Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)
)
Updating Part 1 Competitive Bidding Rules) WT Docket No. 14-170)
)
Expanding the Economic and Innovation) GN Docket No. 12-268
Opportunities of Spectrum Through Incentive
Auctions)
)
Implementation of the Commercial Spectrum) WT Docket No. 05-211
Enhancement Act and Modernization of the
Commission’s Competitive Bidding Rules)
And Procedures)

To: The Commission

COMMENTS OF CERBERUS COMMUNICATIONS LIMITED PARTNERSHIP

Cerberus Communications Limited Partnership (“Cerberus”) 1 hereby files these comments in response to the Federal Communications Commission’s (“FCC” or “Commission”) Notice of Proposed Rulemaking in the above-captioned proceedings. As discussed below, Cerberus encourages the Commission to adopt favorable competitive bidding and designated entity rules that promote deployment of advanced wireless services to consumers living, working and traveling in rural areas, such as the State of Indiana, and encourage rather than discourage auction participation by the small rural carriers that serve these rural areas. The rules should be updated in a manner to allow a more even competitive field of wireless providers to participate and be successful in wireless auctions rather than allowing the large wireless providers, which

1 Cerberus is a limited partnership formed in Indiana consisting of seven rural local exchange carriers: Monon Telephone Company, Central Indiana Communications, Inc., and Citizens Telephone Corporation, Clay County Rural Telephone Cooperative, Inc. d/b/a Endeavor Communications, Miles Communications, Inc., New Lisbon Telephone Company, Inc., and RTC Communications Corp.
have significantly larger budgets, monopolize the auctions and in the end walk away with the majority of the licenses sold as just occurred in the AWS 3 Auction 97.

1. NEED FOR CHANGE TO BIDDING CREDIT CATEGORIES AND ELIGIBILITY REQUIREMENTS

Cerberus is a limited partnership of seven rural local exchange carriers who provide telecommunications services in different areas within the State of Indiana. In preparation of the AWS-3 Auction 97, Cerberus conducted proper due diligence to ensure lawful formation. In completing its short form, Form 175, to participate in the auction, Cerberus was able to satisfy the Commission’s rules and qualified for the 25% Very Small Business bidding credit\(^2\). As a qualified bidder, Cerberus was able to be an active bidder on 10 Cellular Market Area (“CMA”) licenses for 188 rounds out of a total of 341 rounds. Due to the fact the partners are small rural companies, the auction prices of the licenses Cerberus was bidding on extended beyond the financial wherewithal of the companies, prohibiting them from continuing to bid, even when factoring in the 25% bidding credits. They were forced to drop out in round 188 for their last of 10 markets when they exceeded their budget.

Upon the Commission’s release of the Public Notice 15-131\(^3\) announcing the winners of the AWS-3 licenses, AT&T Wireless Services 3 LLC was listed as winning the majority of the CMA licenses in the State of Indiana and T-Mobile winning 3 CMA licenses. The financial budgets of both carriers are at levels far exceeding any small rural carriers prohibiting any sort of fair competition. Northstar Wireless, LLC (“Northstar”) and Cypress Cellular, LP (“Cypress”), two additional winners of CMA licenses in Indiana, give the appearance of being small companies as their short forms reflect the claim of 25% bidding credits, also under the Very

\(^2\) 47 C.F.R. § 1.2110(f)(2).
Small Business designation. Upon review of the ownership of Northstar, DISH Network is identified as a Disclosable Interest Holder – holding 85% ownership. DISH Network’s revenues should have been attributed to the total revenues or Northstar, therefore disqualifying them for bidding credits. Cypress, while not disclosing a large carrier as a Disclosable Interest Holder, does reflect an agreement in place with T-Mobile and was able to remit an upfront payment in the amount of $6,736,000, while the average revenues of Cypress equaled only $2,201,751. Clearly, the playing field of bidding in the auction was lopsided as the only rural and small company to win a single CMA license, in Indiana, was Liglet Communications, Inc. which is a company similar to the member companies of Cerberus.

While bidding credits are important to small, rural carriers in their pursuit to acquire spectrum either in or adjacent to their own service territory, it is clearly evident upon review of the AWS-3 Auction 97 results, even the 25% Very Small Business bidding credits were not enough for those very small carriers who truly qualified for the credits. The results of the auction reflect only five winners, who could be classified as small rural telephone companies who had sought bidding credits. The total of the bid credits of these companies equaled a small amount just over $871,000. Total bidding credits allowed by the Commission totaled $3.57 billion. The fact carriers were able to claim and receive bidding credits in an amount far exceeding the amount of bidding credits small rural telephone carriers received and deserved provides the justification to change the bidding credit categories and eligibility requirements for future auctions.

II. Rural Telephone Companies and Their Subsidiaries Should Be Eligible for Bidding Credits at adequate levels.

The Commission’s rules state to qualify as a small business, an applicant must report its revenues, as well as the revenues of its various controlling interests and affiliates, as required
by the revenue attribution rules. The current bidding credit rules targeted at small businesses and very small businesses are insufficient to provide opportunities for the small rural telephone companies operating in rural areas, not only in Indiana but all states. To resolve this inefficiency, Cerberus requests the Commission change the rules and should offer a bidding credit to entities that qualify as a “rural telephone company” under Section 1.2110(c)(4) of its rules, or a subsidiary or affiliate of a qualified rural telephone company.\(^4\) The rural telephone company bidding credit should be available in addition to any other credit for which an applicant may be eligible. A credit of 35% would be appropriate. For a company qualifying as both a very small business and a rural telephone company would be eligible for a total of 60% in bidding credits.

As we look to the upcoming 600MHz Auction, the FCC is proposing to adjust the license areas from a CMA level to a larger PEA level, which will only exacerbate the issues small rural companies are facing today. If we are able to secure the spectrum by being a winning bidder in the auction, there is a risk the capital resources necessary to meet any build out requirements would exceed our financial ability to fund the investments. Thus, the need for rural telephone credits is even more justifiable.

By implementing the rural telephone company bidding credit, the Commission would be able to ensure those companies who truly meet the requirement to receive the bidding credit would be able to fairly compete in licensed spectrum auctions. Entities trying to mask their eligibility for bidding credits would not qualify, as an entity would either qualify or not. There would not be an opportunity to structure the ownership in a way that works around the Commission’s rules. Cerberus’s partners are rural telephone companies that have been serving

their communities and the license areas for years. A few of the companies have built out wireless networks, using both licensed and unlicensed spectrum, in their respective areas that, at the time, no other entity would make the significant capital investment in a wireless network. In order to ensure the continued viability of these networks, the companies will require licensed spectrum. The services they offer generate economic growth and improved public safety in rural and remote parts of Indiana that would have had insufficient or nonexistent wireless services. Cerberus is committed to providing high quality, dependable and affordable wireless broadband services to the residents in their areas. Cerberus’s partners range in size from one company that serves 400 access lines to one company that serves 9,091 access lines. Cerberus averages 3,620 access lines per company.

III. CONCLUSION.

Cerberus would like to thank the Commission for this opportunity to comment on its Competitive Bidding proposals and urge the adoption of rules that ensure the delivery of services to consumers in rural areas. Revised rules should level the competitive field, which would promote deployment of advanced wireless services to consumers living, working and traveling in rural areas, such as the State of Indiana and encourage rather than discourage auction participation by small rural carriers that serve those consumers.

Respectfully submitted,

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