

CWA



Via Fax

March 12, 2015

The Honorable Tom Wheeler
Chairman
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, D.C. 20554

**Re: Expanding the Economic and Innovation Opportunities of
Spectrum through Incentive Auctions, GN Docket No. 12-268;
In the Matter of Updating Part 1 Competitive Bidding Rules,
WT Docket No. 14-170.**

Dear Chairman Wheeler:

The FCC's small business designated entity program is designed to promote participation by small and minority-owned businesses in spectrum auctions, among other programs. The designated entity program provides a 25 percent credit to very small businesses with revenues not exceeding \$15 million for the preceding three years.

Yet, it appears that in the most recent AWS-3 spectrum auction, the largest beneficiary of the "small business" bidding credit was DISH Network, a company with a \$34.6 billion market cap. In 2014, DISH Network received \$14.6 billion in revenue. DISH is certainly not a small business.

It appears that DISH, a company with no wireless network or subscribers, created partnerships and loopholes in the FCC's small business designated entity rules to claim \$3.25 billion in bidding credits on 702 licenses. DISH won more licenses than any other bidder. If approved by the FCC, DISH will pay a net of \$10 billion for licenses worth \$13.3 billion, a \$3.25 billion loss to the U.S. treasury.

DISH incorporated two designated entities – Northstar Wireless and SNR Wireless -- maintaining an 85 percent financial interest in both. It appears that DISH then entered into joint bidding arrangement with these companies, triple bidding for almost 4,000 licenses until DISH dropped out and eventually one of the two designated entity companies won the bid.¹

¹ Steven Davidoff Solomon, "How Loopholes Turned Dish Network Into a Very Small Business," *New York Times*, Feb. 24, 2015 (available at http://www.nytimes.com/2015/02/25/business/dealbook/how-loopholes-transformed-dish-network-into-a-very-small-business.html?_r=0); Letter from Joan Marsh, AT&T Vice President-

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While the AWS-3 auction was an enormous success, DISH's unusual bidding tactics coupled with its abuse of the designated entity rules are creating a cloud over the auction.

We expect that the FCC will reject DISH's attempt to qualify as a small business eligible for \$3.25 billion in taxpayer subsidies.

The designated entity program has a laudable goal, to enable truly small and minority-owned businesses to make capital investments in communications and media companies. But the AWS-3 results call for a careful review of the designated entity set-aside program as well as joint bidding rules for the upcoming 600 MHz broadcast incentive auction.

New spectrum is vital to bringing additional capacity to the wireless marketplace. For this reason, the FCC seeks to run open, transparent, and efficient auctions to ensure that those that value the spectrum most win licenses. The FCC also imposes build-out requirements on newly-auctioned spectrum to ensure that the new allocations get deployed for U.S. consumers.

The AWS-3 auction raises fundamental questions about reserve set-asides and preferential programs in the 600 MHz broadcast incentive auction. We cannot afford another gamed auction, where the winning bidders use taxpayer subsidies and unfair advantages to drive out companies with a proven track record of infrastructure investment that benefits U.S. consumers.

Sincerely,



Larry Cohen
President
Communications Workers of America



Hilary O. Shelton
Director, NAACP Washington
Bureau & Senior Vice President for
Advocacy and Policy

cc: Commissioner Jessica Rosenworcel
Commissioner Mignon Clyburn
Commissioner Ajit Pai
Commissioner Michael O'Rielly
Roger Sherman