



# PUBLIC NOTICE

Federal Communications Commission  
445 12th St., S.W.  
Washington, D.C. 20554

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**DA 01-2882**  
**December 13, 2001**

## **AUCTION NO. 82 CONSTRUCTION PERMITS FOR NEW ANALOG TELEVISION STATIONS SCHEDULED FOR FEBRUARY 5, 2002**

### **Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedural Issues**

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## **I. GENERAL INFORMATION**

### **A. Introduction**

This public notice announces the procedures and minimum opening bids for the upcoming auction of construction permits for new analog television stations (“Auction No. 82”). On November 9, 2001, in accordance with the Balanced Budget Act of 1997,<sup>1</sup> the Mass Media Bureau (“MMB”) and the Wireless Telecommunications Bureau (“WTB”) (collectively, the “Bureaus”) released the *Auction No. 82 Comment Public Notice*,<sup>2</sup> seeking comment on the establishment of reserve prices and/or minimum opening bids for Auction No. 82. In addition, the Bureaus sought comment on a number of procedures to be used in Auction No. 82. The Bureaus received four<sup>3</sup> comments and no reply comments in response to the *Auction No. 82 Comment Public Notice*.

#### **1. Construction Permits to Be Auctioned**

The construction permits available in Auction No. 82 include four new analog television stations. These construction permits are the subject of pending, mutually exclusive short-form applications (FCC Form 175) and participation in this auction is limited to the applicants identified in Attachment A. The minimum opening bids and upfront payments for these construction permits are also included on Attachment A.

### **B. Rules and Disclaimers**

#### **1. Relevant Authority**

Prospective bidders must familiarize themselves thoroughly with the Commission's rules relating to broadcast auctions, contained in Title 47, Part 73 of the Code of Federal Regulations. Prospective bidders must also be thoroughly familiar with the procedures, terms and conditions contained in this Public Notice, the *Auction No. 82 Comment Public Notice*, the *Broadcast First Report and Order*,<sup>4</sup> the *Broadcast Reconsideration Order*,<sup>5</sup> and the *New Entrant Bidding Credit Reconsideration Order*.<sup>6</sup> Potential bidders

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<sup>1</sup> Section 3002(a), Balanced Budget Act of 1997, Pub. L. 105-33, 111 Stat. 251 (1997) (“Balanced Budget Act”); 47 U.S.C. §309(j)(4)(F). The Commission's authority to establish a reserve price or minimum opening bid is set forth in 47 C.F.R. § 1.2104 (c) and (d).

<sup>2</sup> See Auction of Construction Permits For New Analog Television Stations Scheduled for February 5, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues, *Public Notice*, DA 01-2605 (rel. November 9, 2001) (“*Auction No. 82 Comment Public Notice*”).

<sup>3</sup> Comments were filed by Powell Meredith Communications Company (“Powell Meredith”), WCSC, Inc. (“WCSC”), WyoMedia Corp. (“WyoMedia”), and Hubbard Broadcasting, Inc. (“Hubbard”).

<sup>4</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, GC Docket No. 92-52 and GEN Docket No. 90-264, *First Report and Order*, 13 FCC Rcd 15920 (1998) (“*Broadcast First Report and Order*”).

<sup>5</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 14 FCC Rcd 8724 (1999) (“*Broadcast Reconsideration Order*”).

must also familiarize themselves with Part 1, Subpart Q of the Commission's rules concerning competitive bidding proceedings.<sup>7</sup>

The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to bidders. It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>. Additionally, documents are available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-A257, Washington, DC, 20554 or may be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). When ordering documents from Qualex, please provide the appropriate FCC number (for example, FCC 98-194 for the *Broadcast First Report and Order* and FCC 99-74 for the *Broadcast Reconsideration Order*).

## 2. Prohibition of Collusion

Bidders are reminded that Section 1.2105(c) of the Commission's rules prohibits short-form applicants from communicating with each other during the auction about bids, bidding strategies, or settlements unless they have identified each other as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii).<sup>8</sup> For further details regarding the anti-collusion rule, refer to the *Auction Filing Window Public Notice*, released May 25, 2001.<sup>9</sup> For Auction No. 82, this prohibition became effective at the short-form application deadline (June 29, 2001) and will end on the down payment due date after the auction (to be announced in a future public notice). Applicants certified compliance with Section 1.2105(c) when they signed their short-form applications. However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.<sup>10</sup>

Bidders in Auction No. 82 are encouraged not to use the same individual acting as an authorized bidder for any other applicant. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between the bidders he/she is authorized to represent in the auction. A

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<sup>6</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding for Commercial Broadcast and Instructional Television Fixed Service Licenses, MM Docket No. 97-234, *Memorandum Opinion and Order*, 14 FCC Rcd 12541 (1999) (“*New Entrant Bidding Credit Reconsideration Order*”).

<sup>7</sup> See Part 1, Subpart Q of Title 47 of the Code of Federal Regulations.

<sup>8</sup> See 47 C.F.R. § 1.2105(c).

<sup>9</sup> See Auction Filing Window For New Analog Television Stations Auction No. 82, *Public Notice*, DA 01-1300 (rel. May 25, 2001) (“*Auction Filing Window Public Notice*”).

<sup>10</sup> See *Nevada Wireless*, 13 FCC Rcd at 11978.

violation could similarly occur if the authorized bidders are different individuals employed by the same organization (e.g., law firm or consulting firm).

In addition, Section 1.65 of the Commission's rules requires an applicant to *maintain* the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.<sup>11</sup> Thus, Section 1.65 requires an auction applicant to notify the Commission of any violation of the anti-collusion rules immediately upon learning of such violation. Bidders therefore are required to make such notification to the Commission immediately upon discovery.<sup>12</sup>

A summary listing of documents from the Commission and the Bureau addressing the application of the anti-collusion rules may be found in Attachment E.

### 3. Due Diligence

Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and market place factors that may have a bearing on the value of the television facilities in this auction. **The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC permittee in the broadcast service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC construction permit or license constitute a guarantee of business success.** Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

Potential bidders are strongly encouraged to conduct their own research prior to Auction No. 82 in order to determine the existence of pending proceedings that might affect their decisions regarding participation in the auction. Participants in Auction No. 82 are strongly encouraged to continue such research during the auction.

Potential bidders should note that, in November 1999, Congress enacted the Community Broadcasters Protection Act of 1999 (CBPA) which established a new Class A television service.<sup>13</sup> In response to the enactment of the CBPA, the Commission adopted rules to establish the new Class A television service.<sup>14</sup> In the *Class A Report and Order*, the Commission adopted rules to provide interference protection for eligible Class A television stations from new full power television stations.<sup>15</sup> Given the Commission's ruling in the

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<sup>11</sup> See 47 C.F.R. § 1.65.

<sup>12</sup> The Commission recently amended Section 1.2105 to require auction applicants to report prohibited communications in writing to the Commission immediately, but in no case later than five business days after the communication occurs. In the Matter of Amendment of Part 1 of the Commission's Rules-- Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, FCC 01-270, at 10 (rel. September 27, 2001) ("*Part 1 Seventh Report and Order*").

<sup>13</sup> Pub. L. No. 106-113, 113 Stat. 1501 (1999), codified at 47 U.S.C. § 336(f).

<sup>14</sup> See Establishment of a Class A Television Service, MM Docket No. 00-10, *Report and Order*, FCC 00-115 (rel. April 4, 2000) ("*Class A Report and Order*").

<sup>15</sup> *Id.* at ¶¶ 37-38.

*Class A Report and Order*, the winning bidders in Auction No. 82, upon submission of their long-form application (FCC Form 301), will have to provide interference protection to qualified Class A television stations. Therefore, potential bidders are encouraged to perform engineering studies to determine the existence of Class A television stations and their effect on the ability to operate the full power television stations proposed in this auction. Information about the identity and location of Class A television stations is available from the Mass Media Bureau's Consolidated Database System (CDBS) (public access available at: <http://www.fcc.gov/mmb>) and on the Mass Media Bureau's Class A television web page: <http://www.fcc.gov/mmb/vsd/files/classa.html>.

Potential bidders are also reminded that full service television stations are in the process of converting from analog to digital operation and that stations may have pending applications to construct and operate digital television facilities, construction permits and/or licenses for such digital facilities. Bidders should investigate the impact such applications, permits and licenses may have on their ability to operate the facilities proposed in this auction.

Bidders for the Columbia, South Carolina, station on Channel 47 should note that there is pending a petition for rulemaking to change the DTV channel for WCSC-TV, Charleston, South Carolina, from Channel 52 to Channel 47.<sup>16</sup> Pending the outcome of the Channel 47 Charleston DTV rulemaking proceeding, bidders for Channel 47 at Columbia are advised that the construction permit for their facility will be conditioned on acceptance of interference from WCSC-DT, Channel 47, Charleston, South Carolina.<sup>17</sup>

#### **4. Bidder Alerts**

All applicants must certify on their FCC Form 175 applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license, and not in default on any payment for Commission licenses (including down payments) or delinquent on any non-tax debt owed to any Federal agency.<sup>18</sup> Prospective bidders are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction No. 82 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example by including all documents and papers needed for the transfer of funds maintained in IRA accounts.

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<sup>16</sup> "See Digital Television Broadcast Service; Substitution of DTV Channel 47 for Assigned DTV Channel 52 in Charleston, South Carolina; MM Docket No. 01-128, *Notice of Proposed Rulemaking*, DA 01-1465 (rel. June 25, 2001)."

<sup>17</sup> See Comments and Request for Clarification of WCSC, Inc.

<sup>18</sup> See 47 C.F.R. § 1.2105.

- The amount of the minimum investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service (“IRS”), Federal Trade Commission (“FTC”), Securities and Exchange Commission (“SEC”), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060. Consumers who have concerns about specific proposals may also call the FCC Consumer Center at (888) CALL-FCC ((888) 225-5322).

## **5. National Environmental Policy Act (NEPA) Requirements**

Permittees must comply with the Commission's rules regarding the National Environmental Policy Act (NEPA). The construction of a broadcast antenna facility is a federal action and the permittee must comply with the Commission's NEPA rules for each such facility.<sup>19</sup> The Commission's NEPA rules require, among other things, that the permittee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corp of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). The permittee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The permittee must also prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

### **C. Auction Specifics**

#### **1. Auction Date**

Auction No. 82 will begin on Tuesday, February 5, 2002. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all construction permits will be conducted on each business day until bidding has stopped on all construction permits.

#### **2. Auction Title**

Auction No. 82 — New Analog Television

#### **3. Bidding Methodology**

The bidding methodology for Auction No. 82 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet. Telephonic bidding will also be available. As a

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<sup>19</sup> See 47 C.F.R. §§1.1305-1.1319.

contingency, the FCC Wide Area Network, which requires access to a 900 number telephone service, will be available as well. Qualified bidders are permitted to bid telephonically or electronically.

**4. Pre-Auction Dates and Deadlines**

Auction Seminar .....	January 8, 2002
Upfront Payments (via wire transfer) .....	January 14, 2002; 6:00 p.m. ET
Mock Auction .....	January 31, 2002
Auction Begins .....	February 5, 2002

**5. Requirements for Participation**

Those wishing to participate in the auction must:

- Be listed on Attachment A of this public notice.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, January 14, 2002.
- Comply with all provisions outlined in this public notice.

## **6. General Contact Information**

### **GENERAL AUCTION INFORMATION**

General Auction Questions  
Seminar Registration

FCC Auctions Hotline  
(888) 225-5322, Press Option #2  
or direct (717) 338-2888  
Hours of service: 8 a.m. – 5:30 p.m. ET

### **AUCTION LEGAL INFORMATION**

Auction Rules, Policies, Regulations

Auctions and Industry Analysis Division  
Legal Branch (202) 418-0660

### **LICENSING INFORMATION**

Rules, Policies, Regulations  
Licensing Issues  
Due Diligence  
Incumbency Issues

Video Services Division  
(202) 418-1600

### **TECHNICAL SUPPORT**

Electronic Filing  
Automated Auction System

FCC Auctions Technical Support Hotline  
(202) 414-1250 (Voice),  
(202) 414-1255 (TTY)  
Hours of service: Monday through Friday 7 a.m. to  
10:00 p.m. ET, Saturday, 8:00 a.m. to 7:00 p.m.,  
Sunday, 12:00 noon to 6:00 p.m.

### **PAYMENT INFORMATION**

Wire Transfers  
Refunds

FCC Auctions Accounting Branch  
(202) 418-1995  
(202) 418-2843 (Fax)

### **TELEPHONIC BIDDING**

Will be furnished only to qualified bidders

### **FCC COPY CONTRACTOR**

Additional Copies of  
Commission Documents

Qualex International  
Portals II, 445 12<sup>th</sup> Street, SW, Room CY-B402  
Washington, DC 20554  
(202) 863-2893  
(202) 863-2898 (Fax)  
qualexint@aol.com (E-mail)

### **PRESS INFORMATION**

Meribeth McCarrick (202) 418-0654

### **FCC FORMS**

(800) 418-3676 (outside Washington, DC)  
(202) 418-3676 (in the Washington Area)  
<http://www.fcc.gov/formpage.html>

### **FCC INTERNET SITES**

<http://www.fcc.gov>  
<http://wireless.fcc.gov/auctions>  
<http://wireless.fcc.gov/uls>

## II. SHORT-FORM (FCC FORM 175) APPLICATION REQUIREMENTS

### A. Maintaining Current Information in Short-Form Applications (FCC Form 175)

As noted in the *Auction No. 82 Comment Public Notice*<sup>20</sup>, and under 47 C.F.R. §1.65, applicants have an obligation to maintain the completeness and accuracy of information in their short-form applications. Amendments reporting substantial changes of possible decisional significance in information contained in short-form applications, as defined by 47 C.F.R. § 1.2105(b)(2), will not be accepted and may in some instances result in the dismissal of the short-form application. Auction No. 82 applicants may file changes to their FCC Form 175 applications by electronic mail sent to the following address: <auction82@fcc.gov>. The Bureau prefers that any attachments be in a Word or pdf format. Documents filed by electronic mail must include a subject or caption referring to Auction No. 82. Filers must also submit a letter summarizing the changes to:

Margaret Wiener, Chief  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW, Room 4-A760  
Washington, DC 20554

A separate copy of the letter should faxed to the attention of Kathryn Garland at (717) 338-2850. Questions about other changes should be directed to Kenneth Burnley at (202) 418-0660.

In addition, applicants should make these changes to their FCC Form 175 applications on-line after release of the public notice explaining the status of the applications.

### B. Electronic Review of Short –Form Applications (FCC Form 175)

As noted in the *Auction Filing Window Public Notice*<sup>21</sup>, applicants may review their own and other applicants' completed FCC Form 175s after the FCC has issued a public notice concerning the status of the applications. The FCC Form 175 electronic review system will be available at that time, and may be used to locate and print applicants' FCC Form 175 information. Applicants will also be able to view other applicants' completed FCC Form 175 applications. There is no fee for accessing this system. Instructions for electronic review of FCC Form 175 applications will be discussed in a future public notice.

### C. Installment Payments

Installment payment plans will not be available in Auction No. 82.

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<sup>20</sup> See *Auction No. 82 Comment Public Notice* at 11.

<sup>21</sup> See *Auction Filing Window For New Analog Television Stations for Auction No. 82, Public Notice*, DA 01-1300 (rel. May 25, 2001) (“*Auction Filing Window Public Notice*”).

### **III. PRE-AUCTION PROCEDURES**

#### **A. Application Processing and Minor Corrections**

Before the auction seminar, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) those applications accepted for filing; (2) those applications rejected; and (3) those applications which have minor defects that may be corrected, and the deadline for filing such corrected applications.

As described more fully in the Commission's rules, after the short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their construction permit selections, change the certifying official, change control of the applicant, or change bidding credit eligibility).<sup>22</sup>

#### **B. Auction Seminar**

On January 8, 2002, the FCC will sponsor a free seminar for Auction No. 82 at the Federal Communications Commission, located at 445 12<sup>th</sup> Street, S.W. (Room 3-B516), Washington, D.C. The seminar will provide attendees with information about pre-auction procedures, conduct of the auction, FCC remote bidding software, and the broadcast service and auction rules. The seminar will also provide an opportunity for prospective bidders to ask questions of FCC staff.

To register, complete the registration form included as Attachment B of this public notice and submit it by Friday, January 4, 2002. Registrations are accepted on a first-come, first-served basis.

#### **C. Upfront Payments -- Due January 14, 2002**

In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After the FCC Form 175 becomes available electronically, filers will have access to an electronic version of the FCC Form 159 that can be printed and faxed to Mellon Bank in Pittsburgh, PA. All upfront payments must be received at Mellon Bank by 6:00 p.m. ET on January 14, 2002.

Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction No. 82 go to a lockbox number different from the ones used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment by the January 14, 2002 deadline will result in dismissal of the application and disqualification from participation in the auction.

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<sup>22</sup> See 47 C.F.R. § 1.2105. See also *Two Way Radio of Carolina, Inc., Memorandum, Opinion and Order*, 14 FCC Rcd 12035 (1999).

## 1. Making Auction Payments by Wire Transfer

Wire transfer payments must be received by 6:00 p.m. ET on January 14, 2002. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261  
Receiving Bank: Mellon Pittsburgh  
BNF: FCC/Account # 910-0180  
OBI Field: (Skip one space between each information item)  
"AUCTIONPAY"  
TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, block 12)  
PAYMENT TYPE CODE (same as FCC Form 159, Block 24A; A82U)  
FCC CODE 1 (same as FCC Form 159, block 28A: "82")  
PAYER NAME (same as FCC Form 159, block 2)  
LOCKBOX NO. # 358420

**NOTE:** The BNF and Lockbox number are specific to the upfront payments for this auction; do not use BNF or Lockbox numbers from previous auctions.

Applicants must fax a completed FCC Form 159 (Revised 2/00) to Mellon Bank at (412) 209-6045 **at least one hour before** placing the order for the wire transfer (but on the same business day). On the cover sheet of the fax, write "Wire Transfer - Auction Payment for Auction Event No. 82." **Bidders should confirm receipt of their upfront payment at Mellon Bank by contacting their sending financial institution.**

## 2. FCC Form 159

A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/00) must be faxed to Mellon Bank in order to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/00) is critical to ensuring correct credit of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment C to this public notice. An electronic version of the FCC Form 159 will be accessible after the FCC Form 175 becomes available electronically. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

## 3. Amount of Upfront Payment

In the *Part 1 Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction.<sup>23</sup> In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that "former defaulters," *i.e.*, applicants that have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency, be required to pay upfront payments

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<sup>23</sup> See Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Proceeding, WT Docket No. 97-82, *Order, Memorandum Opinion and Order and Notice of Proposed Rule Making*, 12 FCC Rcd 5686, 5697-5698, ¶ 16 (1997). See also *Broadcast First Report and Order*, 13 FCC Rcd at 15967-68, ¶ 127-128.

fifty percent greater than non-“former defaulters.”<sup>24</sup>

In the *Auction No. 82 Comment Public Notice*, we proposed translating bidders’ upfront payments to bidding units to define a bidder’s maximum eligibility.<sup>25</sup> In order to bid on a construction permit, otherwise qualified bidders who applied for that construction permit on Form 175 must have an eligibility level that meets or exceeds the number of bidding units assigned to that construction permit. At a minimum, therefore, an applicant’s total upfront payment must be enough to establish eligibility to bid on at least one of the construction permits applied for on Form 175, or else the applicant will not be eligible to participate in the auction. An applicant does not have to make an upfront payment to cover all construction permits for which the applicant has applied on Form 175, but rather to cover the maximum number of bidding units that are associated with construction permits on which the bidder wishes to place bids and hold high bids at any given time.

WyoMedia contends that the upfront payment for Scottsbluff, Nebraska should be reduced to between \$41,000 and \$46,000.<sup>26</sup> WyoMedia provides community of license information for each permit in the auction and contends that parties interested in the Scottsbluff permit would be paying an upfront payment that is three times as much for other permits. WyoMedia urges the Bureaus to adopt an upfront payment that is consistent with those set for other permits.<sup>27</sup> Based upon the information WyoMedia provides, we conclude that the upfront payment for Scottsbluff, Nebraska should be reduced to \$50,000.

The specific upfront payments and bidding units for each construction permit are set forth in Attachment A of this Public Notice.

In calculating its upfront payment amount, an applicant should determine the maximum number of bidding units it may wish to bid on in any single round, and submit an upfront payment covering that number of bidding units. In order to make this calculation, an applicant should add together the upfront payments for all construction permits on which it seeks to bid in any given round. **Bidders should check their calculations carefully, as there is no provision for increasing a bidder’s maximum eligibility after the upfront payment deadline.**

Former defaulters should calculate their upfront payment for all construction permits by multiplying the number of bidding units they wish to purchase by 1.5. In order to calculate the number of bidding units to assign to former defaulters, the Commission will divide the upfront payment received by 1.5 and round the result up to the nearest bidding unit.

NOTE: An applicant’s actual bidding in any round will be limited by the bidding units reflected in its upfront payment, in conjunction with the selections made on the FCC Form 175.

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<sup>24</sup> In the Matter of Amendment of Part 1 of the Commission’s Rules--Competitive Bidding Procedures, WT Docket No. 97-82, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd at 15316-17, ¶¶ 40-42 (2000) (“*Part 1 Fifth Report and Order*”); 47 C.F.R. § 1.2106(a); *see also* 47 C.F.R. §§1.2105(a)(2)(xi).

<sup>25</sup> *See Auction No. 82 Comment Public Notice* at 2.

<sup>26</sup> WyoMedia Comments at 1.

<sup>27</sup> *Id.* at 3.

#### 4. Applicant's Wire Transfer Information for Purposes of Refunds

The Commission will use wire transfers for all Auction No. 82 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information as listed below be supplied to the FCC. Applicants can provide the information electronically after the FCC Form 175 becomes available for review. Wire Transfer Instructions can also be manually faxed to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Tim Dates or Gail Glasser, at (202) 418-2843 by January 14, 2002. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call (202) 418-1995.

Name of Bank  
ABA Number  
Contact and Phone Number  
Account Number to Credit  
Name of Account Holder  
Taxpayer Identification Number (see below)  
Correspondent Bank (if applicable)  
ABA Number  
Account Number

(Applicants should also note that implementation of the Debt Collection Improvement Act of 1996 requires the FCC to obtain a Taxpayer Identification Number (TIN) before it can disburse refunds.) Eligibility for refunds is discussed in Section V.D., below.

#### D. Auction Registration

Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and have timely submitted upfront payments sufficient to make them eligible to bid on at least one of the construction permits for which they applied.

All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by two separate overnight mailings, one containing the confidential bidder identification number (BIN) required to place bids and the other containing the SecurID cards. These mailings will be sent only to the contact person at the contact address listed in the FCC Form 175.

Applicants that do not receive both registration mailings will not be able to submit bids. Therefore, any qualified applicant that has not received both mailings by noon on Tuesday, January 29, 2002, should contact the Auctions Hotline at 717-338-2888. Receipt of both registration mailings is critical to participating in the auction and each applicant is responsible for ensuring it has received all of the registration material.

Qualified bidders should note that lost bidder identification numbers or SecurID cards can be replaced only by appearing in person at the FCC Auction Headquarters located at 445 12<sup>th</sup> Street, S.W., Washington, D.C. 20554. Only an authorized representative or certifying official, as designated on an applicant's FCC Form 175, may appear in person with two forms of identification (one of which must be a photo identification) in order to receive replacements. Qualified bidders requiring replacements must call technical support prior to arriving at the FCC.

## **E. Electronic Bidding**

The Commission will conduct this auction over the Internet. Telephonic bidding will also be available. As a contingency, the FCC Wide Area Network, which requires access to a 900 number telephone service, will be available as well. Qualified bidders are permitted to bid telephonically or electronically, *i.e.*, over the Internet or the FCC's Wide Area Network. In either case, **each authorized bidder** must have its own Remote Security Access SecurID card, which the FCC will provide at no charge. Each applicant with less than three authorized bidders will be issued two SecurID cards, while applicants with three authorized bidders will be issued three cards. For security purposes, the SecurID cards are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction, therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 82. The telephonic bidding phone number will be supplied in the first Federal Express mailing of the confidential bidder identification number. Your bidding preference—electronic or telephonic—can be specified on the FCC Form 175 during the resubmit window.

Please note that the SecurID cards can be recycled, and we encourage bidders to return the cards to the FCC. We will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

## **F. Mock Auction**

All qualified bidders will be eligible to participate in a mock auction on Thursday, January 31, 2002. The mock auction will enable applicants to become familiar with the electronic system prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

## **IV. AUCTION EVENT**

The first round of bidding for Auction No. 82 will begin on Tuesday, February 5, 2002. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

### **A. Auction Structure**

#### **1. Simultaneous Multiple Round Auction**

In the *Auction No. 82 Comment Public Notice*, we proposed to award all construction permits in a single, simultaneous multiple round auction.<sup>28</sup> We received no comments on this issue. We therefore conclude that it is operationally feasible and appropriate to auction the new analog television station construction permits through a single, simultaneous multiple round auction. Unless otherwise announced, bids will be accepted on the construction permits in each round of the auction.

#### **2. Maximum Eligibility and Activity Rules**

In the *Auction No. 82 Comment Public Notice*, we proposed that the amount of the upfront payment submitted by a bidder would determine the initial maximum eligibility (as measured in bidding units) for

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<sup>28</sup> *Auction No. 82 Comment Public Notice* at 2.

each bidder.<sup>29</sup> We received no comments on this issue.

For Auction No. 82, we adopt this proposal. The amount of the upfront payment submitted by a bidder determines the initial maximum eligibility (in bidding units) for each bidder. Note again that each construction permit is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A on a bidding unit per dollar basis. The total upfront payment defines the maximum number of bidding units on which the applicant will be permitted to bid and hold high bids. As there is no provision for increasing a bidder's maximum eligibility during the course of an auction, prospective bidders are cautioned to calculate their upfront payments carefully. The total upfront payment does not affect the total dollars a bidder may bid on any given construction permit.

In addition, we received no comments on our proposal for a single stage auction. Therefore, in order to ensure that the auction closes within a reasonable period of time, we adopt our proposal with the following activity requirements: a bidder must either place a valid bid and/or be the standing high bidder during each round of the auction rather than wait until the end before participating. A bidder is required to be active on 100 percent of their bidding eligibility. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's bidding eligibility.

### **3. Activity Rule Waivers and Reducing Eligibility**

In the *Auction No. 82 Comment Public Notice*, we proposed that each bidder in the auction would be provided three activity rule waivers that may be used in any round during the course of the auction.<sup>30</sup> We received no comments on this issue.

Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided three activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. We are satisfied that our practice of providing three waivers over the course of the auction provides a sufficient number of waivers and maximum flexibility to the bidders, while safeguarding the integrity of the auction.

The FCC Automated Auction System assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any round where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not satisfy the required activity level, the current eligibility will be permanently reduced, possibly eliminating them from the auction.

A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules (*see* Part IV.A.2 discussion *above*). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

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<sup>29</sup> *Id.*

<sup>30</sup> *Id.* at 3.

Finally, a bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new valid bids or withdrawals will not keep the auction open. **Note: Once a proactive waiver is placed during a round, that waiver cannot be unsubmitted.**

#### 4. Auction Stopping Rules

For Auction No. 82, the Bureaus proposed to employ a simultaneous stopping rule.<sup>31</sup> Under this rule, bidding will remain open on all construction permits until bidding stops on every construction permit. The auction will close for all construction permits when one round passes during which no bidder submits a new acceptable bid on any construction permit, applies a proactive waiver, or withdraws a previous high bid. After the first such round, bidding closes simultaneously on all construction permits.

The Bureaus also proposed retaining discretion to implement a modified version of the simultaneous stopping rule. The modified version will close the auction for all construction permits after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any construction permit on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a construction permit for which it is the standing high bidder will not keep the auction open under this modified stopping rule.

The Bureaus further proposed retaining the discretion to keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use an activity rule waiver (if any remain).

In addition, we proposed that the Bureaus reserve the right to declare that the auction will end after a designated number of additional rounds ("special stopping rule"). If the Bureaus invoke this special stopping rule, it will accept bids in the final round(s) only for construction permits on which the high bid increased in at least one of the preceding specified number of rounds. We proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where it appears likely that the auction will not close within a reasonable period of time.<sup>32</sup> Before exercising this option, the Bureaus are likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or adjusting the amount of the minimum bid increments for the construction permits.

We received no comments on the subject, therefore, we adopt all of the above proposals concerning the auction stopping rules. Auction No. 82 will begin under the simultaneous stopping rule, and the Bureaus will retain the discretion to invoke the other versions of the stopping rule. We believe that these stopping rules are most appropriate for Auction No. 82, because our experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder

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<sup>31</sup> *Id.* at 8-9.

<sup>32</sup> *Id.* at 9.

participation.

## **5. Auction Delay, Suspension, or Cancellation**

In the *Auction No. 82 Comment Public Notice*, we proposed that, by public notice or by announcement during the auction, the Bureaus may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair conduct of competitive bidding.<sup>33</sup>

Because this approach has proven effective in resolving exigent circumstances in previous auctions, we adopt our proposed auction cancellation rules. By public notice or by announcement during the auction, the Bureaus may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureaus, in their sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureaus to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureaus, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers.

### **B. Bidding Procedures**

#### **1. Round Structure**

The initial bidding schedule will be announced in the public notice listing the qualified bidders which is released approximately 10 days before the start of the auction. This public notice will be included with the registration mailings. The round structure for each bidding round contains a single bidding round followed by the release of the round results. Multiple bidding rounds may be conducted in a given day. Details regarding round result formats and locations will also be included in the qualified bidders public notice referenced above.

The FCC has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The FCC may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors.

#### **2. Reserve Price or Minimum Opening Bid**

*Background.* The Balanced Budget Act calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses or construction permits are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.<sup>34</sup> Consistent with this mandate, the Commission directed the Bureaus to seek comment on the use of a

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<sup>33</sup> *Id.* at 4.

<sup>34</sup> Balanced Budget Act, *see* note 2, *supra*.

minimum opening bid and/or reserve price prior to the start of each auction.<sup>35</sup> Among other factors, the Bureaus must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on valuation of the spectrum being auctioned.<sup>36</sup> The Commission concluded that the Bureaus should have the discretion to employ either or both of these mechanisms for future auctions.<sup>37</sup>

Congress has enacted a presumption that unless the Commission determines otherwise, minimum opening bids or reserve prices are in the public interest.<sup>38</sup> Based on our experience in using minimum opening bids in other auctions, we believe that minimum opening bids speed the course of the auction and ensure that valuable assets are not sold for nominal prices, without unduly interfering with the efficient assignment of construction permits.<sup>39</sup>

In the *Auction No. 82 Comment Public Notice*, the Bureaus proposed to establish minimum opening bids for Auction No. 82 and to retain discretion to lower the minimum opening bids.<sup>40</sup> Specifically, for Auction No. 82, the Bureaus proposed calculating the minimum opening bid based on the potential value of the spectrum, including the type of service, market size, industry cash flow data and recent broadcast transactions. Three commenters challenged the minimum opening bids proposed for this auction. WyoMedia Corp. challenged the minimum opening bid for Scottsbluff, Nebraska, asking that it be reduced to between \$41,000 and \$46,000. WyoMedia contends that those parties interested in the Scottsbluff permit would be paying a minimum opening bid that is three times as much for other permits. WyoMedia urges the Bureaus to adopt a minimum opening bid that is consistent with those set for other permit.<sup>41</sup> Hubbard contends that \$250,000 is a more reasonable value for the minimum opening bid for Pittsfield, Massachusetts.<sup>42</sup> Powell Meredith requests that all of the minimum opening bids be reduced since the costs of constructing new television stations have increased.<sup>43</sup> We agree that minimum opening bids for Scottsbluff, Nebraska should be reduced to \$50,000. However, we do not find that the commenters have justified reducing the minimum opening bids for other permits. Therefore only the minimum opening bids for Scottsbluff, Nebraska will be reduced.

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<sup>35</sup> See Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd at 141, 455-456 (1998) ("*Part 1 Third Report and Order*").

<sup>36</sup> *Id.*

<sup>37</sup> *Id.*

<sup>38</sup> Section 3002(F) of the Balanced Budget Act directs the Commission to "prescribe methods by which a reasonable reserve price will be required, or a minimum bid established, to obtain any license or permit being assigned pursuant to the competitive bidding, unless the Commission determines that such a reserve price or minimum bid is not in the public interest."

<sup>39</sup> See 47 U.S.C. 309(j)(3)(C).

<sup>40</sup> *Auction No. 82 Comment Public Notice* at 4-5.

<sup>41</sup> WyoMedia Comments at 3.

<sup>42</sup> Hubbard Comments at

<sup>43</sup> Poweel Meredith Comments at 2.

### **3. Bid Increments and Minimum Accepted Bids**

In the *Auction No. 82 Comment Public Notice*, we proposed to use a smoothing methodology to calculate minimum acceptable bids.<sup>44</sup> We further proposed to retain the discretion to change the minimum acceptable bids and bid increments if circumstances so dictate.<sup>45</sup> We received no comment on this issue.

We adopt our proposal for a smoothing formula. The smoothing methodology is designed to vary the increment for a given construction permit between a maximum and minimum value based on the bidding activity on that construction permit. This methodology allows the increments to be tailored to the activity level of a construction permit, decreasing the time it takes for active construction permits to reach their final value. The formula used to calculate this increment is included as Attachment D.

We adopt our proposal of initially setting the weighing factor at 0.5, the minimum percentage increment at 0.1 (10 percent), and the maximum at 0.2 (20 percent). The Bureaus retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstance so dictate. The Bureaus will do so by announcement in the Automated Auction System. Under its discretion, the Bureaus may also implement an absolute dollar floor for the bid increment to further facilitate a timely close of the auction. The Bureaus may also use its discretion to adjust the minimum bid increment without prior notice if circumstances warrant. The Bureaus also retains the discretion to use alternate methodologies, such as a flat percentage increment for all construction permits, for Auction No. 82 if circumstances warrant.

### **4. High Bids**

At the end of each round, the Automated Auction System determines the standing high bid for each construction permit based on the gross dollar amounts of the bids received for each construction permit.

In the case of tied high bids, a pseudo-random generator will be used to determine the standing high bid. A random number will be assigned to each bid. The tie bid having the highest random number will become the standing high bid.

### **5. Bidding**

During a bidding round, a bidder may submit bids for as many construction permits as it wishes (subject to its eligibility), withdraw high bids from previous bidding rounds, remove bids placed in the same bidding round, or permanently reduce eligibility. Bidders also have the option of making multiple submissions and withdrawals in each bidding round. If a bidder submits multiple bids for a construction permit in the same round, the system takes the last bid entered as that bidder's bid for the round.

Please note that all bidding will take place remotely either through the Automated Auction System or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, four to five minutes are necessary to complete a bid submission.) There will be no on-site bidding during Auction No. 82.

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<sup>44</sup> *Id.* at 5-8.

<sup>45</sup> *Id.*

A bidder's ability to bid on specific construction permits in the first round of the auction is determined by two factors: (1) the construction permits applied for on FCC Form 175 and (2) the upfront payment amount deposited. The bid submission screens will allow bidders to submit bids on only those construction permits for which the bidder applied on its FCC Form 175.

The FCC Automated Auction System requires each bidder to be logged in during the bidding round using the bidder identification number provided in the registration materials, and the generated SecurID code. Bidders are strongly encouraged to print bid confirmations after they submit their bids.

In each round, eligible bidders will be able to place bids on a given construction permit in any of nine different amounts.<sup>46</sup> For each construction permit, the Automated Auction System interface will list the nine acceptable bid amounts in a drop-down box. Bidders may use the drop-down box to select from among the nine acceptable bid amounts. The Automated Auction System also includes an import function that allows bidders to upload text files containing their bid information.

Once there is a standing high bid on a construction permit, the Automated Auction System will calculate a minimum acceptable bid for that construction permit for the following round. The difference between the minimum acceptable bid and the standing high bid for each construction permit will define the *bid increment*. The nine acceptable bid amounts for each construction permit consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (*i.e.*, the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

Until a bid has been placed on a construction permit, the minimum acceptable bid for that construction permit will be equal to its minimum opening bid. The additional bid amounts for construction permits that have not yet received a bid are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded,<sup>47</sup> and the minimum opening bid. Therefore, when the minimum percentage increment equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

## 6. Bid Removal and Bid Withdrawal

In the *Auction No. 82 Comment Public Notice*, we proposed bid removal and bid withdrawal rules.<sup>48</sup> With respect to bid withdrawals, we proposed limiting each bidder to withdrawals in no more than one round during the course of the auction. The one round in which withdrawals are utilized, we proposed, would be at the bidder's discretion. We received no comments on this issue.

**Procedures.** Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the "remove bid" function in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to

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<sup>46</sup> Bidders must have sufficient eligibility to place a bid on the particular construction permit. See Section III.C.3 "Amount of Upfront Payment," *infra*.

<sup>47</sup> The product of the minimum opening bid times one plus the minimum percentage increment is rounded to the nearest thousand if it is over ten thousand, to the nearest hundred if it is under ten thousand but over one thousand, or to the nearest ten if it is below one thousand.

<sup>48</sup> *Auction No. 82 Comment Public Notice* at 8.

withdrawal payments. Removing a bid will affect a bidder's activity for the round in which it is removed, *i.e.*, a bid that is subsequently removed does not count toward the bidder's activity requirement. This procedure, about which we received no comments, will enhance bidder flexibility during the auction. Therefore, we adopt these procedures for Auction No. 82.

Once a round closes, a bidder may no longer remove a bid. However, in later rounds, a bidder may withdraw standing high bids from previous rounds using the "withdraw bid" function (assuming that the bidder has not exhausted its withdrawal allowance). A high bidder that withdraws its standing high bid from a previous round during the auction is subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). **Note: Once a withdrawal is placed during a round, that withdrawal cannot be unsubmitted.**

In previous auctions, we have detected bidder conduct that, arguably, may have constituted strategic bidding through the use of bid withdrawals. While we continue to recognize the important role that bid withdrawals play in an auction, *i.e.*, reducing risk associated with efforts to secure various construction permits in combination, we conclude that, for Auction No. 82, adoption of a limit on their use to one round is the most appropriate outcome. By doing so we believe we strike a reasonable compromise that will allow bidders to use withdrawals. Our decision on this issue is based upon our experience in prior auctions, particularly the PCS D, E and F block auctions, and 800 MHz SMR auction, and is in no way a reflection of our view regarding the likelihood of any speculation or "gaming" in this auction.

The Bureaus will therefore limit the number of rounds in which bidders may place withdrawals to one round. This round will be at the bidder's discretion and there will be no limit on the number of bids that may be withdrawn in this round. Withdrawals during the auction will still be subject to the bid withdrawal payments specified in 47 C.F.R. § 1.2104(g). Bidders should note that abuse of the Commission's bid withdrawal procedures could result in the denial of the ability to bid on a permit. If a high bid is withdrawn, the minimum accepted bid in the next round will be the prior round's second highest bid price, which may be less than, or equal to, in the case of tie bids, the amount of the withdrawn bid.<sup>49</sup> The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid. The Commission will serve as a "place holder" on the construction permit until a new acceptable bid is submitted on that construction permit

**Calculation.** Generally, the Commission imposes payments on bidders that withdraw high bids during the course of an auction.<sup>50</sup> If a bidder withdraws its bid and there is no higher bid in the same or subsequent auction(s), the bidder that withdrew its bid is responsible for the difference between its withdrawn bid and the net high bid in the same or subsequent auction(s). In the case of multiple bid withdrawals on a single construction permit, within the same or subsequent auctions(s), the payment for each bid withdrawal will be calculated based on the sequence of bid withdrawals and the amounts withdrawn. No withdrawal payment will be assessed for a withdrawn bid if either the subsequent winning bid or any of the intervening subsequent withdrawn bids, in either the same or subsequent auctions(s), equals or exceeds that withdrawn bid. Thus, a bidder that withdraws a bid will not be responsible for any withdrawal payments if there is a subsequent higher bid in the same or subsequent auction(s). This policy allows bidders most efficiently to

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<sup>49</sup> The Bureau retains the discretion to lower the minimum acceptable bid on such construction permits in the next round or in later rounds.

<sup>50</sup> See 47 C.F.R. §§ 1.2104(g), 1.2109.

allocate their resources as well as to evaluate their bidding strategies and business plans during an auction while, at the same time, maintaining the integrity of the auction process. The Bureaus retain the discretion to scrutinize multiple bid withdrawals on a single construction permit for evidence of anti-competitive strategic behavior and take appropriate action when deemed necessary.

In the *Part 1 Fifth Report and Order*, the Commission modified Section 1.2104(g)(1) of the rules regarding assessments of interim bid withdrawal payments.<sup>51</sup> As amended, Section 1.2104(g)(1) provides that in instances in which bids have been withdrawn on a license that is not won in the same auction, the Commission will assess an interim withdrawal payment equal to 3 percent of the amount of the withdrawn bids. The 3 percent interim payment will be applied toward any final bid withdrawal payment that will be assessed after subsequent auction of the license. Assessing an interim bid withdrawal payment ensures that the Commission receives a minimal withdrawal payment pending assessment of any final withdrawal payment. The *Part 1 Fifth Report and Order* provides specific examples showing application of the bid withdrawal payment rule.<sup>52</sup>

## **7. Round Results**

Bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Bureaus will compile reports of all bids placed, bids withdrawn, current high bid, new minimum accepted bid, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 82 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

## **8. Auction Announcements**

The FCC will use auction announcements to announce items such as schedule changes. All FCC auction announcements will be available by clicking a link on the FCC Automated Auction System.

## **9. Maintaining the Accuracy of Short-Form (FCC Form 175) Information**

As noted in Part II.A., after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revision of exhibits. Filers must make these changes on-line, and submit a letter summarizing the changes to:

Margaret Wiener, Chief,  
Auctions and Industry Analysis Division,  
Wireless Telecommunications Bureau,  
Federal Communications Commission,  
445 12<sup>th</sup> Street, S.W., Room 4-A760  
Washington, D.C. 20554

A separate copy of the letter should be faxed to Kenneth Burnley, Auctions and Industry Analysis Division, (202) 418-2923. Questions about other changes should be directed to Kenneth Burnley at (202)

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<sup>51</sup> See *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15302, ¶ 15; 47 C.F.R. § 1.2104(g)(1).

<sup>52</sup> See *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15302, ¶ 15.

418-0660.

## **V. POST-AUCTION PROCEDURES**

### **A. Down Payments and Withdrawn Bid Payments**

After bidding has ended, the Commission will issue a public notice declaring the auction closed, identifying the winning bidders, down payments and any withdrawn payments due.

Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Government to 20 percent of its net winning bids (actual bids less any applicable bidding credit). *See* 47 C.F.R. § 1.2107(b). In addition, by the same deadline all bidders must pay any bid withdrawal payments due under 47 C.F.R. § 1.2104(g), as discussed in “Bid Removal and Bid Withdrawal,” Part IV.B.6. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

### **B. Long-Form Application**

Within ten business days after release of the auction closing public notice, winning bidders must electronically submit a properly completed long-form application and required exhibits for each construction permit won through Auction No. 82. Winning bidders that are claiming new entrant status must include an exhibit demonstrating their eligibility for the bidding credit. *See* 47 C.F.R. § 1.2112(b). Further filing instructions will be provided to the auction winners at the close of the auction.

### **C. Default and Disqualification**

Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 C.F.R. § 1.2104(g)(2). In such event the Commission may re-auction the construction permit or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 C.F.R. § 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses or construction permits held by the applicant. *See* 47 C.F.R. § 1.2109(d).

### **D. Refund of Remaining Upfront Payment Balance**

All applicants that submitted upfront payments but were not winning bidders for a construction permit in Auction No. 82 may be entitled to a refund of their upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If you have completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification

Number (TIN). Send refund request to:

Federal Communications Commission  
Financial Operations Center  
Auctions Accounting Group  
Michelle Bennett  
445 12th Street, SW, Room 1-C864  
Washington, DC 20554

Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418-2843. Once the information has been approved, a refund will be sent to the party identified in the refund information.

NOTE: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Tim Dates or Gail Glasser at (202) 418-1995.

**Media Contact:** Meribeth McCarrick at (202) 418-0654.

**Auctions and Industry Analysis Division:** Kenneth Burnley, Legal Branch, or Jeff Crooks, Auctions Operations Branch, at (202) 418-0660; Linda Sanderson, Auctions Operations Branch at (717) 338-2888.

**Video Services Division:** Shaun Maher at (202) 418-1600.

- FCC -

**VI. ATTACHMENT A**

**New Analog Television Station Construction Permits**

<b>MX Group</b>	<b>Location</b>	<b>Channel</b>	<b>Bidding Units</b>	<b>Upfront Payment</b>	<b>Minimum Opening Bid</b>	<b>Applicants</b>
PST1	Columbia, SC	47	295,000	\$295,000.00	\$295,000.00	Alliance Trust Christian Television Corporation, Inc. Equity Broadcasting Corporation Fant Broadcast Development, L.L.C Gary Cooper George S. Flinn, Jr. Glory TV Grant Video Inc. Innovative Television III, G.P. Knoxville Channel 25, L.L.C. Marcia T. Turner d/b/a/ Turner Enterprises Outlook Communications, Inc. Pappas Telecasting Companies Pegasus Broadcast Television, Inc. Powell Meredith Communications Company Richard Alan Cooper Richland Holdings, LLC Roberts Broadcasting USA, LLC Terrill Weiss Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network Venture Technologies Group, LLC
PST2	Pittsfield, MA	51	420,000	\$420,000.00	\$420,000.00	CAM Broadcasting Company, Inc. Equity Broadcasting Corporation George S. Flinn, Jr. Grant Video Inc. Hubbard Broadcasting, Inc. Marcia T. Turner d/b/a/ Turner Enterprises Outlook Communications, Inc. Pappas Telecasting of America, A California Limited Partnership Powell Meredith Communications Company Roberts Broadcasting USA, LLC Terrill Weiss Trinity Christian Center of Santa Ana, Inc. d/b/a Trinity Broadcasting Network Venture Technologies Group, LLC

**ATTACHMENT A**

**New Analog Television Station Construction Permits**

<b>MX Group</b>	<b>Location</b>	<b>Channel</b>	<b>Bidding Units</b>	<b>Upfront Payment</b>	<b>Minimum Opening Bid</b>	<b>Applicants</b>
PST3	Magee, MS	34	295,000	\$295,000.00	\$295,000.00	Christian Television Corporation, Inc.
						Equity Broadcasting Corporation
						Evergreen Trust
						George S. Flinn, Jr.
						Grant Video Inc.
						KM Communications, Inc.
						Marcia T. Turner d/b/a/ Turner Enterprises
						Marri Broadcasting, L.P.
						Pappas Telecasting of America, A California Limited Partnership
						Powell Meredith Communications Company
						Richard Alan Cooper
						Roberts Broadcasting USA, LLC
						Terrill Weiss
						Venture Technologies Group, LLC
PST4	Scottsbluff, NE	16	50,000	\$50,000.00	\$50,000.00	Equity Broadcasting Corporation
						George S. Flinn, Jr.
						KM Communications, Inc.
						Marcia T. Turner d/b/a/ Turner Enterprises
						Pappas Telecasting of America, A California Limited Partnership
						Powell Meredith Communications Company
						Roberts Broadcasting USA, LLC
						Terrill Weiss
						WyoMedia Corp.

**VII. ATTACHMENT B**

**FCC AUCTION SEMINAR REGISTRATION FORM**

**Auction No. 82**

The FCC will sponsor a one-day seminar for Auction No. 82 applicants. The seminar is free of charge and will provide information about pre-auction procedures, service and auction rules, conduct of the auction, and the Automated Auction System.

Representatives from each company may attend on a reservation basis, first-come first-served until room capacity is filled. The seminar will be held:

Tuesday, January 8, 2002  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W. (Room 3-B516)  
Washington, DC 20554  
Registration 9:30 a.m. - 10:00 a.m.  
Seminar 10:00 a.m. – 2 p.m.

**If hotel accommodations are needed**  
**Please contact 1-888-225-5322 (option #2) for a list of hotels in the area**

\*\*\*\*\*

**To register, complete the form below and  
return by mail or fax to be received no later than**

**Friday, January 4, 2002, to:**

FCC Auction 82  
Auctions Operations Branch  
1270 Fairfield Road  
Gettysburg, PA 17325-7245

FAX: 717-338-2850

Phone: 717-338-2888

I/We will attend the Auction No. 82 Seminar, scheduled for **Tuesday, January 8, 2002.**

Name of attendee: \_\_\_\_\_

Name of attendee: \_\_\_\_\_

Company name: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

## VIII. ATTACHMENT C

### AUCTION-SPECIFIC INSTRUCTIONS FOR FCC REMITTANCE ADVICE (FCC FORM 159-February 2000 edition)

#### A. Upfront Payments

The following information supplements the standard instructions for FCC Form 159 (Revised 2/00), and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction No. 82. Applicants need to complete FCC Form 159 carefully, since:

- **Mistakes may affect their bidding eligibility; and**
- **Lack of consistency between information set forth in FCC Form 159 (Revised 2/00), FCC Form 175, long-form application, and correspondence about an application may cause processing delays.**

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the FCC Form 175 Short Form Application are described below:

Block Number	Required Information
1	LOCKBOX # - Enter "358420"
2	Payer Name - Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same as FCC Form 175.
3	Total Amount Paid - Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 2/00).
4-8	Street Address, City, State, ZIP Code - Enter the street mailing address (not Post Office box number) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number - Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code - For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN – Enter the payer’s ten-digit FCC Registration Number (FRN).
12	Payer TIN – Enter the payer’s nine-digit Taxpayer Identification Number (TIN).
24A	Payment Type Code - Enter "A82U"
25A	Quantity - Enter the number "1"

26A Fee Due - Amount of Upfront Payment

27A Total Fee - Will be the same amount as 26A.

28A FCC Code 1 - Enter the number "82" (indicating Auction No. 82).

NOTES:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If applicant is different from the payer, complete blocks 13 through 22 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since credit card payments will not be accepted for this auction, leave Section E blank.

**B. Winning Bidder Requirements, Down Payments and Final Payments**

Specific information regarding down payments and final payments will be included in a post-auction public notice announcing the winning bidders.

## IX. ATTACHMENT D

### Minimum Acceptable Bids, Bid Increments, and the Smoothing Formula

The Automated Auction System calculates the minimum acceptable bids and bid increments for each construction permit with a standing high bid in each round of the auction based on all bidding activity for the construction permit. For this auction, the Commission will use a standard smoothing methodology to calculate minimum acceptable bids and bid increments.

The smoothing formula calculates minimum acceptable bids by first calculating a *percentage increment*, not to be confused with the *bid increment*, for each construction permit based on a weighted average of the activity received on each construction permit in all previous rounds. This methodology tailors the percentage increment for each construction permit based on activity, rather than setting a global increment for all construction permits.

In a given round, the calculation of the percentage increment for each construction permit is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the construction permit in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

#### Equations

$$A_i = (C * B_i) + ((1-C) * A_{i-1})$$

$$I_{i+1} = \text{smaller of } ((1 + A_i) * N) \text{ and } M$$

$$X_{i+1} = I_{i+1} * Y_i$$

where,

$A_i$  = activity index for the current round (round  $i$ )

$C$  = activity weight factor

$B_i$  = number of bids in the current round (round  $i$ )

$A_{i-1}$  = activity index from previous round (round  $i-1$ ),  $A_0$  is 0

$I_{i+1}$  = percentage increment for the next round (round  $i+1$ )

$N$  = minimum percentage increment or percentage increment floor

$M$  = maximum percentage increment or percentage increment ceiling

$X_{i+1}$  = dollar amount associated with the percentage increment

$Y_i$  = high bid from the current round

Under the smoothing methodology, once a bid has been received on a construction permit, the minimum acceptable bid for that construction permit in the following round will be the high bid from the current round plus the dollar amount associated with the percentage increment, with the result rounded to the nearest thousand if it is over ten thousand, to the nearest hundred if it is under ten thousand but over one thousand, or to the nearest ten if it is below one thousand.

## Examples

Construction Permit 1

$C=0.5$ ,  $N = 0.1$ ,  $M = 0.2$

### Round 1 (2 new bids, high bid = \$1,000,000)

1. Calculation of percentage increment for round 2 using the smoothing formula:

$$A_1 = (0.5 * 2) + (0.5 * 0) = 1$$

$$I_2 = \text{The smaller of } ((1 + 1) * 0.1) = 0.2 \text{ or } 0.2 \text{ (the maximum percentage increment)}$$

2. Calculation of dollar amount associated with the percentage increment for round 2 (using  $I_2$  from above):

$$X_2 = 0.2 * \$1,000,000 = \$200,000$$

3. Minimum acceptable bid for round 2 = \$1,200,000

### Round 2 (3 new bids, high bid = \$2,000,000)

1. Calculation of percentage increment for round 3 using the smoothing formula:

$$A_2 = (0.5 * 3) + (0.5 * 1) = 2$$

$$I_3 = \text{The smaller of } ((1 + 2) * 0.1) = 0.3 \text{ or } 0.2 \text{ (the maximum percentage increment)}$$

2. Calculation of dollar amount associated with the percentage increment for round 3 (using  $I_3$  from above):

$$X_3 = 0.2 * \$2,000,000 = \$400,000$$

3. Minimum acceptable bid for round 3 = \$2,400,000

### Round 3 (1 new bid, high bid = \$2,400,000)

1. Calculation of percentage increment for round 4 using the smoothing formula:

$$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$$

$$I_4 = \text{The smaller of } ((1 + 1.5) * 0.1) = 0.25 \text{ or } 0.2 \text{ (the maximum percentage increment)}$$

2. Calculation of dollar amount associated with the percentage increment for round 4 (using  $I_4$  from above):

$$X_4 = 0.2 * \$2,400,000 = \$480,000$$

3. Minimum acceptable bid for round 4 = \$2,880,000

As stated above, until a bid has been placed on a construction permit, the minimum acceptable bid for that construction permit will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described above, and the minimum opening bid. That is,  $I = (\text{minimum opening bid})(1 + N)\{\text{rounded}\} - (\text{minimum opening bid})$ . Therefore, when  $N$  equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

In the case of a construction permit for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the construction permit. The additional bid

amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

## X. ATTACHMENT E

### SUMMARY LISTING OF DOCUMENTS FROM THE COMMISSION AND THE WIRELESS TELECOMMUNICATIONS BUREAU ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULES

All of the following documents can be found at FCC web site:

<http://wireless.fcc.gov/auctions/collusio/collusio.html>

#### A. Commission Decisions:

*Second Report and Order* in PP Docket No. 93-253, FCC 94-61, 9 FCC Rcd 2348, 2386-2388 (1994), paragraphs 221-226.

*Fifth Report and Order* in PP Docket No. 93-253, FCC 94-178, 9 FCC Rcd. 5532, 5570-5571 (1994), paragraphs 91-92.

*Fourth Memorandum Opinion and Order* in PP Docket No. 93-253, FCC 94-264, 9 FCC Rcd. 6858, 6866-6869 (1994), paragraphs 47-60.

*Second Memorandum Opinion and Order* in PP Docket No. 93-253, FCC 94-215, 9 FCC Rcd. 7245, 7253-7255 (1994), paragraphs 48-55.

*Memorandum Opinion and Order* in PP Docket No. 93-253, FCC 94-295, 9 FCC Rcd. 7684, 7687-7689 (1994), paragraphs 8-12.

In re Commercial Realty St. Pete, *Notice of Apparent Liability for Forfeiture*, 10 FCC Rcd. 4277 (1995),  
In re Commercial Realty St. Pete, *Memorandum Opinion and Order*, 11 FCC Rcd. 15,374 (1996).

In re Applications of Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd. 17,970 (1997) (petition for partial reconsideration pending).

Amendment of Part 1 of the Commission's rules -- Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, WT Docket No. 97-82, ET Docket No. 94-32, FCC 97-413, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd. 374, 463-469 (1997), paragraphs 155-166.

In re Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, 13 FCC Rcd 8286 (1998); In the Matter of Notice of Apparent Liability for Forfeiture of US West Communications, Inc., *Order*, FCC 99-90 (May 7, 1999).

In re Application of Western PCS BTA I Corporation, *Notice of Apparent Liability for Forfeiture*, FCC 98-42 (March 16, 1998); In the Matter of Notice of Apparent Liability for Forfeiture of Western PCS BTA 1 Corporation, *Memorandum Opinion and Order*, 14 FCC Rcd 21571, 21577-78, ¶ 20 (rel. Dec. 13, 1999).

In the Matter of Amendment of Part 1 of the Commission's Rules—Competitive Bidding Procedures, *Seventh Report and Order*, FCC 01-270 (rel. September 27, 2001).

## **B. Wireless Telecommunications Bureau Decisions:**

Amendment of Parts 21 and 74 of the Commission's rules with Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, *Order*, 11 FCC Rcd. 9655 (Wireless Tel. Bur. 1995).

In re Applications of GWI PCS, Inc. For Authority to Construct and Operate Broadband PCS Systems Operating on Frequency Block C, *Memorandum Opinion and Order*, 12 FCC Rcd. 6441 (Wireless Tel. Bur. 1997).

In re Applications of Mercury PCS II, LLC, For Facilities in the Broadband Personal Communications Services in the D, E, and F Blocks, *Memorandum Opinion and Order on Reconsideration*, 12 FCC Rcd. 18,093 (Wireless Tel. Bur. 1997).

In the Matter of Applications of High Plains Wireless, L.P., For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 12 FCC Rcd. 19,627 (Wireless Tel. Bur. 1997).

In the Matter of Applications of Mercury PCS II, LLC, For Authority to Construct and Operate Broadband PCS Systems on Frequency Blocks D, E, and F, *Memorandum Opinion and Order*, 13 FCC Rcd. 5756 (Wireless Tel. Bur. 1997).

### **1. Public Notices:**

Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd. 9645 (1995).

FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS 'C' Block Reauction, *Public Notice*, 11 FCC Rcd. 7031 (1996).

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, 11 FCC Rcd. 10,134 (1996).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, DA 98-37 (rel. January 9, 1998).

### **2. Letters from the Office of General Counsel and the Wireless Telecommunications Bureau:**

*Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission* (released October 25, 1994).

*Letter to Alan F. Ciamporcero from William E Kennard, General Counsel, Federal Communications Commission* (released October 25, 1996).

*Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau* (released December 1, 1994).

*Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau* (released December 14, 1994).

*Letter to Jonathan D. Blake and Robert J. Rini from Kathleen O'Brien Ham, Chief, Auctions Division,*

*Wireless Telecommunications Bureau*, DA 95-2404 (released November 28, 1995).

*Letter to Mark Grady from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau*, 11 FCC Rcd. 10,895 (1996).

*Letter to David L. Nace from Kathleen O'Brien Ham, Chief, Auctions Division, Wireless Telecommunications Bureau*, 11 FCC Rcd. 11,363 (1996).

*Letter to Elliott J. Greenwald from Christopher J. Wright, General Counsel, Federal Communications Commission* (released April 6, 1998).

*Letter to Robert Pettit, Wiley, Rein & Fielding from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau*, DA 00-2905 (released December 26, 2000).

### **3. Civil Actions Initiated by U.S. Department of Justice:**

*U.S. v. Omnipoint Corp.*, Proposed Final Judgements and Competitive Impact Statements, Department of Justice, 63 FR 65,228 (November 25, 1998).

"Justice Department Sues Three Firms Over FCC Auction Practices," *Press Release*, U.S. Department of Justice (November 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. November 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. November 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. November 10, 1998).

### **4. Miscellaneous:**

Many of these documents can be retrieved from the following Commission web site:

<http://wireless.fcc.gov/auctions/collusio/collusio.html>

These documents may be located by using our search engine (select the link "search"). All of these documents can be ordered in hard copy for a fee from the Commission's contractor, International Transcription Service, Inc. at (202) 857-3800.

Documents retrieved from the FCC web site are available in various formats. In order to review a document in its entirety, including footnotes, it is necessary to access the document in WordPerfect, MS Word, or Acrobat Reader.