

Preserving Bidding Credits in Spectrum License Auctions

Background: On April 17, the FCC released a Public Notice calling for further comments to update its competitive bidding procedures for spectrum licenses. Under current FCC rules a small business designated entity (DE) can receive a 25 percent discount on spectrum license auctions in order to compete against larger, more profitable telecom carriers. Recently, there has been some controversy surrounding these rules due to the participation of Northstar Wireless in Auction 97, held by the FCC in October 2014. Northstar Wireless is a company that was created by the Doyon, Limited Alaska Native Corporation with financial backing by DISH Network. Northstar Wireless, as a subsidiary of Doyon, manages and operates 15 percent of the company, while DISH Network owns an 85 percent financial interest.

Using its DE status, Northstar Wireless received discount credits in Auction 97 for DISH Network, which has led many to question the FCC's current rules for what constitutes a small business DE. For over 20 years, small businesses have partnered with large telecom companies to utilize the DE bidding credit and gain much needed capital to compete in spectrum license auctions. The criticism surrounding Doyon and DISH Network's partnership could lead to revised rules that could further exclude small business participation in spectrum auctions.

Additionally, NTCH Inc. has called for the FCC to reevaluate its tribal land bidding credit mechanism, which is a credit to winning bidders who deploy facilities on and provide services to tribal lands. According to its FCC filings, NTCH, Inc. has argued that tribal lands do not qualify as disadvantaged areas due to the "great wealth" obtained from casino revenues, and that, "there is no reason to assume that tribes or entities controlled by tribes have any expertise in constructing, operating or maintaining sophisticated wireless networks."¹

Recommendation: The FCC will most likely reform its small business "designated entity" (DE) rules. Our major concern is that tribes already lack access to spectrum licenses needed to build and operate commercial wireless networks on tribal lands, and the small business DE is a mechanism tribal companies can utilize to gain an advantage in the multi-billion dollar bidding arena of commercial spectrum licenses. Additionally, the tribal lands bidding credit should be preserved since tribal and non-tribal telecom companies can also utilize the credit to obtain spectrum licenses to serve tribal lands with a telephone penetration rate of equal to or less than 85 percent.

¹ See Attachment A (page 4) for more excerpts on NTCH Inc.'s filings.