

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)
)
Auction of H Block Licenses in the 1915-1920 MHz) AU Docket No. 13-178
and 1995-2000 MHz Bands; Comment Sought on)
Competitive Bidding Procedures for Auction 96)

COMMENTS OF T-MOBILE USA, INC.

T-Mobile USA, Inc.^{1/} (“T-Mobile”) submits these comments in response to the Public Notice issued by the Wireless Telecommunications Bureau (“Bureau”) in the above-referenced proceeding,^{2/} seeking input on procedures for auctioning licenses in the 1915-1920 MHz and 1995-2000 MHz bands (together the “H Block”).

I. INTRODUCTION AND BACKGROUND

In this and other proceedings, T-Mobile has urged the Commission to make additional spectrum available for wireless broadband use.^{3/} It therefore applauds the Commission’s prompt efforts to auction the H Block by January 2014 in accordance with the Spectrum Act.^{4/} The H

^{1/} T-Mobile USA, Inc. is a wholly-owned subsidiary of T-Mobile US, Inc., a publicly traded company.

^{2/} *See Auction of H Block Licenses in the 1915-1920 MHz and 1995-2000 MHz Bands; Comment Sought on Competitive Bidding Procedures for Auction 96*, Public Notice, AU Docket No. 13-178, DA 13-1540 (rel. July 15, 2013) (“*Public Notice*”).

^{3/} *See, e.g.*, Comments of T-Mobile USA, Inc., WT Docket No. 12-357 (filed Feb. 6, 2013); Reply Comments of T-Mobile USA, Inc., WT Docket No. 12-357 (filed March 7, 2013); Scott Prather and Karri Kuoppamaki, *H-Block Compatibility Analysis for GSM, UMTA and LTE* (2013), attached to Letter from Kathleen O’Brien Ham, Vice President, Federal Regulatory Affairs, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-357 (filed May 13, 2013); Letter from Kathleen O’Brien Ham, Vice President, Federal Regulatory Affairs, T-Mobile, to Marlene H. Dortch, Secretary, FCC, WT Docket No. 12-357 (filed June 12, 2013); *see also* Comments of T-Mobile USA, Inc., WT Docket No. 12-269 (filed Nov. 28, 2012); Reply Comments of T-Mobile USA, Inc., WT Docket No. 12-269 (filed Jan. 7, 2013); Comments of T-Mobile US, Inc., WT Docket No. 13-135 (filed June 17, 2013); Reply Comments of T-Mobile USA, Inc., WT Docket No. 13-135 (filed July 25, 2013).

^{4/} *See Public Notice* ¶ 1; 47 U.S.C. § 1401 *et seq.* (“Spectrum Act”) (requiring the H Block to be auctioned by February 23, 2015).

Block auction will be the first auction for nationwide mobile broadband spectrum in several years and will be one of several auctions that the Commission will soon conduct for mobile broadband spectrum, including auctions for the 600 MHz band and the 1695-1710 MHz, 1755-1780 MHz, 2020-2025 MHz, and 2155-2180 MHz bands (together “AWS-3 Bands”).^{5/} The upcoming H Block auction is therefore a good opportunity for the Commission to evaluate the methods by which it conducts mobile wireless auctions so that it can continue to refine that process as it makes additional spectrum available. While T-Mobile believes the Commission should continue with many of the auction processes it has used in the past as they have proven to work well, as discussed below, it should consider changing certain others based on the current structure of the wireless marketplace and experience with past auctions.

II. AUCTION DESIGN

A. There are Factors that Suggest the Use of Either the Simultaneous Multiple-Round or the Sealed-Bid Auction Format.

The Bureau proposes conducting the H Block auction using a simultaneous multiple-round (“SMR”) auction format.^{6/} Alternatively, the Bureau proposes offering H Block licenses through a single round, sealed-bid auction.^{7/} There are elements of both options that make them appropriate for the H Block auction.

^{5/} See Prepared Remarks of FCC Acting Chairwoman Mignon L. Clyburn, CTIA 2013 Las Vegas, Nevada (May 21, 2013), *available at* <http://www.fcc.gov/document/remarks-fcc-acting-chairwoman-mignon-l-clyburn-ctia-2013> (“The Incentive Auctions team is continuing to work on, and evaluate, all of the input and proposals received during our workshops and webinars, and the Commission remains on track to issue auction rules this year and conduct an auction in 2014.”); *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 1695-1710 MHz, 1755-1780 MHz, and 2155-2180 MHz Bands, et al.*, Notice of Proposed Rulemaking and Order on Reconsideration, GN Docket No. 13-185, *et al.*, FCC 13-102 (rel. July 23, 2013).

^{6/} See *Public Notice* ¶ 16.

^{7/} See *id.* ¶ 23.

As the *Public Notice* explains, an SMR auction offers every license for bid at the same time and consists of successive rounds in which eligible bidders may place bids on individual licenses.^{8/} The Commission has a long and successful history with these bidding procedures.^{9/} The standard SMR approach offers bidders a simple and effective means of bidding on single or multiple licenses and is familiar to auction participants, making it an attractive approach for the H Block auction. An SMR auction will also allow participants to gather feedback during multiple rounds of bidding, enabling them to make better informed bidding decisions about the value of the spectrum and markets on which they may be bidding. Unlike a sealed-bid approach, an SMR approach allows bidders to pursue backup strategies during the course of an auction, should their preferred licenses or spectrum plans become too expensive.

Nevertheless, the H Block auction may be sufficiently different from other auctions that the Commission may wish to consider a sealed-bid format. This auction may feature a limited number of participants. Even with anonymous bidding, the identity of auction participants is made public in advance of the auction (although individual bids are not made public during the course of the auction). With few participants, bidders may be able to determine the identity of those placing bids. These conditions may provide participants with an opportunity to predict other bidders' auction strategies, potentially limiting competition and reducing spectrum prices. Under a sealed-bid format, however, auction participants will not be able to see other participants' bids, thereby reducing the likelihood that they will engage in such behavior. Moreover, because a sealed-bid approach will not allow participants to evaluate a potentially

^{8/} See *id.* ¶ 16.

^{9/} See, e.g., *Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006*, Public Notice, 21 FCC Rcd 4562 (2006) (auctioning AWS-1 spectrum using the SMR approach).

limited number of other bidders' behavior during an auction, they may be encouraged to bid more aggressively during their one opportunity to do so, raising auction revenues.

The *Public Notice* does not specify if the Bureau envisions a first- or second-price approach if it utilizes a sealed-bid auction.^{10/} T-Mobile recommends a second-price approach. In a first-price auction, licenses may be assigned inefficiently because bidders will rationally bid less than their true values as their bids determine the amount they pay. As a result, bidders who value licenses most highly may discount their bids too much and other bidders may end up winning the licenses even if it is inefficient for them to do so.

B. The Commission Should Allow Package Bidding Regardless of the Auction Format it Implements.

Regardless of whether it adopts an SMR or sealed-bid approach, the Bureau should adopt its proposal to use Hierarchical Package Bidding (“HPB”), in which, in addition to being able to bid on individual licenses, bidders would also be able to bid on certain tiered, non-overlapping packages of licenses.^{11/} Package bidding is attractive because it will allow auction participants to bid on and obtain complementary licenses in a manner that best suits their business needs. The H Block auction is well suited to evaluate the use of HPB because, as the Bureau notes, it will offer only one license for each of the 176 Economic Areas (“EAs”), making HPB relatively easy and straightforward to administer.^{12/} Based on its use of HPB here, the Commission will be in a better position to evaluate its use in future, more complex, auctions.

^{10/} In a first-price auction, each winning bidder pays the amount it bids for a license. In a second-price auction, winning bidders are selected based on the amounts of their bids, yet their payment is determined by the amount bid by the second highest bidder.

^{11/} See *Public Notice* ¶ 17.

^{12/} See *id.* ¶ 3.

The Bureau observes that a variant of HPB was used in Auction 73, in which package bidding was permitted in only one of the five available blocks of licenses.^{13/} However, the Bureau also acknowledges that Auction 73 occurred under considerably different circumstances. Multiple spectrum blocks were being auctioned at the same time, and several of the blocks were subject to special conditions – the C Block was subject to an “open access” condition and the D Block was dedicated for a shared public safety-commercial network.^{14/} The H Block auction, with a single channel block, provides a better opportunity to evaluate package bidding.

C. Anonymous Bidding May Be Beneficial for the H Block Auction.

While T-Mobile generally supports transparency in spectrum auctions, it recognizes that anonymous bidding has benefits. For instance, anonymous bidding limits opportunities for parties to collude and coordinate bidding strategies and to focus their purchasing power on purchasing spectrum blocks in a manner that may foreclose other carriers from scale economies in devices. T-Mobile thus supports the Bureau’s proposal to use anonymous bids in this auction,^{15/} particularly because there are limited blocks of spectrum available. A different approach may be appropriate in auctions where multiple blocks of spectrum are offered or where there is quasi-random assignment of licenses. In those cases, anonymity may not be required to prevent anticompetitive practices.^{16/}

^{13/} See *id.* ¶ 19.

^{14/} See *Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction 73 and 76*, Public Notice, 22 FCC Rcd 18141 (2008).

^{15/} See *Public Notice* ¶¶ 24-29.

^{16/} See Comments of T-Mobile USA, Inc., GN Docket No. 12-268, at 21-23 (filed Jan. 25, 2013); Reply Comments of T-Mobile USA, Inc., GN Docket No. 12-268, at 54-55 (filed March 12, 2013).

III. AUCTION STRUCTURE, PROCEDURES AND POST-AUCTION PAYMENTS

The Bureau proposes to use its standard auction rules with respect to the structure of the H Block auction (*e.g.*, bidding rounds, stopping rules, etc.), procedures (*e.g.*, payments, auction activity, bid amounts, etc.), and post-auction payments. T-Mobile agrees with the Bureau's proposal to use the rules that it has employed in prior auctions, taking into consideration T-Mobile's recommendations below. Assuming the Commission proceeds with an SMR structure, these rules are well-known to bidders and appropriate for the H Block auction.

A. Reserve Prices Should Strike a Balance Between Maximizing Revenues and Encouraging Participation.

As the Bureau points out, the Commission is statutorily obligated to consider and balance a variety of public interests and objectives when establishing spectrum licensing rules, including reserve prices.^{17/} In addition, the Spectrum Act specifically directs that proceeds from an auction of H Block spectrum be deposited into the Public Safety Trust Fund and be used for, among other things, funding FirstNet – the nationwide, interoperable public safety broadband network authority.^{18/} Reserve prices serve an important function in assisting the Commission with meeting both of these objectives by ensuring that the auction is successful in assigning spectrum efficiently and in raising money for these important public safety needs.

Accordingly, it is critical that the Bureau not set the reserve prices too low. An appropriately high reserve price will produce higher auction revenues and provide the funds needed to meet the needs of the nation's first responders and reduce the deficit. Meaningful reserve prices will produce revenues even in auctions with few bidders. T-Mobile recognizes that a reserve price that is *too* high could discourage parties from participating in the auction.

^{17/} See *Public Notice* ¶ 52.

^{18/} See Spectrum Act § 1422(a).

The Bureau should therefore carefully balance these competing interests when setting the reserve prices for the H Block.

Regardless of their level, the Bureau should utilize both an aggregate and license-by-license reserve prices. This will ensure that the auction raises the target amount *and* individual bidders are not permitted to acquire licenses for below-market values merely because the aggregate reserve price is satisfied.

B. Minimum Opening Bids and Additional Bid Amounts Should Be Set to Encourage an Expedient Auction Process.

Minimum opening bids and bid increments likewise play an important role in ensuring a successful auction. The higher the minimum opening bid, the more quickly an auction can proceed to its later rounds; minimum opening bids that are set too low will merely require participants to spend multiple auction rounds reaching the market value price. Similarly, higher additional bid amounts and bid increments will keep the auction moving quickly by not requiring participants to place unnecessarily low bids. Because auctions are a complex process under the best circumstances, the Bureau should adopt bidding rules for the H Block auction that promote prompt completion, which in turn will encourage auction participation and ultimately competition among wireless providers.

IV. CONCLUSION

The upcoming auction of the H Block can serve as a model for the Commission's other upcoming spectrum auctions. T-Mobile recommends that the FCC conduct the H Block auction in a simple, flexible manner, following the familiar rules and procedures where appropriate to ensure that licenses are put in the hands of those entities that value them the most and that the goals of the Spectrum Act are met. The Commission should modify its usual auction rules, particularly as a precursor to upcoming auctions, where those modifications can produce greater

competition among providers, greater participation by bidders, and more efficiency in the auction process.

Respectfully submitted,

/s/ Kathleen O'Brien Ham

Howard J. Symons
Russell H. Fox
Angela Y. Kung

Kathleen O'Brien Ham
Steve B. Sharkey
Joshua L. Roland
Christopher Wiczorek

MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND
POPEO, PC
701 Pennsylvania Ave., NW
Suite 900
Washington, DC 20004
(202) 434-7300

T-MOBILE USA, INC.
601 Pennsylvania Avenue, N.W.
North Building, Suite 800
Washington, DC 20004
(202) 654-5900

Counsel for T-Mobile USA, Inc.

August 5, 2013