

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

In the Matter of	)	
	)	AU Docket No. 07-157
Auction of the D Block License in the 758-763	)	
and 788-793 MHz Bands	)	

**ORDER**

**Adopted: March 20, 2008**

**Released: March 20, 2008**

By the Commission: Commissioners Copps and Adelstein issuing separate statements.

1. In this Order, we decide not to re-offer the D Block license in the 698-806 MHz band (“700 MHz Band”) immediately in Auction 76 – the contingent, subsequent auction to Auction 73.<sup>1</sup> This decision will provide additional time to consider options with respect to the D Block spectrum.

2. In the *700 MHz Second Report and Order*, we established rules governing wireless licenses in the 700 MHz Band.<sup>2</sup> Among other things, we created a nationwide, 10-megahertz commercial license in the D Block to be part of a public/private partnership (the “700 MHz Public/Private Partnership”) with a national public safety broadband licensee for the public safety broadband spectrum.<sup>3</sup> We established the 700 MHz Public/Private Partnership to further our goal of creating a nationwide, interoperable broadband network available to state and local public safety users.<sup>4</sup>

3. We also made a number of determinations in the *700 MHz Second Report and Order* regarding the procedures for the auction of 700 MHz Band licenses.<sup>5</sup> Among other things, we provided for separate aggregate reserve prices for each block of licenses subject to auction and determined that there would be prompt subsequent bidding on alternative licenses in the A, B, C, and E Blocks, if the

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<sup>1</sup> The frequency block under consideration here is referred to simply as the D Block, without designating that it is located in the upper portion (the 758-763 and 788-793 MHz bands) of the 700 MHz Band. See “Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction 73 and 76,” *Public Notice*, DA 07-4171, 22 FCC Rcd 18,141, 18,143 n.1 (2007) (“*Auction 73/76 Procedures Public Notice*”).

<sup>2</sup> See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4(a) of the Commission’s Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03-264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission’s Rules, WT Docket No. 06-169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, Declaratory Ruling on Reporting Requirement under Commission’s Part 1 Anti-Collusion Rule, WT Docket No. 07-166, *Second Report and Order*, 22 FCC Rcd 15,289 (2007) (“*700 MHz Second Report and Order*”) recon. pending.

<sup>3</sup> See *700 MHz Second Report and Order*, 22 FCC Rcd at 15,428-79 ¶¶ 386-553.

<sup>4</sup> See *id.* at 15,428 ¶ 386.

<sup>5</sup> See *id.* at 15,390-406 ¶¶ 274-321.

reserve price for any of these four license blocks was not satisfied by the initial auction results.<sup>6</sup> We also decided that, if the reserve price established for the D Block was not satisfied by the initial auction results, we should leave open the possibility of re-offering the license on the same terms in a subsequent auction, as well as the possibility of re-evaluating all or some of the applicable license conditions.<sup>7</sup>

4. The Wireless Telecommunications Bureau (“Bureau”) established procedures for the auction of 700 MHz Band licenses in Auction 73. Consistent with our direction, the Bureau included block-specific aggregate reserve prices and procedures for prompt bidding in Auction 76 on alternative licenses in the A, B, C, and E Blocks, as well as the possible re-auction of the D Block license, if the applicable reserve price was not satisfied by the results of Auction 73.<sup>8</sup>

5. When Auction 73 concluded on March 18, 2008, the provisionally winning bids for the A, B, C, and E Block licenses exceeded the aggregate reserve prices for those blocks, which renders unnecessary the subsequent contingent auction (Auction 76) with respect to licenses for those blocks. The provisionally winning bid for the D Block license, however, did not meet the applicable reserve price.<sup>9</sup> Because the aggregate reserve price for the D Block was not met, there is no winning bidder for that license. Given that the reserve price was met for all other blocks, we find it is in the public interest to provide additional time to consider all options with respect to the D Block spectrum. Therefore, we elect not to re-offer the D Block license immediately in Auction 76.

6. Accordingly, IT IS ORDERED that, pursuant to the authority granted in Sections 4(i) and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309(j), and sections 1.3 of the Commission’s rules, we direct the Wireless Telecommunications Bureau to not proceed with offering the Upper 700 MHz Band D Block license until further notice.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>6</sup> See *id.* at 15,399-404 ¶¶ 297-313.

<sup>7</sup> See *id.* at 15,404 ¶ 314.

<sup>8</sup> See *Auction 73/76 Procedures Public Notice*, 22 FCC Rcd at 18,212-17 ¶¶ 271-293.

<sup>9</sup> See Commission’s Auction 73 web page: <http://wireless.fcc.gov/auctions/73/>.