

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

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In the Matter of)
)
Auction of Licenses in the 747-762 and) DA 00-1075
777-792 MHz Bands Scheduled for)
September 6, 2000)

**JOINT COMMENTS OF SBC WIRELESS, INC.
AND BELL SOUTH CELLULAR CORP.**

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These joint comments are filed by SBC Wireless, Inc. and BellSouth Cellular Corp. (“Joint Commenting Parties”) in response to the Commission’s Public Notice dated May 18, 2000 requesting comments on modifying the simultaneous multiple round auction design to allow combinatorial (package) bidding.

A summary of our positions related to this proceeding is outlined below. The attached paper (“A Blueprint for a Multi-Round Auction with Package Bidding”) by Dr. Ronald M. Harstad, Professor of Economics, Rutgers University, provides the details supporting the positions of the Joint Commenting Parties regarding the proposed combinatorial bidding structure. In short, the Joint Commenting Parties generally support the Commission’s proposal to use combinatorial bidding for the upcoming 700 MHz auction. However, that support is conditioned upon adoption of the changes proposed herein.

Band Clearing

Assuming reasonable auction rules, the single most important issue involving the upcoming 700 MHz auction involves the ability of auction winners to be able to re-locate

incumbent broadcasters out of the band in a timely manner and at a reasonable cost. Absent some clarification from the FCC regarding band clearance, rational bidders should and will, for the most part, reduce their valuations of these licenses by nearly a worst-case scenario estimate of the post-auction cost of clearing. The Joint Commenting Parties urge the FCC to provide clear direction and clarification prior to the September 6th auction start date regarding the property rights of the incumbent broadcasters operating in this band. We advocate an FCC policy that directs the incumbents to move if they are compensated in an amount equal to their relocation costs. By adopting such a policy, we estimate that potential bidders for the global package will likely increase their bid limit by between \$1.20 and \$1.50 for each decreasing dollar in clearance costs. As band clearance costs are reduced, auction revenue will be maximized, new products and services can be deployed sooner and at reduced prices, all which benefit the American consumer and significantly enhance the public interest.

Default Rules

It is critical that the Commission modify its proposed rules regarding defaults. Because a default can, and likely will, change the outcome on **all** licenses, not just those won by the bidder who defaults, the FCC must put rules in place that virtually guarantee defaults won't occur. In formulating its rules on this subject, the FCC must consider the possibility that an unforeseen inability to come up with funds was not the reason for defaulting. For example, it is possible that a potential bidding strategy would be to bid up a specific license or licenses to ensure that no packages are won; and then default on the license(s) won.

There is no perfect solution regarding how to deal with defaults. We recommend that the FCC adopt the following as a way to deter entities from defaulting:

- Bidders must deposit 50% of winning bid amounts within 8 business days after the close of the auction, or be considered in default.
- A defaulter and its real parties in interest are barred from this and all future FCC radio spectrum auctions.
- Each defaulter and its real parties in interest are jointly and severally responsible for the entire shortfall of revenue, across all 12 licenses, from the level that was due at the point of default. There is no guaranteed upper bound on this responsibility.
- Each defaulter and its real parties in interest are jointly and severally responsible for a default penalty of 25% of the total revenue on all licenses that are placed in different hands because of the default.
- To the extent permitted under Section 312 of the Communications Act, all of a bidder's lines of business regulated or chartered by the FCC, and those of the real parties in interest, are subject to suspension during the time a default penalty remains uncollected.

If a default situation were to occur, we recommend that the auction be “re-winded” back to the last place where it is clear the defaulter started manipulating the outcome.

Minimum Bid Increments

Because of the unprecedented size of the bids likely to be placed in this auction, the FCC should exercise its discretion on minimum bid increments in a prudent manner. Prior to this auction, bidders were asked to make a number of smaller decisions about adding 5% to the amounts bid on individual licenses. Now, a global bidder will be asked to make a single decision on a scale that is almost unfathomable.

If the FCC were to decide to maintain a 5% bidding increment in the latter stages of the auction, the bid increments would simply be too enormous, especially if there were multiple rounds per day. For example, if the FCC does not manage the bid increments in a prudent fashion, it is highly conceivable that bidders will be asked to make decisions to place an additional \$1 billion on the table within a very limited timeframe. Our recommendation is that minimum bid increments in percentage terms be scaled down as needed, to ensure that the minimum bid increment on a global license is never more than \$250 million. This implies that the absolute size of a bid on an individual license or a smaller package is capped proportionately. For example, if the minimum bid increment on a global license could be no more than \$250 million, the minimum bid increment on a license or package for which the current price was 1/10 of the current revenue would be no more than \$25 million.

Stopping Rule

In its Public Notice, the Commission proposes that the auction stop whenever there are two consecutive rounds with no new bids. We propose two modifications. The biggest concern with the Commission's proposal is that a round with no new bids could

suddenly signal that the next round is a bidder's last chance to compete. With package bidding, that could easily mean deciding to place new bids that increase a bidder's current exposure by perhaps billions of dollars. We suggest the following modifications to the stopping rule:

- If there is a round with no new bids, and the FCC might allow a following round with no new bids to end the auction, the auction must be halted immediately, until 10 a.m. the following day, to give bidders enough time to consider potentially large bids. The remaining rounds scheduled for the rest of the day must be postponed until the next day.
- Also, if a round ends with revenue \$1 billion or higher than at the beginning of the day, the remaining rounds that day should be postponed until the next day. Whatever the pattern of new bids that led to the \$1 billion plus increase, the bidders need to have an adequate amount of time to rethink the situation; to reconsider the relative expensiveness of rows, columns, and individual licenses.

Miscellaneous

In the Attachment, additional recommendations are made in several inter-related areas such as comparing package bids with bids on individual licenses, activity credits, pricing of licenses held by the Commission, retained bids, jump bids, waivers, and reducing the likelihood of ties. Also included are stand-alone proposals in the areas of stage transitions and overlapping bids. Finally, Dr. Harstad's paper includes specific proposals designed to deal with the threshold problem.

CONCLUSION

This auction will be unprecedented in two related ways. First, it will contain combinatorial bidding which, in and of itself, introduces the possibility of complex rules and confusion. Second, the amount of dollars placed by a single entity in a single bid will likely be higher than in any previous auction. The Joint Commenting Parties strongly recommend that the Commission adopt the proposals set forth in the Attachment which, if implemented, will keep the auction as simple as possible, allow for the greatest amount of flexibility for the bidders, and ensure the most efficient auction possible.

Respectfully submitted,

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