

**Before the
Federal Communications Commission
Washington, DC 20554**

Broadband PCS Spectrum Auction)	
Scheduled for January 12, 2005)	DA 04-1639
Comment Sought On Reserve Prices Or)	
Minimum Opening Bids And Other)	Report No. AUC-03-58-A (Auction No. 58)
Auction Procedures)	

COMMENTS OF THE RURAL TELECOMMUNICATIONS GROUP

The Rural Telecommunications Group, Inc. (“RTG”),¹ by its attorneys, hereby submits comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice seeking comment on the procedures for its upcoming auction of Personal Communications Service (“PCS”) licenses.² Specifically, RTG supports and applauds the FCC’s tentative decision to enforce its previously-established designated entity (“DE”) rules and policies for its upcoming Broadband PCS Spectrum auction (“Auction No. 58”), scheduled to commence on January, 12 2005.³ By preserving the DE designations for certain available spectrum blocks in Auction No. 58, RTG is hopeful that the upcoming auction will provide rural

¹ RTG is a Section 501(c)(6) trade association dedicated to promoting wireless opportunities for rural telecommunications companies through advocacy and education in a manner that best represents the interests of its membership. RTG’s members have joined together to speed delivery of new, efficient, and innovative telecommunications technologies to the populations of remote and underserved sections of the country. RTG’s members provide wireless telecommunications services, such as cellular telephone service and Personal Communications Services, among others, to their subscribers. RTG’s members are small businesses serving or seeking to serve secondary, tertiary and rural markets. RTG’s members are comprised of both independent wireless carriers and wireless carriers that are affiliated with rural telephone companies.

² See Broadband PCS Spectrum Auction Scheduled for January 12, 2005, Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 04-1639 (rel. June 18, 2004).

³ *Id.*

carriers with a meaningful opportunity to acquire additional spectrum, which will continue to allow rural companies to develop innovative services for the benefit of wireless consumers living in rural America. Indeed, the Commission's enforcement of the DE rules as they relate to the auction of PCS spectrum is entirely consistent with its ongoing effort to promote the rapid growth and efficient deployment of quality spectrum-based services in rural areas.⁴

Although the "usual suspects" of large carriers and their trade association have been actively lobbying the Commission against enforcing its DE program for Auction No. 58,⁵ RTG urges the Commission to withstand such pressure, particularly since the Commission already yielded to similar requests from these large carriers four years ago.⁶ The Commission should not further water down the same rules that it already significantly weakened prior to its C and F Block Broadband PCS spectrum auction (Auction No. 35) in 2000.

Specifically, RTG supports the adoption of these proposed DE restrictions for Auction No. 58 because enforcing the current rules will foster regulatory and legal certainty, and will permit the auction to begin as soon as possible. Rural and independent wireless carriers need to rely on the Commission's representations that the modifications to the DE rules developed for Auction No. 35 "will apply to any subsequent auctions of C or F block licenses, including any

⁴ See *Facilitating the Provision of Spectrum-Based Services to Rural Areas and Promoting Opportunities for Rural Telephone Companies To Provide Spectrum-Based Services, Notice of Proposed Rulemaking*, FCC 03-222 (2003).

⁵ Paul Kirby and Brian Hammond, *Large Wireless Carriers Criticize FCC Plans to Auction Some NextWave Spectrum to 'Designated Entities'*, Telecommunications Reports (July 1, 2004).

⁶ Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, *Sixth Report & Order and Order on Reconsideration*, FCC 00-313 (2000) ("Sixth R&O") at ¶ 1. See also *Order on Reconsideration*, FCC 01-17, ¶ 6 (2001); 47 C.F.R. §§ 24.229(b), 24.709(a).

spectrum made available or reclaimed from bankruptcy proceedings in the future.”⁷

Additionally, the Commission’s careful consideration of the diverse proposals submitted regarding this issue in 2000 represented a reasonable and fair balance of the objectives of Section 309(j) of the Communications Act of 1934, as amended (“Act”).⁸ During that proceeding, following a full notice and comment process, the Commission properly determined that the DE program, which includes closed bidding (and thereby allows smaller carriers that serve rural areas a meaningful opportunity to enter the PCS marketplace), is consistent with Section 309(j) because it promotes economic opportunity and competition and ensures that new and innovative technologies are readily accessible to all Americans, no matter where they live.⁹ The overwhelming success of Auction No. 35 demonstrated that DEs will participate in the auction process when they have meaningful incentives (in the form of set asides combined with bidding credits). There has been presented no valid reason presented by the large carriers for the Commission to believe that DE participation in Auction No. 58 will be any different.

Finally, recent wireless industry consolidation, including the Cingular / AT&T Wireless merger and Verizon’s recent acquisitions (including Quest’s wireless assets), serves as evidence that the Commission should take meaningful steps to promote, not suppress, diversity of ownership in wireless communications, pursuant to Congressional intent. If anything, in the current environment of consolidation, the Commission would be justified in further enhancing the DE provisions, providing greater advantages to DEs in order to promote Commission goals and objectives. RTG submits that further erosion of the DE provisions would run afoul of

⁷ *Id.*

⁸ *Sixth R&O* ¶ 23.

⁹ *Id.*

Section 309(j) of the Act and would subject the Commission to litigation and uncertainty regarding the outcome of Auction No. 58.

Accordingly, for the reasons stated herein, RTG supports and applauds the Commission for enforcing its already well-established auction rules. Adoption of these rules will ensure the robust participation of DEs in an important wireless spectrum auction. RTG strongly encourages the Commission to hold steady against any opposition by the large wireless carriers and their representatives to derail the existing DE rules and adopt the DE rules for Auction No. 58 as proposed.

Respectfully submitted,

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