

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|  |   |                |
|--|---|----------------|
| In the Matter of                       | ) |                |
|  | ) |                |
| Reallocation and Service Rules for the | ) | DA 02-200      |
| 698-746 MHz Spectrum Band              | ) | Auction No. 44 |
| (Television Channels 52-59)            | ) |                |

To: Chief, Wireless Telecommunications  
Bureau

**REPLY COMMENTS OF  
COUNCIL TREE COMMUNICATIONS, LLC**

Council Tree Communications, LLC (“Council Tree”) submits these Reply Comments in response to the Wireless Telecommunications Bureau’s January 24, 2002 Public Notice, DA 02-200, announcing the pendency of Auction 44 (“Auction 44 Public Notice”).<sup>1</sup>

Council Tree is an investment company organized to develop telecommunications industry partnerships for the benefit of minority-owned and women-owned investors, recognizing the opportunities for business success predicated on the meaningful diversification of telecommunications facilities ownership. In the Auction 44 Public Notice, the Bureau proposed to set minimum opening bids for the 734 12 MHz Block C licenses<sup>2</sup> to be offered in Auction 44 (hereinafter referred to as “Lower 700 MHz Block C Licenses”) at a level that is twice the amount of the upfront payments proposed by the Bureau for the same licenses.<sup>3</sup> In

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<sup>1</sup> Public Notice: Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002, DA 02-200 (Wir. Tel. Bur. rel. Jan. 24, 2002).

<sup>2</sup> Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), Report and Order, FCC 01-364, ¶¶ 77, 95-96 (rel. Jan. 18, 2002) (“Lower 700 MHz Band Report and Order”).

<sup>3</sup> Auction 44 Public Notice at 3, 6, Attachment A.

comments filed on February 6, 2002, two parties urged to set the minimum opening bids for those licenses at a level no greater than that equal to the amount of the proposed upfront payments.<sup>4</sup> Council Tree agrees with the views expressed by these parties. The state of the economy, uncertainty — or, in many cases, decline — in the valuation of wireless properties, and the presence of incumbent television licensees in the 700 MHz band will likely constrain the ability of new licensees to realize a profit on the investment to be made in Auction 44 for some time.

Against this background, the Bureau will deter a number of potential bidders for the Lower 700 MHz Block C Licenses if it sets minimum opening bids that are too high. All potential bidders — and particularly smaller entities that qualify for bidding credits offered by the Commission — evaluate the costs of participating in an auction against the obstacles to be faced once licensed. In this case, the Commission resolved to license the Lower 700 MHz Block C Licenses for service in metropolitan statistical areas and rural service areas precisely to limit those obstacles, undertaking to “balance[] the playing field such that small and rural providers will have an opportunity to participate in the auction and the provision of spectrum-based services.”<sup>5</sup> In light of the general decline in the valuation of wireless properties and 700 MHz incumbency issues, the Bureau will upset that balance if it prices Lower 700 MHz Block C Licenses out of the reach of many of those bidders. In turn, limiting the bidding activity on the Lower 700 MHz Block C Licenses threatens to delay the provision of new service to rural and

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<sup>4</sup> See Blooston, Mordofsky, Dickens, Duffy & Prendergast, Comments at 3-4 (filed Feb. 6, 2002); Telecom Consulting Associates, Comments at 4 (filed Feb. 6, 2002).

<sup>5</sup> Lower 700 MHz Band Report and Order at ¶ 95.

underserved areas, which is certainly not in the public interest. Capping the level of the Lower 700 MHz Block C License minimum opening bids will help to avoid these results.

**CONCLUSION**

For these reasons, Council Tree urges the Bureau to set the amount of the minimum opening bids for Lower 700 MHz Block C Licenses in Auction 44 at a level no greater than that equal to the amount of the upfront payments proposed for those licenses.

Respectfully submitted,

COUNCIL TREE COMMUNICATIONS, LLC

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February 13, 2002

**CERTIFICATE OF SERVICE**

I, Susan K. Cadwell, certify that true and correct copies of the foregoing Reply Comments were delivered to the following parties, as indicated, on February 13, 2002:

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