

July 8, 2004

Via Electronic Mail

To: Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 20554

From: John Mason
3G PCS, LLC
1199 Howard Avenue, Suite 325
Burlingame CA 94010
Phone: 650/347-6885

RE: Report No. AUC-04-58-B (Auction No. 58)

Dear Ms. Dortch:

3G PCS, LLC, wishes to commend the Commission for enforcing the designated entity (DE) rules and policies, developed in connection with Auction No. 35, for the forthcoming Broadband PCS Spectrum Auction No. 58. (Broadband PCS Spectrum Auction Scheduled for January 12, 2005, Public Notice DA 04-1639 (dated June 18, 2004) ("Public Notice").) As a DE that was the high bidder on 3 licenses in Auction No. 35 and subsequently acquired one of those licenses (Gainesville, Georgia BTA, F Block), 3G PCS looks forward to an equitable playing field in Auction No. 58, with the hope and expectation that the auction framework will provide 3G PCS with a meaningful opportunity to acquire additional spectrum and develop innovative services for the benefit of American wireless consumers.

3G PCS urges the Commission to continue to hold firm against pressure from the nationwide carriers and their trade association, who will likely use the Public Notice as a means to attempt to further erode the DE program.

As supported by the Commission in 2000 and enforced again in the current auction structure, the Auction No. 58 rules provide a true opportunity for DEs to acquire PCS spectrum through the critical combination of set-asides and bidding credits. The underlying success of these rules in Auction 35 cannot be disputed. In fact, the 32 DEs that participated in Auction No. 35 won 45 percent of all licenses by value. This statistic demonstrates that small businesses are eager for spectrum ownership opportunities and are well-positioned to pursue them thanks to the current rules.

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Although the well-financed nationwide carriers have mounted an aggressive lobbying campaign against the DE set-asides in this auction, the Commission must continue to vigilantly protect its record of enhancing diversity and promoting small business presence in the wireless communications industry. Any further diminishment of the DE rules, even if seemingly minor, could preclude 3G PCS and other similarly-situated companies from meaningful participation in the wireless industry going forward, tilting the playing field wholly in favor of the large national carriers.

In addition, 3G PCS opposes the significantly higher minimum opening bids established for this auction, as compared to Auction No. 35, as set forth in the Public Notice (Public Notice at 6, 7, Attachment A). Minimum bids beyond nominal levels serve no purpose other than increasing the probability that the Commission will have to hold a re-auction to sell those licenses that may go unsold in Auction 58 due to artificially imposed pricing floors. Previous auctions such as the Lower 700 MHz auction (Auction No. 44) have demonstrated this problem; many licenses went unsold in Auction 44 due to artificially high minimum bid levels and the Commission was forced to hold another auction (Auction No. 49) to resell these licenses at reduced minimum bid levels. While the auction rules provide the Commission the flexibility to reduce minimum bid levels during the course of an auction, the practical reality of auction dynamics is that by the time the need for lower minimum bid levels has become apparent, many bidders have already reduced or eliminated the bidding eligibility needed to bid on available licenses. The time to reduce minimum bid levels is in advance of the auction.

Finally, any consideration of modifying the auction structure at this late date in a direction that would diminish DE opportunities could delay the January, 2005 start of Auction No. 58, and would likely expose the auction to regulatory uncertainty and litigation, circumstances that would further hinder the path toward build-out and deployment of new services.

For these reasons, 3G PCS commends the Commission for enforcing the current auction rules, giving smaller companies the opportunity to participate in Auction No. 58 and the opportunity to offer new and innovative wireless services in competition with larger carriers.

Sincerely,

John Mason
Vice-President
3G PCS, LLC