

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

In the Matter of)	
)	Report No. AUC-02-46-A
1670-1675 MHz)	
Band Auction Scheduled for)	Auction No. 46
October 30, 2002)	Revised Notice

To: The Wireless Telecommunications Bureau

COMMENTS OF ARRAYCOMM, INC.

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ArrayComm, Inc. (“ArrayComm”), by its attorneys, hereby submits these Comments in response to the Revised Public Notice released by the Wireless Telecommunications Bureau (“Bureau”) in the above-captioned docket on July 15, 2002 (“*Auction 46 Revised Notice*”).¹ ArrayComm has also filed Comments in response to the May 24, 2002 Public Notice for Auction 46,² and incorporates those comments herein by reference.

In support of these Comments, the following is respectfully shown:

I. Introduction

The Bureau’s decision to pursue an auction of only the 1670-1675 MHz band significantly narrows the scope of Auction 46. This auction will include only one nationwide license, and thus of necessity will have fewer participants than the full auction would have had as

¹ *Auction No. 46: Revised License Inventory and Auction State Date – Comment Sought on Revisions to Auction Procedures*, DA 02-1628 (rel. July 15, 2002) (“*Auction 46 Public Notice*”). ArrayComm filed its comments via electronic mail on June 6, 2002 (“ArrayComm June 6 Comments”).

² *1392-1395 and 1432-1435 MHz, 1390-1392 MHz, 1670-1675 MHz, and 2385-2390 MHz Bands Auction Scheduled for September 18, 2002: Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues*, Report No. AUC-02-46-A, Auction No. 46, Public Notice, DA 02-1257 (rel. May 24, 2002).

originally planned. As such, the Bureau's concern that "the auction closes within a reasonable period of time"³ should be largely addressed from the outset.

The Bureau's proposed changes to the Auction 46 rules are therefore appropriate in light of its narrowed scope. ArrayComm agrees that the auction should have only one activity stage requiring 100% participation, that participants should be permitted only two activity waivers rather than five, and that bid withdrawals should be prohibited.⁴ These alterations to the rules are reasonable, given that participants are now on notice that only one license is available and should be expected to pursue it diligently.

In addition, the narrowed scope of Auction 46 provides greater need for reducing the minimum bid increment below the Bureau's proposed ten percent floor.⁵ In fact, Auction 46 now resembles the familiar "open outcry" auction, whereby all bidders have the opportunity to offer ever-increasing bids. Under this structure, which may be unique among Commission spectrum auctions, a smaller bid increment is necessary to ensure an efficient outcome – that the winning bid most closely approximates the highest valuation of the spectrum. For this reason, ArrayComm renews its proposal that the Bureau consider lowering the minimum bid increment in Auction 46 where the number of participants is reduced or where bidding activity has decreased.

³ *Auction 46 Public Notice* at 4. See also *Implementation of Section 309(j) of the Communications Act – Competitive Bidding*, PP Docket No. 93-253, Second Report and Order, 9 FCC Rcd. 2348, 2371 (1994) ("*Section 309(j) Second Report and Order*").

⁴ *Auction 46 Revised Notice* at 2.

⁵ *Auction 46 Public Notice* at 8.

II. The Bureau’s Proposal to Limit Auction 46 to One Activity Stage with Two Activity Waivers and to Remove the Ability to Withdraw Bids Is a Reasonable Response to the Smaller Scope of the Auction

As ArrayComm stated in its initial comments, imposing minimum activity rules is necessary to ensure a reasonably expeditious auction.⁶ It therefore supported the Bureau’s initial proposal that the auction have three activity stages, having activity rules of incrementally increasing levels, and that participants be granted five activity rule waivers for the entirety of the auction.⁷ Under the new single-license scope of Auction 46, however, more stringent activity rules are now warranted.

The fact that only one nationwide license is up for auction likely means that a smaller number of participants will be involved. Being focused on this one license, these participants are thus apt to be motivated to conduct the auction efficiently and expeditiously. In addition, having to monitor only the bidding activity of one license makes the evaluation and bidding process of necessity more straightforward for participants. These circumstances make it less crucial that lenient activity rules are applied to this auction, as the very structure of the auction enables participants to bid intelligently.⁸ ArrayComm therefore supports the Bureau’s proposal that Auction 46 be conducted in only one stage, with 100% participation, granting two activity rule waivers and prohibiting bidders from withdrawing bids in any round.

⁶ ArrayComm June 6 Comments at 5.

⁷ *Id.*

⁸ *Section 309(j) Second Report and Order*, 9 FCC Rcd. at 2372 (“We believe that some waiver procedure is a critical element of the Milgrom-Wilson activity rule, since the Commission would not want to reduce a bidder’s eligibility due to an accidental act or circumstances not under the bidder’s control.”).

III. The Significantly Changed Scope of Auction 46 Warrants that the Bureau Closely Monitor the Bid Increment, Reducing It Where Participation or Activity Declines

ArrayComm further agrees that the use of minimum bid increments in spectrum auctions encourages efficient, thoughtful bidding.⁹ Absent a minimum bid increment, an auction could be interminable, especially in the case where several participants are active.¹⁰ Large auctions with significant bidding activity thus require a meaningful bid increment to reach most quickly the point at which the price exceeds valuation for some players – in other words, to ensure an efficient auction. Auction 46, however, is not likely to fit that paradigm, rendering large bid increments decidedly *inefficient*, and providing no added expediting benefit, for this auction is likely to be quick.

Presently, the Bureau proposes to apply a minimum bid increment no lower than 10 percent.¹¹ It notes, however, that it reserves the right to amend the bid increment “if it determines that the circumstances so dictate.”¹² ArrayComm has explained in its earlier comments that a smaller bid increment, perhaps 5 percent, should be applied in the event that only two qualified bidders remain active, in order better to ensure an efficient outcome.¹³ Under the new single-license scope of Auction 46, a smaller bid increment becomes even more necessary to this purpose.

Because the nature of new Auction 46 approaches an “open outcry” auction, the minimum bid increment should be of a level that drives the bidding higher without forcing participants out of the auction prematurely. Moreover, it should prevent the perverse result that a

⁹ See ArrayComm June 6 Comments at 6.

¹⁰ See Section 309(j) Second Report and Order, 9 FCC Rcd. at 2369.

¹¹ Auction 46 Public Notice at 8.

¹² *Id.* at 9.

¹³ ArrayComm June 6 Comments at 6-9.

license is awarded to a party that valued it less than others. ArrayComm provided a mathematical example of this phenomenon in its comments.¹⁴

In open outcry auctions, often bidders are permitted to make “drop-out bids,” or essentially to inform the auctioneer of what their bid would have been absent the required bid increment. Because this mechanism cannot be utilized in Auction 46, it becomes necessary to lower the minimum bid increment, which has close to the same effect. That is, it enables participants to continue bidding, which is essentially to tell the pool the value they put on the spectrum, and makes it less likely that a large jump in price will force participants out of the auction. Thus, lowering the minimum bid increment better ensures an efficient outcome because the minimum acceptable bid will be less than or equal to the highest valuation for the license. In addition, it will ensure that proceeds from the auction are maximized.

Lower bid increments are particularly necessary where bidding activity is low, or the number of participants declines. Low activity increases the likelihood that a large minimum bid increment will create an inefficient result. Thus, ArrayComm encourages the Bureau to pay close attention to bidding activity, and to amend the bid increment where it perceives a decline in activity. In conjunction with the lower bid increment, it should increase the activity weight factor for the smoothing formula used to derive next bids.

The Commission’s spectrum auctions have consistently been constructed to be efficient, to maximize value to the end user, and to minimize transaction costs for bidders. By using its authority to apply a lower bid increment and increased activity weight factor in Auction 46, the

¹⁴ ArrayComm June 6 Comments at 7

Bureau will comport with this tradition, thus adhering to its mandate of promoting spectrum access and technological innovation over the radio spectrum.¹⁵

IV. Conclusion

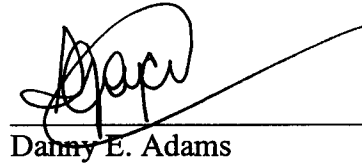
ArrayComm applauds the Bureau for culling out the 1670-1675 MHz band for a separate auction. It supports the Bureau's revised activity rules, as the narrowed scope of the auction warrants more stringent regulation of bidder participation. ArrayComm also urges the Bureau to use its authority to apply a lower minimum bid increment for Auction 46 where bidding activity or the number of participants is low, in order to ensure the most efficient outcome for the auction.

¹⁵ *Section 309(j) Second Report and Order*, 9 FCC Rcd. at 2349-50.

Respectfully submitted,

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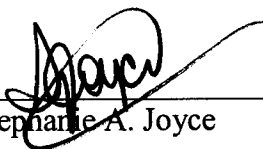
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CERTIFICATE OF SERVICE

I, Stephanie A. Joyce, certify that on this 22nd day of July, 2002, a true and correct copy of the foregoing Comments of ArrayComm, Inc. were served First Class Mail, electronic mail* or facsimile** on the following persons:


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