

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of: )  
)  
Auction of Licenses in the 747-762 and ) DA 00-1075  
777-792 MHz Bands Scheduled for )  
September 6, 2000 )  
)  
Modifying the Simultaneous Multiple )  
Round Auction Design to Allow )  
Combinatorial (Package) Bidding )

**COMMENTS OF VERIZON WIRELESS**

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Pursuant to Public Notice, DA 00-1075 (released May 18, 2000), Verizon Wireless<sup>1</sup> provides the following comments on the Commission's proposals to implement combinatorial bidding in the upcoming auction for the 747-762 MHz and 777-792 MHz bands ("the 700 MHz bands").

**SUMMARY**

Verizon opposes adoption of the proposed complex scheme for combinatorial bidding for Auction No. 31. Although Verizon generally supports the concept of combinatorial bidding, the complexity of that process, and the minimal time bidders

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<sup>1</sup> On April 3, 2000, pursuant to Commission approval (*Vodafone AirTouch, Plc, and Bell Atlantic Corporation*, DA 00-721, released Mar. 30, 2000), the domestic cellular, paging and PCS businesses of Bell Atlantic Mobile and Vodafone AirTouch were combined, forming a new nationwide competitor that offers wireless products and services coast-to-coast using the name of Verizon Wireless.

would have to evaluate whatever new scheme is adopted in deciding whether and how to participate in the 700 MHz band auction, make it inadvisable for the Commission to implement combinatorial bidding for Auction No. 31.

The Public Notice seeks comment on 23 separate auction issues which the Commission is proposing to adopt or modify for this initial use of combinatorial bidding. These cover very intricate matters such as “or bids” as well as radical changes to existing auction rules, such as complete elimination of bid withdrawal. The deadline for filing short-form applications for Auction No. 31 is August 1 – less than two months away. Even if the Commission can digest the comments and reply comments (due June 16) quickly, bidders would have little time to incorporate the rules for combinatorial bidding into their bidding strategies.

If the Commission does attempt to implement combinatorial bidding in Auction No. 31, the new rules should be explicit as to the combinatorial bidding process and should maximize the benefit to bidders of this new form of bidding. In addition, the Commission needs to allow more time than is currently scheduled for bidders to master the new rules and for the Commission to resolve clearly the many issues raised in the Public Notice. Once any new rules are issued, the Commission must provide detailed guidance on exactly how the combinatorial bidding rules will be applied.

**I. THE COMMISSION SHOULD NOT ATTEMPT TO IMPLEMENT COMBINATORIAL BIDDING ON THE CURRENT SCHEDULE FOR AUCTION NO. 31.**

Combinatorial bidding offers some benefits to bidders, but neither the timing nor the circumstances of Auction No. 31 support the informed use of combinatorial bidding procedures. Indeed, adopting them here would conflict with the FCC's decisions in earlier orders concerning this same auction.<sup>2</sup>

When the Commission initially adopted bidding rules for Auction No. 31, it decided not to use combinatorial bidding because of its complexity, the lack of necessary advance preparation by the Commission, and the shortness of time before the scheduled start of the auction:

We will not use combinatorial bidding for the 747-762 MHz and 777-792 MHz bands, although we believe that such procedures may well have certain benefits in the auction of licenses for these bands. . . . To date we have not yet tested or employed combinatorial bidding, which involves numerous complications for both the Commission

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<sup>2</sup> Use of combinatorial bidding in an actual auction without prior testing also appears to conflict with Section 309(j)(3) of the 1934 Communications Act. Congress directed the Commission to provide for the “design and conduct (*for purposes of testing*) of competitive bidding using a contingent combinatorial bidding system.” 47 U.S.C. § 309(j)(3) (emphasis supplied). Congress intended that the Commission “test methods available in the private sector which may assist the Commission in successfully conducting competitive bidding,” and then provide a report on the test to Congress. H.R. Conf. Rep. 105-217, § 3002(A) (1997) (Conference Agreement in Joint Explanatory Statement). Conducting this “test” in an actual auction gets ahead of the statutory scheme for implementation of combinatorial bidding. See Public Notice, Report No. WT 98-35, “Wireless Telecommunications Action; Wireless Bureau Begins Process of Designing a Combinatorial Bidding System for Future Commission Auctions” (released Sept. 28, 1998) (recognizing need for testing of combinatorial bidding and announcing award of contract for such testing).

and bidders. Consistent with Congress' directive, we are actively developing theoretical and applied combinatorial bidding approaches, but we have not yet completed the development of a practical means of implementing such an auction design. *We therefore find that we should not use this complex and untested auction design for the 747-762 MHz and 777-792 MHz bands, especially in light of the statutory deadline imposed here.*<sup>3</sup>

The complexity of combinatorial bidding and the complications for using this form of auction remain unchanged for both the Commission and bidders, and equally compel not implementing it at this time. The Public Notice asks for comment on no less than 23 separate items, of such a wide variety (e.g., possibility of “or bids”) that a potential applicant still is left with substantial uncertainty of how the final combinatorial process could be established. The level of complexity that combinatorial bidding brings to this auction greatly increases the amount of analysis by bidders and has a major impact on bidding strategy. Indeed, if combinatorial bidding rules are adopted for the 700 MHz band auction, bidders will have to rethink their strategies and become acquainted with new software to participate in the auction. There would be insufficient time for bidders to evaluate the impact of combinatorial bidding on bidding strategy before the August 1<sup>st</sup> application date or to revise the reporting software programs that have already been developed.

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<sup>3</sup> Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, 15 FCC Rcd 476, 526-27 (2000) (footnote omitted) (emphasis supplied) (“700 MHz First Report and Order”).

The Commission suggested in the Public Notice that, in light of the auction delay to September 6<sup>th</sup>, there is now sufficient time to consider combinatorial bidding. In fact, there is less time between the date of issue of the Public Notice seeking comment on combinatorial bidding and the new short-form application date (May 18<sup>th</sup> to August 1<sup>st</sup>: 75 days) than between the release of the 700 MHz First Report and Order and the previously-scheduled short-form application date (January 7<sup>th</sup> to April 10<sup>th</sup>: 94 days). Worse, any action on the Public Notice is likely weeks away, leaving virtually no time before the August 1 application date. Therefore, were the Commission to adopt combinatorial bidding for Auction No. 31, bidders would have far less time to prepare than the time period deemed by the Commission to be too brief in the First Report and Order.

Rather than implementing combinatorial bidding at such a breakneck pace, Verizon urges the Commission to establish a combinatorial bidding process with input from potential bidders who have had time to study and digest the intricacies of this process. Auction No. 31 is not an appropriate vehicle to make these radical changes in the Commission's auction procedures, unless more time is granted before the start of the auction.<sup>4</sup> The Commission and the public should have at least six

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<sup>4</sup> Chairman Kennard has previously expressed his concern to Congress regarding the "compressed timing" for the 700 MHz band auction. See Letters from Chairman William Kennard to The Honorable Ted Stevens, et al. and to The Honorable C.W. Bill Young, et al., at 1 (April 27, 2000). Adopting a completely new set of bidding rules now would certainly require additional time for potential bidders to determine how the new rules impact their business plans, bidding strategies and strategic alliances. See id. The Chairman has noted that rushing

(continued)

months between the date of adoption of combinatorial bidding rules and the short-form filing date for an auction in which those rules are applied, to give all participants time to determine the impact on bidding valuation and strategy.

**II. IF THE COMMISSION IMPLEMENTS COMBINATORIAL BIDDING FOR AUCTION NO. 31, IT MUST ADOPT CLEAR RULES THAT PROVIDE THE GREATEST BENEFIT TO BIDDERS.**

The rules proposed in the Public Notice are new for all interested parties and complex by the Commission's own admission. Therefore, although Verizon Wireless believes this is neither the time nor the place for combinatorial bidding, if that scheme is used in Auction No. 31, it is important that the Commission allow more time than is currently scheduled before the auction, and adopt explicit rules that will facilitate, rather than hinder, the bidding process, recognizing that these rules can be modified as the Commission gains experience with this form of competitive bidding.

**A. Bidding Packages**

The Commission has proposed to offer one global (12 EAG licenses), two national (six 20 MHz or six 10 MHz licenses), six regional (both licenses in the same EAG), and 12 individual EAG licenses. Public Notice, § II(A). If the Commission intends to allow bidders to achieve the benefits of combinatorial bidding, then it should allow bidders to choose to bid on many more types of "packages." As the

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(continued)

the auction is "unwise, and would jeopardize the efficient assignment of this valuable resource." Id. at 2.

Commission has previously recognized, one of the benefits of combinatorial bidding is to permit “a bidder to bid on several geographic area licenses as a package or channels as either paired or unpaired.”<sup>5</sup> Artificially limiting the packages to groups of licenses across the entire country or to only one EAG does not achieve this intended benefit.

For example, the same reasons that a bidder may desire to acquire a national 700 MHz footprint may motivate a bidder to acquire a footprint in two or three adjacent EAGs. And, if national licenses are not an option due to cost or developments during the auction, some bidders may seek to bid on a package of licenses in adjoining EAGs. Foreclosing such options could reduce the level of interest in the auction, and/or cause bidders to drop out earlier than they would if other alternatives were available. Therefore, the Commission should expand the packages to include a cluster of licenses in adjoining EAGs and not just limit the packages to national or EAG licenses.

#### **B. Winning and Retained Bids**

The Commission’s proposals for and use of the terms *winning bids*, *provisional winning bids*, and *retained bids* are complex and represent a radical departure from previous auction designs. Public Notice, § II(B). The Commission needs to provide additional examples of how these concepts will be implemented so that bidders can develop and/or revise their auction reporting software packages.

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<sup>5</sup> 700 MHz First Report and Order, 15 FCC Rcd at 526.

### **C. Upfront Payments and Initial Maximum Eligibility**

The Commission has proposed that the upfront payments for the 700 MHz auction will not change from those previously adopted for individual licenses, and that the upfront payments for packages will be calculated as the sum of the amounts for individual licenses. Public Notice, § II(C). Verizon Wireless supports this proposal. The dollar amounts tied to bidding eligibility should not change. In the previously-announced rules, an upfront payment of \$252 million was the maximum needed to be able to win all twelve 700 MHz band licenses. Even with the proposed change in bidding rules, a bidder still can only win a maximum of twelve licenses. Therefore, there is no reason to modify the upfront dollar amounts.

The maximum upfront payment also should not be modified to account for individual bidders using more than the equivalent maximum number of bidding units. No bidder can win more than all twelve EAG licenses. If, in any round, a bidder has more bidding units in “retained bids” than the maximum number of bidding units, those bids would have to represent mutually exclusive bids, all of which could never translate to “winning bids.” A bidder should have up to the maximum of 252 million bidding units to enter bids on more than all 12 licenses.

### **D. Minimum Accepted Bids and Bid Increments**

Verizon Wireless supports the Commission’s proposal to use a minimum accepted bid calculation that is determined by an X% increase methodology. Public Notice, § II(D). This methodology is simple and easily calculable by bidders. Given

the intricacies of combinatorial bidding, the Commission should keep this calculation simple.

However, the Commission should not adopt the proposed restriction on package bidders using the “click box” process. Under the Commission’s proposals (and Verizon’s proposed modification to the packages available), it is certainly possible for many individual bidders not to be bidding on EAG licenses that are the subject of other bidders’ “package” bids. It is, therefore, overly restrictive for the Commission to attempt to account for the “threshold” problem by imposing bidding limits on bidders for such packages. Rather than imposing limits that are too restrictive, the Commission should strive for maximum flexibility. All bidders, whether seeking global, national, regional or individual licenses, should have the flexibility to bid with more than just one increment in each round. Accordingly, the Commission’s “click box” procedure should not be changed for combinatorial bidding.

**E. Activity Rules and Eligibility**

The Commission proposes to measure each bidder’s activity in each round as the maximum number of bidding units associated with its bids that could be in a set of provisional winning bids. Public Notice, § II(E). In so doing, the Commission intends to account for the fact that a bidder may have bidding units associated with mutually exclusive bids. While the Commission’s overall concept to measure activity appears logical in the context of combinatorial bidding, Verizon

recommends that the Commission should provide additional examples of how this complex and new concept will be implemented.

The Commission also proposes that, in any round, each bidder must be active on licenses representing 50% of its current eligibility in order to maintain its current eligibility for the next round. The Commission should adopt a minimum that will ensure an acceptable pace for the auction, and 50% seems appropriate. With respect to the alternative method of restricting a bidder's absolute number of bids, Verizon Wireless has no opinion, as long as the rules concerning eligibility keep the design of the auction transparent.

#### **F. Bid Removal and Bid Withdrawal**

The Commission should not eliminate bid withdrawal. Public Notice, § II(G). The use of combinatorial bidding will greatly increase the overall complexity of Auction No. 31, increasing the risk that bidders will err or change their strategies during the auction process. Although bid withdrawal is associated with penalties, it remains a vehicle that bidders can choose if there is a change in strategy or if an uncorrectable mistake is made in bidding. The bid withdrawal process allows a bidder to withdraw its bid – with appropriate penalties – and then lets the property return to the auction.

The elimination of the bid withdrawal option increases bidders' risks associated with combinatorial bidding, and could have the effect of skewing the bidding as bidders become more cautious. It also increases the potential for the

additional expenditure of time and resources in a reauction. Verizon recommends that the Commission retain bid withdrawal as an option for all bidders.

#### **G. Default Penalty**

Following a combinatorial auction, the Commission should calculate default payments for individual bidders based on the lump sum of the amounts paid for the licenses on which it defaulted. Public Notice, § II(L). If the Commission receives in a subsequent reauction an amount that is equal to or greater than the original bid for two or more licenses or packages, the penalty should not be calculated separately, and the proceeds should be offset. Thus in the Commission's Example 2, the penalty should only be the 3% penalty charge of \$13.5 million not \$63.5 million, since the Commission received back the entire \$500 million bid in the first auction in the subsequent reauction.

#### **H. "Or Bids"**

If adopted, "or bids" should be allowed on any combination of license packages or individual licenses. Public Notice, § III(A). However, for the sake of simplicity, the Commission should consider limiting the number of "or bids" for each bidder.

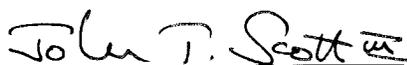
The concept of "or bids" is another example of a proposal that would greatly increase the complexity of Auction No. 31. While the concept is one that has merit, if adopted, bidders will need time to understand the concept and adapt it to their bidding strategies. The current auction schedule simply does not allow sufficient time for this analysis.

### III. CONCLUSION

Given the current schedule for Auction No. 31, there is insufficient time for potential bidders to analyze fully any new combinatorial bidding procedures. Therefore, it would be impractical as well as inadvisable for the Commission to adopt combinatorial bidding rules for the 700 MHz band auction. Accordingly, Verizon Wireless urges the Commission not to implement combinatorial bidding rules for Auction No. 31 unless more time is available prior to the auction.

Respectfully submitted,

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Date: June 9, 2000

## CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 9th day of June, 2000, caused to be served true and correct copies of the foregoing "Comments of Verizon Wireless" upon the following parties via hand delivery (marked with an asterisk (\*)), or by first-class United States mail, postage prepaid:

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A handwritten signature in cursive script that reads "William D. Wallace". The signature is written in black ink and is positioned above a horizontal line.

William D. Wallace

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