

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

In the Matter of )  
Reallocation and Service Rules for ) GN Docket No. 01- 74  
the 698-746 MHz Spectrum Band )  
(Television Channels 52-59) )

**Comments of TCA**

Telcom Consulting Associates (TCA), in response to the Public Notice<sup>1</sup> in the above-captioned proceeding hereby submits these comments regarding auction procedural issues for the auction of licenses for Fixed, Mobile and Broadcasting services in the 698-746 (“Lower 700 MHz”) band (“Auction No. 44”), scheduled to begin June 19, 2002.

TCA is a management consulting firm providing financial and regulatory services for over fifty small, rural local exchange carriers (LECs) throughout the United States. Many of TCA’s clients have expressed interest in participating in Auction No. 44.

***Auction No. 44 should be exclusive to the 734 MSA/RSA Lower 700 MHz band.***

The Commission requests comment on two specific inventory options within the Public Notice.<sup>2</sup> The first option would group the total of the licenses together and the second would have Auction No. 44 include only the 734 MSA/RSA Lower 700 MHz band licenses. Option No. 2 would group the remaining 24 licenses, based on EAG-sized

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<sup>1</sup> Public Notice, *Auction of Licenses in the 698-746 MHz Band Scheduled for June 19, 2002, Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues*, DA 02-200, Rel. January 24, 2002 (“Public Notice”).

<sup>2</sup> *Id.*, pp.2-3.

areas within Auction No. 31, commonly referred to as the Upper 700 MHz band.<sup>3</sup> TCA supports Option No. 2 in order to further the opportunities for rural carriers and other small potential bidders. Option No. 2 would also benefit carriers seeking to provide services on a nationwide scale.

As discussed within the Report and Order issued in this docket,<sup>4</sup> the assignment of the 12-megahertz block of paired spectrum over MSAs/RSAs is a consistent application of the congressional mandate given to the Commission within the Telecommunications Act of 1996.<sup>5</sup> When establishing competitive bidding procedures, Congress mandated that the Commission “prescribe area designations and bandwidth assignments that promote ... economic opportunity for a wide variety of applicants, including small businesses, *rural telephone companies*, and businesses owned by members of minority groups and women.”<sup>6</sup> An auction restricted to small license areas would limit the amount of overall bidding eligibility. This would increase the number of licenses in the control of many different entities, including rural telephone companies.

The Commission noted in the Report and Order that “[I]censing a portion of the Lower 700 MHz Band over ... small geographic areas balances the playing field such that small and rural providers will have an opportunity to participate in the auction...”<sup>7</sup> TCA is heartened by this comment and the clear intent of the Commission to extend advanced

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<sup>3</sup> *Id.*

<sup>4</sup> Report and Order, *In the Matter of Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59)*, FCC 01-364, GN Docket No. 01- 74, Rel. January 18, 2002 (Report and Order).

<sup>5</sup> 47 U.S.C. § 309(j)(3)(B).

<sup>6</sup> 47 U.S.C. § 309(j)(4)(C)(emphasis added).

<sup>7</sup> Report and Order, p. 40.

services to rural communities. TCA now encourages the Commission to further this intention and restrict Auction No. 44 to the 734 MSA/RSA Lower 700 MHz band licenses.

TCA also notes that by proceeding with Option No. 2, as outlined in the Public Notice, the Commission could also satisfy those providers wishing to provide services on a nationwide basis. As was discussed within the Report and Order, there are many advantages to using EAGs, especially when compared to assignment of nationwide service areas.<sup>8</sup> Specifically, EAGs present more flexibility for both partitioning and aggregating license areas. The Commission noted that “aggregating EAGs into nationwide areas is an administratively straightforward process, and we note that this may be simplified through the auction process.”<sup>9</sup> Clearly Option No. 2 holds advantages for auction participants, regardless of size.

***The minimum opening bid in Auction No. 44 should equal that of the upfront payment.***

As the Commission notes in the Public Notice, the use of minimum opening bids, an established practice in spectrum auctions,<sup>10</sup> is an effective tool that accelerates the bidding process. Observing the legislative mandate that Auction No. 44 be completed by September 30, 2002, there is a clear “need for speed” in this particular Auction. TCA would caution the Commission, however, not to allow the timeliness of the Auction

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<sup>8</sup> Report and Order, p.39.

<sup>9</sup> *Id.*

<sup>10</sup> Public Notice, p. 6, fn. 15.

overshadow the clear opportunity that has been granted to small businesses and rural providers.

Within the Public Notice, the Commission sets the minimum opening bid at a level double the upfront payment.<sup>11</sup> As successful bids may not be a lesser amount than the minimum opening bid, the Commission is essentially setting a reserve price for the spectrum. TCA submits that the current proposed minimum opening bid has significant potential to discourage smaller entities from auction participation. Licenses, especially those covering remote rural areas, may go unsold and once more, Americans living in these areas will not be served by advanced wireless services.

A balance of the imposed timeline against the intention to bring economic opportunity to small entities, including rural carriers, could be better accomplished with a lesser minimum opening bid. TCA proposes that for Auction No. 44, the minimum opening bid be set equal to the upfront payment. In this regard, the Commission could be assured that both congressional mandates before it – the certain deadline for auction completion and procedures that provide **real** opportunity to small entities, including rural telephone companies – would be met.

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<sup>11</sup> Id., p. 3 and p. 6. The upfront payment will be calculated using the following formula:  $\$0.0125 * \text{MHz} * \text{License Area Population}$  (minimum \$1,000 per license). The minimum opening bid will be calculated using the following formula:  $\$0.0250 * \text{MHz} * \text{License Area Population}$  (minimum \$1,000 per license).

***Minimum acceptable bids and bid increments should be based on a simplified percentage increase.***

The Commission proposes, in the Public Notice, to calculate minimum acceptable bids for each round of bidding by using a smoothing methodology, as it has done in previous auctions. TCA would have the Commission look instead to the recently completed paging auction, where a simpler, percentage-based increase was used. This methodology would be much easier, both to administrate and to understand. This would also enable better planning of bidding strategies, with the unknown factor of round activity removed.

As Commissioner Copps noted in his separate statement to the Report and Order, this Auction will begin to reach an important national priority – bringing advanced services to rural areas.<sup>12</sup> Undoubtedly, the Commission, in assigning twenty-five percent of the spectrum to be auctioned to the smaller license areas of MSAs and RSAs, views Auction No. 44 as significant in the economic development of rural areas. These factors will most certainly bring to the auction process many first-time participants.<sup>13</sup> It is imperative, not just to the success of this Auction, but to all future auctions, that the experience of these participants be worthwhile. A more simple methodology should be put in place to provide for a more successful Auction No. 44.

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<sup>12</sup> Separate Statement of Commissioner Michael J. Copps, RE: Relocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59) (GN Docket No. 01-14, Report and Order) (Rel. December 12, 2001) p.1.

<sup>13</sup> A majority of TCA's clients expressing interest in Auction No. 44 would be first-time participants.

With the modifications to the proposed auction procedures, as outlined above, TCA believes that Auction No. 44 has the potential to be successful, not simply in financial terms, but by greatly increasing participation, especially among first-time participants. With these steps, the Commission is on its way to fulfilling the congressional mandates set before it and aiding in the provision of advanced services to the whole of America.

Respectfully submitted,  
TCA, Inc. – Telecom Associates

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