



**Federal Communications Commission
Washington, D.C. 20554**

June 19, 2007

DA 07-2709

Via Email and Certified Mail – Return Receipt Requested

Warren Havens, President
AMTS Consortium, LLC
2649 Benvenue Ave, #2-6
Berkeley, California 94704

Dear Mr. Havens:

This letter is in response to your request on behalf of AMTS Consortium LLC (“AMTS”), sent earlier this afternoon to Margaret Wiener, Chief of the Wireless Telecommunications Bureau’s Auctions and Spectrum Access Division, requesting that the Federal Communications Commission (“Commission”) disqualify Cornerstone SMR, Inc. (“Cornerstone”) from bidding in the upcoming auction of 220 MHz Phase II licenses (Auction 72), which is to begin tomorrow.¹ You contend that Cornerstone should be disqualified from participating in Auction 72 because of its alleged failure to disclose information in its short-form application (FCC Form 175) certain ownership interests or affiliations required under the Commission’s rules.²

The Commission takes allegations of wrongdoing very seriously. However, we are also sensitive to the fact that any action we take at this stage of the auction, or before the long-form applications are filed, could harm the integrity of the auction process. Upon receipt of the short-form applications, the Commission carefully scrutinized each application to ensure compliance with the Commission’s rules. Generally, we believe it is more prudent to address such allegations after the winning bidders have submitted their long-form applications (FCC Form 601), when there is greater opportunity for investigation of such allegations.³ In the absence of any such investigation, we are unable to reach any conclusion as to whether the information that you have provided is accurate or should be deemed a violation of the Commission’s rules.

As the bidding in Auction 72 has not yet been commenced, we are unable, at this time, to specify the long-form application due date. Please note, however, that at the close of Auction 72, in accordance with Section 1.2108(b) of the Commission’s rules, we will issue a public notice announcing the time frame and procedures for filing petitions to deny.

¹ “Request Under Section 1.41 Including Emergency Action Prior to Auction No. 72,” submitted electronically by Warren C. Havens to Margaret Wiener, dated June 19, 2007.

² *Id.*

³ See Auction of Licenses for VHF Public Coast and Location and Monitoring Service Spectrum, *Order*, 17 FCC Rcd 19746, 19749-50 ¶ 7 (Wireless Telecomm. Bur. 2002) (explaining the two-phase auction process in detail).

In addition, information has recently come to the attention of the Auctions and Spectrum Access Division that one or more of the affiliates of AMTS may be delinquent on non-tax debts to the Commission in the form of fees for processing requests for information pursuant to the Freedom of Information Act. The existence of any such debts that are now delinquent or were delinquent as of the short-form filing deadline for Auction 72 may call into question the certifications made pursuant to Sections 1.2105(a)(2)(ix) and 1.2105(a)(2)(x) by AMTS Consortium in its Auction 72 short-form application.⁴ We defer until after the auction final determination of any issues raised by this recently discovered information. In addition, we note that bidders who are found to have violated the Commission's rules in connection with their participation in the competitive bidding process may be subject to sanctions.⁵

Accordingly, your request to disqualify an Auction 72 bidder from participating in the auction is denied.

Sincerely,

Gary D. Michaels
Deputy Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

⁴ 47 C.F.R. §§ 1.2105(a)(2)(ix), (x).

⁵ See 47 C.F.R. § 1.2109(d). See also 47 C.F.R. §§ 1.2109(c), 1.2104(g)(2), 1.2104(g)(3).