

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20054**

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| In the Matter of |) | |
| |) | |
| Auction of Lower and Upper Paging Bands Licenses |) | AU Docket No. 09-205 |
| |) | |
| Competitive Bidding Procedures |) | |

To: Wireless Telecommunications Bureau

**REPLY COMMENTS OF THE
ENTERPRISE WIRELESS ALLIANCE**

The Enterprise Wireless Alliance (“EWA” or the “Alliance”) submits these reply comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Public Notice seeking information on the Commission’s proposed competitive bidding procedures for Auction 87.¹ The Alliance is pleased that the FCC has decided to move forward with this auction. Auctions 40 and 48, in which these same licenses first were made available through the competitive bidding process, proved exceedingly beneficial for a segment of the wireless industry that generally has not been able to secure spectrum through the auction process. Auction 87 includes only licenses from those two earlier auctions that remained unsold or that were subsequently recovered by the Commission when a winning bidder defaulted or when the license was terminated or canceled. EWA nonetheless believes that even the limited number of remaining licenses, each of which authorizes only a very small amount of spectrum within a relatively circumscribed geographic area, will meet the defined needs of certain entities. EWA

¹ *Comment Sought on Competitive Bidding Procedures for Auction 87: Auction of Lower and Upper Paging Bands Licenses*, AU Docket No. 09-205, Public Notice, 74 RR 67221 (2009) (“Public Notice”).

also believes that the proposed competitive bidding rules, with one exception, are appropriate procedures for this particular auction.

EWA is pleased to support this auction as one that is well-suited for the requirements of the Alliance's members. In general, the Commission's auctions are designed to make spectrum available in block sizes and over geographic areas that are attractive to commercial wireless service providers intending to serve the general consumer marketplace. In recent years, as broadband has assumed an increasingly important role in commercial wireless services, the FCC's competitive bidding procedures have tracked that conversion from primarily voice to data applications. The Commission has created larger spectrum blocks covering extensive geographic areas and also has authorized combinatorial bidding in certain instances, thereby facilitating the acquisition of vast, even nationwide licenses. These rules have proven highly successful as evidenced by the 700 MHz auction that generated almost \$20 billion in revenue even without the sale of the upper 700 MHz D Block and has positioned the nation's largest carriers to begin their migration to a fully broadband environment.²

The needs of the Alliance's members are different. EWA's members seek spectrum to satisfy defined private internal communications, ones that are not met by commercial providers for security, geographic or other reasons, or, in the case of small commercial operator members, to meet the dispatch requirements of business or governmental fleets with a primary need for one-to-many communications. Entities with these highly particularized requirements generally are not served by consumer-based commercial systems and are unable to acquire auction spectrum, which typically authorizes greater bandwidth and geography than is needed or practical for these types of applications.

² EWA recognizes that there are reports indicating that this industry segment will need more than 500 MHz of additional capacity to meet anticipated broadband demand.

Auctions 40 and 48 proved the exception to this rule. Because the FCC auctioned each of the 20-40 kHz bandwidth channels individually within the relatively small 175 Economic Areas (“EAs”), the bidders were almost exclusively small businesses (as well as a few governmental entities), most of which sought channels in the markets in which they already had established operations that required modest amounts of additional spectrum to support growth. The result was unquestionably a success story for enterprise business and small commercial licensees. Of the 193 qualified bidders in Auction 40, 182 secured licenses. In Auction 48, 96 of the 104 bidders were successful in acquiring at least one channel. The great majority of successful bidders qualified for some level of bidding credits. Thus, unlike most auctions conducted by the FCC, Auctions 40 and 48 were particularly well-designed to meet the non-consumer-based needs of this segment of the wireless community.

The Alliance expects that Auction 87 will produce similar results although, perhaps on a smaller scale, that is reflective of the limited number of remaining licenses and the fact that they generally are in more rural areas. Nonetheless, based on the response from its membership, EWA anticipates that even the very modest amounts of spectrum in these licenses may serve the requirements of certain users in certain markets. The Alliance therefore encourages the FCC to proceed with the auction as planned, subject, for the most part, to the competitive bidding procedures proposed in the Public Notice.

EWA supports the FCC’s proposed auction procedures as they relate to the structure of the competitive bidding process and the economic provisions such as upfront payments, minimum opening bids, absence of reserve prices, bid amounts, and penalties for bid withdrawals and default. Unlike Mr. Torstrick, whose Comments indicate a concern that the

procedures might not generate sufficient auction activity,³ the Alliance recommends that the FCC rely on the success of Auctions 40 and 48 to confirm that the minimum opening bid levels proposed will have the desired result of producing a time-efficient auction that places spectrum in the hands of those that value it most.

There is only one aspect of the proposed competitive bidding procedures that EWA considers unnecessary for this auction. The FCC has proposed to use anonymous bidding in conducting Auction 87. If that procedure were adopted, the Commission would withhold until after the close of bidding the identity of participating bidders, the amount of their upfront payments and bidding eligibility, and the licenses on which they are eligible to bid.

EWA recognizes the FCC's assessment that the use of anonymous bidding in certain auctions, such as the recent 700 MHz auctions, enhances competition among bidders. However, the Alliance agrees with the statement in the Public Notice that "Because of the large number of licenses available in Auction 87 and the circumstances we anticipate for this paging auction, the potential gains to economic efficiency and competitiveness from using limited information procedures may not warrant the costs and burdens of those procedures in this case."⁴ The participants in this auction, as in Auctions 40 and 48, are likely to have narrowly defined spectrum and geographic interests. For the most part, they need these incremental channels where they need them. This fact and not the competitive environment, including the identity of other bidders, defines their level of activity. For this reason, the Alliance recommends that anonymous bidding is not needed to ensure that Auction 87 is appropriately competitive and produces results that satisfy the public interest in seeing this spectrum placed into productive use.

³ See Comments of Richard Torstrick filed Dec. 22, 2009.

⁴ Public Notice at ¶ 14.

For the reasons discussed above, EWA recommends that the FCC adopt competitive bidding procedures for Auction 87 that are consistent with the Public Notice and with the comments herein.

Respectfully submitted,

ENTERPRISE WIRELESS ALLIANCE

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January 7, 2010