VIA ELECTRONIC FILING

February 23, 2006

Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures (WT Docket No. 05-211)

Dear Ms. Dortch:

By this letter, STX Wireless, LLC (the “Company”) would like to express its support for the Commission’s planned modification of its Part 1 competitive bidding rules and procedures as proposed by Council Tree Communications, Inc. (“Council Tree”) and as tentatively concluded in the Further Notice of Proposed Rule Making (“FNPRM”) in the above referenced docket.

The Company is a small, minority-owned business currently pursuing several opportunities in the wireless sector. As such, this proceeding is of special interest to the Company, especially if the final outcome serves to facilitate opportunities for the enhancement of diversity of participation and ownership in the CMRS industry.

With respect to certain specific matters raised by the Commission in the FNPRM, the Company submits the following brief comments:

1. Material Relationship. The Company supports the proposals submitted by Council Tree. However, the Company submits that certain exemptions be accommodated as described in Item 4 below.

2. Wireless Gross Revenues. The Company supports the proposals submitted by Council Tree. The $5 billion benchmark proposed by Council Tree provides an appropriate threshold to prevent the large incumbent wireless service providers from appropriating for themselves benefits designed for bona fide designated entities in the AWS auction. Whatever threshold the Commission ultimately approves, it should be set so as to not affect the ability of what are commonly referred to in the industry as Tier II and Tier III wireless carriers from being able to partner with bona fide designated entities to compete against the large incumbent wireless service providers.
3. **Significant Geographic Overlap.** The Company supports the proposals submitted by Council Tree. The standard set forth in Section 20.6(c) of the Commission’s rules should apply for purposes of determining significant geographic overlaps.

4. **Entities With Significant Interests In Communications Services.** The Commission asks whether it should also restrict the award of designated entity benefits where an otherwise qualified designated entity has a “material relationship” with an “entity with a significant interest in communications services.” The Commission should carefully tailor any such restrictions so as to not inadvertently hinder the flow of capital to bona fide designated entities. For example, there are several venture capital and private equity firms that focus their investments in the wireless sector. While these funding sources may be deemed to have “a significant interest in communications services” solely by virtue of the makeup of their investment portfolios, they should be exempt from restrictions resulting from this FNPRM to the extent that such firms provide capital to bona fide designated entities only (and not to fronts for large incumbent wireless service providers). Additionally, if the Commission’s guiding objective is for meaningful competition to be created and sustained within the CMRS marketplace (which, as Council Tree illustrates, is clearly dominated by a few large incumbent wireless service providers), then it should not restrict bona fide designated entities from being able to enter into material investment, financial or operational relationships with companies “with a significant interest in communications services” such as large cable providers that may seek to create “Quadruple Play” bundles or large media players that have yet to dream up new and innovative wireless service offerings that will require licensed spectrum. As has been seen recently, large cable providers have chosen to initially resell mobile wireless services via MVNO-type offerings. However, these cable providers may choose to deploy their own advanced wireless networks in the future, and that could create strategic partnership opportunities for bona fide designated entities holding AWS spectrum to compete with the entrenched wireless and wireline incumbents. Therefore, the Company submits that the “material relationship” restrictions proposed by Council Tree should apply only to large incumbent wireless service providers and their wireline affiliates.

5. **Unjust Enrichment.** The Company supports the proposals submitted by Council Tree. Coupled with more effective enforcement of Designated Entity program rules and more thorough scrutiny of applications (pre-auction and post-auction), the Commission should implement stricter unjust enrichment rules so that the U.S. Treasury may be made whole in the event that a designated entity turns out to have been merely a front organized to secure bidding credits for a large incumbent wireless service provider.
6. **Pending Auction Provisions.** The Company agrees that the Commission’s proposed application amendment procedure will provide an efficient mechanism to fully implement the rule changes from this proceeding that may become effective after the deadline for filing applications in the AWS auction.

It is extremely positive and encouraging that the Commission has decided to take this opportunity to change its Designated Entity program rules so as to make available more fair and reasonable opportunities for bona fide designated entities to secure the critical spectrum necessary to compete in the face of ever-increasing industry consolidation dominated by large incumbent wireless service providers. The Company respectfully requests that due consideration be given to its brief comments and encourages the Commission to adopt the proposals submitted by Council Tree (as well as all those proposals hereafter submitted by industry commenters that further promote or expand the intent and spirit of Council Tree’s proposals) so as to finally close the loopholes that have for too long now been used by the large incumbent wireless service providers to unfairly benefit from spectrum auction discounts intended only for bona fide designated entities.

Very truly yours,

STX WIRELESS, LLC

/s/

Rick Cantu
President
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* The term “bona fide” as used herein describes designated entities that genuinely intend to pursue (or can demonstrate post-auction that they are genuinely pursuing or achieving) direct commercial activities as standalone companies utilizing wireless licenses won in an FCC auction, as opposed to those designated entities that merely exist to lease or otherwise make their spectrum available to or for the benefit of the large incumbent wireless service providers. Without limitation, “direct commercial activities” generally include, among other things, raising capital, recruiting a management team and employees, and undertaking all deliberate activities to plan, design, engineer, construct, operate, maintain and manage wireless networks to offer services to consumers on a commercial basis. It should be noted, however, that “bona fide” status would not be automatically eliminated or impaired if a designated entity would enter into a material relationship with an existing wireless carrier if genuine economic, market expansion or strategic business objectives formed the founding basis and the relationship served to enhance competition with a material level of direct involvement by the designated entity. As just one simplified example, a joint venture with an existing wireless carrier may generally be deemed to be a bona fide material relationship if the designated entity would have actual, significant and demonstrable managerial, operational and economic roles in the direct provision of commercial services to consumers using the designated entity’s spectrum in areas not being served by the wireless carrier.