

**BEFORE INDUSTRY CANADA**

**IN THE MATTER OF**

**CANADA GAZETTE, PART 1, NOTICE NO. SLPB-002-15 –  
CONSULTATION ON A LICENCING FRAMEWORK  
FOR RESIDUAL SPECTRUM LICENCES  
IN THE 700 MHZ AND AWS-3 BANDS**

**COMMENTS OF ICE WIRELESS INC.**

**25 MAY 2015**

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## 1.0 INTRODUCTION

1. Ice Wireless Inc. (“Ice Wireless”) is submitting these comments with respect to Industry Canada’s *Consultation on a Licensing Framework for Residual Spectrum in the 700 MHz and AWS-3 Bands* as set out in SLPB-002-15<sup>1</sup> (the “Consultation Notice”).
2. The comments of Ice Wireless pertain to certain proposals made by Industry Canada (the “Department”) in the Consultation Notice with respect to the 700 MHz band.

## 2.0 ANSWERS TO DEPARTMENT’S QUESTIONS

3. This Part of the submission provides the views of Ice Wireless with respect the Department’s proposals set out in the Consultation Notice that are relevant to the operations of Ice Wireless.

### 2.1 Proposal P1 a)

4. The Department is seeking comments on its proposal to licence the northern 700 MHz on a Tier 4 basis.
5. Ice Wireless agrees with this proposal, as it will provide licensees the flexibility of targeting their offerings more precisely where their business plans warrant in the North.

### 2.2 Proposal P2 b)

6. The Department is seeking comments on its proposal to maintain spectrum caps on the 700 MHz licences.
7. Ice Wireless agrees with the need for spectrum caps, but is of the view that the rule going forward should be that a limit of **one** paired spectrum block in the 700 MHz band within blocks A, B, C, C1 and C2 should be applicable to all licensees. Existing licensees who have two blocks would be grandfathered so that, as a matter of fairness, they are not required to return any

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<sup>1</sup> Canada Gazette, Part I, May 9, 2015, Notice No. SLPB-002-15, *Consultation on a Licensing Framework for Residual Spectrum in the 700 MHz and AWS-3 Bands*.

spectrum. This policy will promote competition in the North through new entry rather than allowing incumbent licensees in this band to aggregate and potentially squat on new spectrum, thereby creating an artificial barrier to entry.

### **2.3 Proposal P3 c)**

8. The Department is seeking comments on its proposal to apply the current 20% deployment levels for the 700 MHz licence to each of the Tier 4 licence areas.

9. Ice Wireless agrees with this proposal. A more ambitious deployment requirement would not be realistic given the challenges associated with providing services in the North.

### **2.4 Proposal P4**

10. The Department is seeking comments on its proposal to use the sealed-bid auction format for the auction of residual licences in the 700 MHz and AWS-3 bands and on the timelines proposed in the Proposed Table of Key Dates.

11. Ice Wireless is of the view that a first come first served (“FCFS”) approach to licensing the 700 MHz spectrum in the North is most appropriate, due to the difficult conditions associated with deployment in that region and the fact that not all licences were taken up in the past auction. Nevertheless, if the Department insists on proceeding with an auction, then a sealed-bid auction format is appropriate given the small amount of spectrum involved and the much higher complexity of other auction methodologies.

12. It is in the interest of Canadians that all potential bidders interested in development of the North participate this auction. Ice Wireless therefore proposes a revised timetable for the auction process to provide more lead time to attract qualified bidders. Our proposed timetable is as follows:

<b>Proposed Table of Key Dates</b>	
<b>Event</b>	<b>Time Frame</b>
Publication of Licensing Framework for Residual Spectrum Licences in the 700 MHz and AWS-3 Bands	May 16, 2016
Deadline for receipt of applications to participate in the auction and pre-auction financial deposit	By 12:00 noon EDT, June 13, 2016
Publication of the list of applicants, beneficial ownership, affiliates and associated entities information	Within four business days following the application deadline
Publication of the list of qualified bidders	June 20, 2016
Sealed bid deadline	By 12:00 noon EDT, July 4, 2016
Announcement and publication of provisional licence winners	July 6, 2016
Initial payment (20% of total final payment)	July 21, 2016
Final payment (80% of total final payment)	August 18, 2016

## **2.5 Proposal P6**

13. The Department is seeking comments on its proposal to use a second-price rule, including bidder-optimal core prices and use of the “nearest Vickery” approach, for the auction of residual licences in the 700 MHz and AWS-3 bands.

14. Ice Wireless agrees with the Department’s proposal. The proposed approach is most likely to incent bidders to bid what they consider to be the true value of the spectrum.

## **2.6 Proposal P7**

15. The Department is seeking comments on its proposed opening bids for the 700 MHz licences.

16. Given the many challenges and high cost of deploying wireless infrastructure in the North, a requirement for substantial opening bids has a very high likelihood of serving as an insurmountable barrier to entry, which will significantly limit competition in the provision of

high-quality wireless services in the North. For this reason, Ice Wireless proposes that the Department consider not imposing any opening bid requirement for 700 MHz licences, or else setting the opening bids at much more modest levels set out in the Table below.

<b>Tier</b>	<b>Service Area Name</b>	<b>Population</b>	<b>\$/MHz/pop</b>	<b>Opening bid (\$) (20-year licence, 10 MHz)</b>
2-10	Yukon	33,854	0.050	\$16,927
2-11	Nunavut	31,906	0.050	\$15,953
2-14	Northwest Territories	41,455	0.050	\$20,728

## **2.7 Proposal P8**

17. The Department is seeking comments on its proposed rules regarding Affiliated and Associated Entities, which would apply to applicants and bidders in the upcoming auction of residual spectrum licences in the 700 MHz and AWS-3 bands.

18. Ice Wireless generally agrees with the proposed rules regarding Affiliated and Associated Entities. However, Ice Wireless objects to the provisions that may allow Associated Entities to bid separately. Ice Wireless is of the view that this would add unnecessary complexity to the auction process, and make it less transparent, with potential adverse distortionary effects on the markets for the provision on wireless services. Moreover, applying such a rule may be very difficult to do given other competing legal requirements, such as those set out in the *Competition Act*.

19. For the same reason, Ice Wireless also objects to having caps apply to Associated Entities separately. Moreover, giving Associated Entities this flexibility has the potential to provide entities included in such an arrangement the ability to circumvent the intended effect of caps through commercial arrangements. This should not be permitted if the integrity of the licensing framework is to be maintained and competition in the provision of wireless services is to be fostered.

## **2.8 Proposal P9**

20. The Department is seeking comments on the rules prohibiting collusion, which would apply to the bidders in the upcoming auction of residual spectrum licences in the 700 MHz and AWS-3 bands.

21. Ice Wireless supports the proposed rules and their application to all bidders to ensure the integrity and fairness of the auctions.

## **2.9 Proposal P10**

22. The Department is seeking comments on the proposed auction process for the auction of residual licences in the 700 MHz and AWS-3 bands.

23. Ice Wireless supports the proposed auction process to the extent that the Department is of the view that the residual licences in the 700 MHz band should be issued through an auction, rather than a FCFS process, despite the fact that the latter would be preferable.

## **3.0 CONCLUSION**

24. In conclusion, and subject to its belief that a FCFS licencing process would be preferable for the 700 MHz band, Ice Wireless generally supports the Department's proposals for a licensing framework for the auction of residual licenses in that band, with certain modifications in the areas of spectrum caps, the timetable for the auction, opening bids and the rules surrounding Associated Entities. Ice Wireless urges the Department to accept the framework with the modifications proposed by Ice Wireless.

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