

**CONCURRING STATEMENT
OF COMMISSIONER MIGNON L. CLYBURN**

Re: *Auctions of Upper Microwave Flexible Use Licenses for Next-Generation Wireless Services; Comment Sought on Competitive Bidding Procedures for Auctions 101 (28 GHz) and 102 (24 GHz); Bidding in Auction 101 Scheduled to Begin November 14, 2018, AU Docket No. 18-85.*

When we adopted the First Order in the Spectrum Frontiers proceeding nearly two years ago, I recall mentioning those pockets in our nation where too many remain stuck in a 2G and 3G reality. Our goals for 5G should include “ubiquity and affordability,” I said, and the “U.S. will only truly win the 5G race if all of our citizens benefit.”

One way in which this agency can assist in achieving these goals, is through the promotion of competition in the spectrum bands above 24 Gigahertz. And while our policies have greatly benefitted from the filings of a wide range of parties on how best to design our license and service rules to advance competition in the Spectrum Frontiers proceeding, we still need input so that our auction procedures are as pro-competitive as possible.

In the initial draft of this Auctions Comment Public Notice, I was concerned about us creating an unnecessary problem by proposing to permit the filing of applications for Auction 102 before the close of Auction 101. The Notice clearly lays out the reasons why we must have separate auctions, explains that we want to encourage participation and competition in both auctions, and acknowledges that permitting the filing of applications for Auction 102 before the close of Auction 101 could be problematic for those wanting to bid in both auctions. So, I thank my colleagues for agreeing to my request to no longer propose, but simply seek comment on whether the Commission should accept applications for the second auction before the first one closes.

I also appreciate the support for a statement that the Commission will resolve pending issues from the 2017 Spectrum Frontiers Further Notice of Proposed Rulemaking, that are relevant to holding auctions for the 28 and 24 GHz band. One of the key issues raised in that Further Notice, is the proposal to repeal the pre-auction spectrum limit to participate in millimeter wave auctions. But in order to supply interested bidders with a clear set of rules, and to determine whether these auctions comply with Section 309(j) of the Communications Act’s directive that we avoid an undue concentration of licenses, it is very important that we resolve this issue.

However, we should resolve the applications for review of the Bureau Orders that granted license transfers from Straight Path to Verizon and from Fiber Tower to AT&T, before determining if we should repeal the pre-auction spectrum limits. When the Commission decided to have a spectrum threshold to assess the competitive impact of concentration of millimeter wave spectrum, it included the 28 and 39 GHz spectrum in that analysis. Therefore, before deciding whether the Commission should reverse its 2016 decision that a pre-auction spectrum limit serves the public interest, the full Commission should have the opportunity to address the arguments being made in those applications for review, as to the competitive impact that those transactions have on 5G services.

I am, however, disappointed that my colleagues did not support my request for a line of questions on whether the Commission should auction the 24 GHz band before 28. I agree that there are pros and cons to whichever bands the Commission auctions first. For example, since the 24 GHz band is greenfield, it may generate more interest than the 28 GHz band. But by not asking the question, we send the signal that the Commission would not even entertain any argument on leading with 24. Why would

we want to prejudge these views now? I encourage those that believe auctioning the 24 GHz band would better serve the public interest, to still file comments making that point.

While I obviously had concerns with certain portions of this Auctions Comment Notice, I wish to thank Don Stockdale and his team in the Wireless Telecommunications Bureau for briefing me as well as their presentations this morning.