.

^{16/} See *id.* at Attachments A and B1.

systems in those zones, and that it has considered these risks before submitting any bids for applicable licenses in the AWS-3 auction.^{17/}

T-Mobile recognizes the utility of requiring applicants to sign statements acknowledging potential interference. However, the Bureau must ensure that the acknowledgement process is meaningful and that applicants have the information they need to consider their risks and make spectrum valuations before signing the statement. Like in any auction, bidders need as much information as possible in advance about their potential obligations in order to make informed decisions about their business needs and their level of engagement in the auction process. Without such information, bidders may be deterred from signing the statement and thus from participating in the auction altogether. Accordingly, the Commission must ensure that federal agencies provide as much information as possible about the potential interference environment.

Each affected federal agency is required to prepare a Transition Plan describing its current and future use of the AWS-3 frequencies that will be auctioned, and NTIA must make the Transition Plans publicly available on its website no later than 120 days before the auction.^{18/} T-Mobile expects that useful information will be obtained from those plans. However, as the Commission has acknowledged, some agencies may not be able to release their entire plan and will be permitted to redact from the publicly-released Transition Plans certain classified and other information.^{19/} As a result, key information may be missing from the public versions of the Transition Plans.

^{17/} See *Public Notice* ¶ 24.

^{18/} See 47 U.S.C. § 923(h); *Public Notice* ¶ 19; *AWS-3 Order* ¶ 223 (noting that the plans will “contain information about the frequencies used, emission bandwidth, system use, geographic service area, timeline for sharing, timeline for transition, and estimated cost of relocation or sharing”).

^{19/} See *AWS-3 Order* ¶¶ 223-224.

Recognizing this limitation, the Commission explained in the *AWS-3 Order* that the FCC, NTIA, and the affected federal agencies will collaborate with industry stakeholders on possible supplemental information disclosure processes.^{20/} If a supplemental information release process is necessary and can be finalized, the Commission will release a Public Notice announcing the process. T-Mobile appreciates this effort and looks forward to working with the relevant parties, if necessary, to ensure that the industry has the information it needs while protecting important federal operations. However, this supplemental information will also be critical to bidders' plans to proceed in the auction – potentially more so than the information initially disclosed. Therefore, the supplemental process must also occur before auction participants are required to sign the proposed acknowledgement statement.

B. Statements of Acknowledgement Regarding Federal Operations Must be Limited in Scope.

Not only should additional information be provided to auction participants before they are required to sign an acknowledgement statement, but the statement itself should be limited in scope. In particular, the requirement to acknowledge and accept potential interference from federal operations must be limited to the periods when federal users legitimately remain on the channels. While some sharing in the AWS-3 Bands may continue after relocation occurs, many areas will be free of federal users. License winners should not be required to accept interference indefinitely from federal users when the spectrum is clear and the licensees have no expectation of such interference. To hold otherwise would negate the purpose of relocation. Therefore, after NTIA withdraws a federal authorization from the AWS-3 Bands, non-federal licensees should no longer be subject to potential interference. The acknowledgment should make this clearer.

^{20/} See *id.* ¶ 224.

In addition, the Bureau must clarify that the proposed acknowledgement is not an indication that federal users may continue to operate on spectrum that they are otherwise obligated to clear. As noted above, the acknowledgement statement should clearly apply only to the limited and identified period of time to transition federal users. Similarly, the Bureau should note that signing the acknowledgement statement should not dissuade federal agencies from entering into agreements with auction winners for commercial use of the AWS-3 Bands. Federal and non-federal entities should be free to enter into arrangements to, among other things, coordinate their operations and implement mitigation approaches, if necessary, to ensure the optimal performance of their systems. As the Commission acknowledged, “federal incumbents remaining in the [AWS-3 Bands] must be able to have the flexibility to coordinate with commercial licensees if reasonable modification of existing, grandfathered operations are required in the future.”^{21/}

Similarly, the acknowledgement statement must not be read as a requirement on auction participants to engage in *coordination* with federal users in order to *accept interference* from them. The newly adopted Section 27.1134(f) of the FCC’s rules provides that AWS-3 licensees must protect federal systems in the 1755-1780 MHz band and accept any interference received from these federal operations.^{22/} It also sets forth procedures for coordinating non-federal operations with federal users. However, the coordination procedures specified in the rules only apply to the AWS-3 licensees’ obligation to *protect* federal systems, not their obligation to *accept* interference.

Coordination, and mechanisms to resolve interference, may be properly required to protect federal users *from* interference. On the other hand, the use of notification procedures

^{21/} *Id.* ¶ 222.

^{22/} *See id.* at Appendix A.

alone is sufficient for purposes of non-federal users *receiving* interference. Non-federal users are in the best position to determine how much interference is acceptable to receive and should not have their business decisions, such as where to build out their spectrum, at the mercy of, and possibly undermined by, a lengthy coordination process.

T-Mobile recognizes that, pursuant to the *AWS-3 Order*, a Public Notice proposing *coordination* procedures will be released shortly.^{23/} T-Mobile looks forward to working with federal users to address these issues and finalize the relevant coordination requirements.

Nonetheless, the Bureau should clarify here that the coordination procedures are different from the notification procedures that may be voluntarily implemented consistent with the required acknowledgement statement and Section 27.1134(f) of the FCC's rules.

IV. CONCLUSION

T-Mobile looks forward to the upcoming auction of the AWS-3 Bands as it will bring much needed spectrum to market. In order to provide certainty to the auction process and ensure its success, T-Mobile recommends that the auction's design, structure, and rules take into consideration the unique bands at issue as well as the specific needs of both federal and non-federal users of the spectrum. Specifically, T-Mobile requests that the Bureau promptly take the actions outlined above prior to the auction so that potential bidders can begin their pre-auction planning activities as soon as possible.

^{23/} See *id.* ¶ 221.

Respectfully submitted,

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