

In the Matter of)
)
 Auction of Licenses for VHF)
 Public Coast and Location and)
 Monitoring Service Spectrum)
)
)
)
)

Released: October 11, 2002

1

II. BACKGROUND

2. PCS Partners timely filed an FCC Form 175 (“short-form application”) to participate in Auction No. 39.⁴ In its short-form application, PCS Partners certified that it was eligible for bidding credits offered to very small businesses under the Commission’s rules.⁵ As part of its short-form application, PCS Partners listed its annual gross revenues for calendar years 1997, 1998, and 1999.⁶ On May 11, 2001, the Bureau released the *Auction No. 39 Status Public Notice*⁷ which listed PCS Partners’ short-form application as accepted for filing.⁸ On May 25, 2001, after the upfront payment deadline, the Bureau released the *Auction No. 39 Qualified Bidders Public Notice* which listed PCS Partners as qualified to participate in Auction No. 39.⁹

3. On June 4, 2001, Telesaurus filed the instant Petition. Auction No. 39 commenced on June 6, 2001 and closed on June 13, 2001.¹⁰ PCS Partners was the winning bidder on 32 licenses and Telesaurus was the winning bidder on 79 licenses.¹¹ On August 8, 2001, PCS Partners’ FCC Form 601 (“long-form application”) was accepted for filing commencing the petition to deny period under section 1.2107 of the Commission’s rules.¹² On August 20, 2001, Telesaurus filed a petition to deny PCS Partners’ long-form application.¹³

⁴ FCC Form 175, “Application to Participate in an FCC Auction,” submitted by PCS Partners, L.P., Exhibit C, filed May 4, 2001 (“PCS Partners’ Short-Form Application”). The short-form application deadline for Auction No. 39 was 6:00 p.m. ET on May 4, 2001. “VHF Public Coast and Location and Monitoring Service Spectrum Auction Scheduled for June 6, 2001; Notice and Filing Requirements for 16 Licenses in the VHF Public Coast and 241 Licenses in the Location and Monitoring Service Auction; Minimum Opening Bids, Upfront Payments and Other Procedural Issues,” *Public Notice*, 16 FCC Rcd 6986, 6997 (2001) (“*Auction No. 39 Procedures Public Notice*”).

⁵ PCS Partners’ Short-Form Application, Exhibit C. A bidder with average annual gross revenues of not more than \$3 million for the preceding three years receives a 35 percent discount on its winning bids for VHF Public Coast and LMS licenses. 47 C.F.R. §§ 80.1252(b)(2), 90.1103(b)(2).

⁶ *Id.*

⁷ “Auction of Licenses for VHF Public Coast and Location and Monitoring Service Spectrum: Status of FCC Form 175 Applications to Participate in the Auction,” *Public Notice*, FCC Rcd 9529 (2001) (“*Auction No. 39 Status Public Notice*”).

⁸ *Auction No. 39 Status Public Notice*, Attachment A.

⁹ *Auction No. 39 Qualified Bidders Public Notice*, Attachment A.

¹⁰ *Auction No. 39 Closing Public Notice*, 16 FCC Rcd at 12509.

¹¹ *Id.* at Attachment A.

¹² “VHF Public Coast and Location and Monitoring Service Spectrum Auction: Applications Accepted for Filing; Auction Event No. 39; Pleading Cycle Established,” *Public Notice*, 16 FCC Rcd 15135 (2001).

¹³ Petition to Deny the Form 601 Application of PCS Partners, L.P. for New Licenses for LMS Spectrum, filed by Telesaurus Holdings GB, LLC, dated August 20, 2001 (“Telesaurus’ Petition to Deny”). PCS Partners subsequently filed an opposition. Opposition to Petition to Deny the FCC Form 601 Application of PCS Partners, L.P. for New Licenses for LMS Spectrum, filed by PCS Partners, L.P., dated August 27, 2001. This order does not address the merits of Telesaurus’ Petition to Deny.

III. DISCUSSION

4. In its petition, Telesaurus contends that PCS Partners has not met the threshold requirements for participation in the auction and that the Bureau should reject PCS Partners short-form application.¹⁴ Specifically, Telesaurus contends that pursuant to Section 1.2110(b)(1) of the Commission's rules and the *Auction No. 39 Procedures Public Notice*, PCS Partners was required to submit annual gross revenues for the three years immediately prior to the auction, *i.e.*, calendar years 1998, 1999, and 2000, instead of the annual gross revenues for calendar years 1997, 1998, and 1999 submitted by PCS Partners as part of its short-form application.¹⁵ In the alternative, Telesaurus requests that the Bureau deny PCS Partners the bidding credit offered to very small businesses.¹⁶ Telesaurus further requests that if the Bureau cannot act on its petition prior to the auction, that the Bureau impose a short stay of the auction until relief can be granted.¹⁷ In opposition, PCS Partners argues that there is no basis to exclude it from Auction No. 39 or prohibit it from claiming eligibility for bidding credits offered to very small businesses.¹⁸ PCS Partners states that it utilized 1997, 1998, and 1999 audited financial statements to support the gross revenue calculations because it had not yet received its year 2000 audited financial statement on the short-form application deadline of May 4, 2001.¹⁹

A. Threshold Requirements to Participate in the Auction and Claim Eligibility for Bidding Credits

5. Under the Commission's rules, the minimum requirement for participation in an auction is the submission of a short-form application together with an appropriate upfront payment determined by the Bureau.²⁰ The short-form application must include, *inter alia*: (a) identification of the licenses on which the applicant wishes to bid; (b) identification and ownership information of the applicant; (c) basic qualification certifications that indicate that the applicant is legally, technically, financially and otherwise qualified to hold a Commission license pursuant to section 308(b) of the Communications Act of 1934; (d) disclosure of certain bidding arrangements and other agreements; (e) certifications that the applicant is and will, during the pendency of its application(s), remain in compliance with any service specific qualifications applicable to the licenses on which the applicant intends to bid; (f) certifications that the applicant is not in default on any Commission license and is not delinquent on any non-tax debt owed to any Federal agency; and (g) an attachment regarding any past default on a Commission license or any prior delinquency on a non-tax debt owed to a Federal agency.²¹ By submitting the short-form

¹⁴ Petition at 2-5.

¹⁵ *Id.* at 5-7.

¹⁶ *Id.* at 19.

¹⁷ *Id.* at 20-22.

¹⁸ Opposition at 2-5.

¹⁹ *Id.* at 5 n.8.

²⁰ 47 C.F.R. § 1.2105(a).

²¹ 47 C.F.R. § 1.2105(a)(2); *see also* 47 U.S.C. § 309(j)(5) (participation in auctions prohibited "unless such bidder submits such information and assurances as the Commission may require").

application, applicants declare, under penalty of perjury, that “. . . all matters and things stated in [the] application and attachments, including exhibits, are true and correct.”²²

6. Eligibility to participate in an auction, however, and eligibility to receive a bidding credit are two entirely different issues.²³ If an auction applicant seeks to claim eligibility for a bidding credit, the applicant must, in addition to meeting the minimum threshold requirements for auction participation outlined above, disclose certain information in the short-form application including, *inter alia*: (a) a statement made under penalty of perjury that applicant is qualified as a designated entity;²⁴ (b) selection of the appropriate eligibility for bidding credits offered to small businesses on the short-form application;²⁵ and (c) annual gross revenue figures from the preceding three years.²⁶

7. A determination that an applicant is eligible to participate in an auction, however, is merely indicative that the applicant has passed the Commission’s initial screening process. It does not preclude the Commission from subsequently determining that the applicant is ineligible for a bidding credit or for grant of a license. This is true because the Commission adopted a two-phased approach to the review of auction applications and winning bidders’ qualifications.²⁷ In the first phase, the Bureau reviews each filed short-form application to ensure compliance with the Commission’s rules.²⁸ In reviewing the short-form applications, the information and certifications contained in the short-form applications are presumed to be true unless they are incomplete, internally inconsistent or contradicted by information in the Commission’s records.²⁹ Following close of the auction, winning bidders are required to submit a long-form application and the second phase of the review commences. The Bureau reviews the long-form applications submitted by winning bidders. If the long-form application is found acceptable for filing, a public notice is released accepting the long-form application for filing and commencing the petition to

²² FCC Form 175.

²³ Letter from Kathleen O’Brien Ham, Deputy Chief, Wireless Telecommunications Bureau, to Mr. Timothy E. Welch, Hill & Welch, DA 02-1889 (August 1, 2002) (“*Mobilfone*”) (an example of an applicant who, although qualified to participate in an auction, failed to provide sufficient information to qualify for a bidding credit).

²⁴ 47 C.F.R. § 1.2105(a)(2)(iv).

²⁵ 47 C.F.R. §§ 80.1252(b), 90.1103(b).

²⁶ *Auction No. 39 Procedures Public Notice*, 16 FCC Rcd at 7002; *see also* 47 C.F.R. § 1.2112(b)(1)(iii). The *Auction No. 39 Procedures Public Notice* reiterated this gross revenue requirement by noting that applicants claiming eligibility for bidding credits must provide separately for itself, its affiliates, its controlling interest holders, and their affiliates a schedule of gross revenues for *each* of the preceding three years. 16 FCC Rcd at 7002.

²⁷ Implementation of Section 309(j) of the Communications Act — Competitive Bidding, MM Docket No. 93-253, *Second Report and Order*, 9 FCC Rcd 2348, 2376, ¶ 163 (1994).

²⁸ Letter from Margaret Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, to Mr. Steven R. Sixberry, Nevada Wireless, 15 FCC Rcd 15958 (2000) (“*Nevada Wireless Letter*”) (“Absent substantiated evidence of wrongdoing, . . . it is more prudent to address [designated entity eligibility] allegations after the winning bidders have submitted their long-form applications”).

²⁹ *Id.*

deny period.³⁰ If, either upon further examination, or through deficiencies brought to the Commission's attention through a petition to deny, the application is found to be defective or not in conformance with the Commission's rules, it will be denied or dismissed.³¹ In adopting this two phased approach, the Commission balanced the importance of limiting participation in its auctions to those entities that are legally, technically and financially qualified to hold a Commission license with the need to conduct auctions expeditiously.³² The efficiency of the auction process would be substantially undermined if the Commission were to conduct a full-fledged inquiry of each applicant before an auction. In contrast, by screening each winning bidder in more detail after the auction has closed during the long-form application process, the agency has substantially reduced the workload and associated delay while ensuring compliance with all pertinent rules.³³

8. In this case, PCS Partners submitted a short-form application that contained the certifications and attachments required under Section 1.2105 of the Commission's rules to meet the minimum threshold requirement for participation in an auction. Accordingly, the short-form application was accepted for filing.³⁴ Acceptance of the short-form application was entirely consistent with the Commission's two-phased approach to reviewing applications.³⁵ PCS Partners further submitted the required upfront payment before the appropriate deadline.³⁶ Therefore, under the Commission's rules, PCS Partners met the minimum requirements to participate in an auction and was appropriately listed as a qualified bidder.

9. Having established that PCS Partners met the threshold requirements to participate in the auction, we will now address Telesuarus's contention that PCS Partners' submissions were insufficient to

³⁰ The Commission may return or dismiss any application if it is found, upon further examination, to be defective or not in conformance with the Commission's rules. 47 C.F.R. § 1.934 (a), (d).

³¹ See, e.g., Application of Baker Creek Communications, L.P., 14 FCC Rcd 11529 (1999) (petition to deny filed against the winning bidder and granted to the extent that the winning bidder was declared ineligible to receive the bidding credits claimed); Applications of Nextband Communications, L.L.C., 14 FCC Rcd 7647 (1999) (Commission concluding as a result of the petition to deny phase that a winning bidder did not violate the Commission's anti-collusion rules); see 47 C.F.R. §§ 1.934, 1.945, and 1.2018.

³² 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, Reexamination of the Policy Statement on Comparative Broadcast Hearings, GC Docket No. 92-52, Proposals to Reform the Commission's Comparative Hearing Process to Expedite the Resolution of Cases, GEN Docket No. 90-264, *First Report and Order*, 13 FCC Rcd 15920, 15953, ¶ 90 (1998) ("We believe that the time and expense entailed in adjudicating fully all unresolved issues relating to the basic qualification issues as to all pending applicants would greatly exceed any additional delay that might result from the eventual disqualification of a winning bidder. For these reasons, we find that deferring consideration of basic qualifying issues until after the auction is fairer and ultimately more efficient than resolving any issues relating to the basic qualification of all pending applicants. . .").

³³ *Nevada Wireless Letter*, 15 FCC Rcd at 15958.

³⁴ *Auction No. 39 Status Public Notice*, Attachment A.

³⁵ *Nevada Wireless Letter*, 15 FCC Rcd at 15958.

³⁶ *Auction No. 39 Qualified Bidders Public Notice*, Attachment A.

allow it to claim eligibility for a bidding credit offered to very small businesses.³⁷ Telesaurus interprets Section 1.2110(n) as requiring applicants, for purposes of seeking bidding credit eligibility as a very small business, to submit certified unaudited gross revenue figures for those years in which it does not have audited financial statements.³⁸ This interpretation is inaccurate. Although Section 1.2110 provides that gross revenues figures shall be based upon audited financial statements,³⁹ the Commission has declined to require that *all* applicants use audited financial statements to support gross revenue calculations.⁴⁰ Instead, the Commission has stated that “[a]udited financial statements, however, are necessary *if they exist*.”⁴¹ Thus, those applicants that use audited financial statements are required to furnish evidence of their annual gross revenues based upon their most *recently completed* audited financial statements.⁴² In this instance, that means that if PCS Partners used audited financial statements, it was obliged to use the most recently completed audited financial statements to support its gross revenue calculation. The policy of allowing applicants to furnish evidence of their annual gross revenues based upon their most *recently completed* audited financial statements is based on our extensive experience in preparing for and conducting spectrum auctions.⁴³ Further, it is a practical standard where auctions are scheduled in different months and applicants have different fiscal years.

10. In the instant case, on the short-form application deadline, PCS Partners states that it had not yet received year 2000 audited financial statements and it therefore submitted a short-form application containing annual gross revenue figures based on audited financial statements for the three most recent

³⁷ Petition at 5-7.

³⁸ Reply at 3.

³⁹ 47 C.F.R. § 1.2110(n).

⁴⁰ Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 391, ¶ 24 (1997) (“*Part 1 Third Report and Order*”).

⁴¹ *Id.* In addition, Section 1.2110(n) provides that when an applicant does not otherwise use audited financial statements, its gross revenues may be certified by its chief financial officer or its equivalent and prepared in accordance with Generally Accepted Accounting Principles. 47 C.F.R. § 1.2110(n).

⁴² “Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction,” *Public Notice*, 13 FCC Rcd 341, 345 (1998) (emphasis added). We also note that if an applicant delays or takes action that results in a delay in the generation and/or submission of current audited financial statements in order to capture eligibility, it risks: (a) being declared ineligible for auction participation; (b) being declared ineligible for license grant; or (c) jeopardizing its continuing eligibility to hold its licenses. Amendment of the Commission’s Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, *Sixth Report and Order and Order on Reconsideration*, 15 FCC Rcd 16266, 16284, ¶ 33 (2000).

⁴³ For example, in the Local Multipoint Distribution Service Auction (“Auction No. 17”), we stated that, if audited financial statements for calendar year 1997 had not been fully prepared by the short-form application filing deadline of January 20, 1998, audited statements for the years 1994, 1995, and 1996 would suffice. “Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction,” *Public Notice*, 13 FCC Rcd 341, 345 (1998).

years it had available.⁴⁴ As previously noted, by submitting the short-form application, PCS Partners represented that the contents of the application and its attachments are true and correct.⁴⁵ Thus, because PCS Partners' short-form applications and disclosures were complete, the listing of PCS Partners as a qualified bidder was consistent with the two-phased approach adopted for review of auction applications and winning bidder qualifications. However, we note that in a filing submitted after the close of the auction, Telesaurus contends that PCS Partners' actual calendar year 2000 gross revenues exceed the threshold amount for claiming eligibility for bidding credits as a very small business⁴⁶ and that this is the true reason why PCS Partners did not provide year 2000 gross revenue figures.⁴⁷ We will not address these allegations here but instead defer them to the review of the petition to deny filed against PCS Partners' long-form application. As we stated above,⁴⁸ the post-auction long-form application review process is the more appropriate stage to investigate potential false certification claims. After the close of the auction, if, during review of the long-form applications, an applicant is discovered to have made a false certification or to be ineligible for the bidding credit it seeks, the Commission has a number of sanctions it can impose against the applicant.⁴⁹ In situations such as this, absent substantiated evidence of wrongdoing, it is more prudent to defer review of allegations that an applicant has failed to fully disclose its annual gross revenues until after the winning bidders have submitted their long-form applications.⁵⁰ Accordingly, for the reasons discussed above, Telesaurus' petition for reconsideration is denied.

B. Request for Stay

11. Telesaurus urges the Bureau to stay Auction No. 39 for the period necessary to grant their

⁴⁴ Opposition at 4-5. We note that, as of the day of filing the Opposition, PCS Partners stated that it had still not received year 2000 audited financial statements. Opposition at 5, n.8.

⁴⁵ *Auction No. 39 Procedures Public Notice*, 16 FCC Rcd at 7033-34. In addition, PCS Partners, in its Opposition, has certified under penalty of perjury that the above facts are true and correct. Declaration of David G. Behenna, President of PCSGP, Inc., dated June 7, 2001, attached as an exhibit to the Opposition. We note that submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution. *Auction No. 39 Procedures Public Notice*, 16 FCC Rcd at 7002, 7033-34; 47 C.F.R. § 21.15(a)(4) ("The submission of a false certification will subject the applicant to all remedies available to the Commission . . .").

⁴⁶ Reply at 8.

⁴⁷ In particular, Telesaurus argues that PCS Partners did not disclose that two of its affiliates sold and transferred six licenses. *Id.* at 8-9. Telesaurus contends that if these sale proceeds were attributable to PCS Partners for calendar year 2000, PCS Partners would not qualify as a very small business and its qualifying certification would be false, thereby making its short-form application invalid for the auction. *Id.* at 8-9. Telesaurus further suggests that the Commission, at a minimum, should not grant PCS Partners the very small business bidding credit it seeks but instead should conduct an audit of PCS Partners to ascertain whether it made a false certification or disclosure. *Id.* at 9-10.

⁴⁸ See ¶ 6, *supra*.

⁴⁹ See nn.41 & 45, *supra*.

⁵⁰ Baker Creek Communications, L.P., for Authority to Construct and Operate Local Multipoint Distribution Services in Multiple Basic Trading Areas, *Memorandum Opinion and Order*, 13 FCC Rcd 18709, 18728 (WTB/PSPWD 1998) ("*Baker Creek*"); *Nevada Wireless Letter*, 15 FCC Rcd at 15958.

requested relief.⁵¹ Although we recognize that Auction No. 39 has already concluded, we will nonetheless address the merits of the Request for Stay. As we explain below, Telesaurus fails to demonstrate a basis for a stay.

12. Telesaurus's arguments fail to meet the standard for issuance of a stay set forth in *Virginia Petroleum Jobbers Association v. Federal Power Commission*.⁵² Under the *Virginia Petroleum Jobbers* test, as modified by *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, a stay is warranted if the movant can demonstrate that: (1) it is likely to prevail on the merits; (2) it will suffer irreparable harm, absent a stay; (3) other interested parties will not be harmed if the stay is granted; and (4) the public interest would favor a grant of the stay.⁵³ Upon examination of Telesaurus's Request for Stay, we find that Telesaurus fails to meet this standard. Telesaurus has neither demonstrated that it is likely to prevail on appeal, nor has it made a substantial case under the other criteria for issuance of a stay. Telesaurus's assumptions are based on nothing more than its belief in the merits of its case.

13. As discussed above, Telesaurus's contention regarding the requirements of Section 1.2110(n) is clearly contrary to the Commission orders and established policy regarding the use of audited financial statements for purposes of calculating gross revenue.⁵⁴ Thus, the likelihood of success on the merits by Telesaurus is remote. The inclusion of PCS Partners on the *Auction No. 39 Status Public Notice* and the *Auction No. 39 Qualified Bidders Public Notice*, without the submission of calendar year 2000 gross revenue figures, is consistent with the stated policy and practice regarding short-form applications.⁵⁵

14. We further find that Telesaurus has failed to demonstrate that it would suffer irreparable harm in the absence of a stay. An injury qualifies as "irreparable harm" only if it is "both certain and great; it must be actual and not theoretical."⁵⁶ Therefore, to demonstrate irreparable harm, Telesaurus must provide "proof indicating that the harm [it alleges] is certain to occur in the near future."⁵⁷ Telesaurus has not demonstrated any specific harm to itself from proceeding with the auction, nor can it. Telesaurus contends that it and other bidders in the auction would have no way of assessing the credibility of PCS Partners' claim to a bidding credit without PCS Partners submitting calendar year 2000 gross revenue

⁵¹ Petition at 18-19. As noted above, the auction closed on June 13, 2001. See n.3, *supra*. PCS Partners' short-form application was listed as accepted for filing on May 11, 2001. *Auction No. 39 Status Public Notice*, Attachment A. However, Telesaurus did not file the Petition and request for stay until June 4, 2001, *two days* before the June 6, 2001 start of Auction No. 39. As a general matter, the Bureau prefers to receive such requests in a timely manner.

⁵² *Virginia Petroleum Jobbers Association v. Federal Power Commission*, 259 F.2d 921, 925 (D.C. Cir. 1958) ("*Virginia Petroleum Jobbers*").

⁵³ *Washington Metro Area Transit Commission v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977).

⁵⁴ 47 C.F.R. § 1.2110(n).

⁵⁵ See ¶ 8, *supra*.

⁵⁶ See *Wisconsin Gas Co. v. Federal Energy Regulatory Commission*, 758 F.2d 669, 674 (D.C. Cir. 1985).

⁵⁷ *Id.*

figures.⁵⁸ This allegation of harm, however, ignores the fact that all auction applicants, including Telesaurus, in electing to participate in an auction, do so with notice of the Commission's procedures.⁵⁹ Thus, all bidders in an auction would have notice that issues such as those raised by Telesaurus regarding PCS Partners' claim to a bidding credit would be addressed after close of the auction in the petition to deny phase.⁶⁰ Accordingly, Telesaurus has failed to show any great and certain harm sufficient to contradict the Commission's conclusion that deferring full adjudication of unresolved issues regarding an applicant's qualifications or eligibility for bidding credits until after close of the auction results in an efficient process that is fair to all applicants.⁶¹

15. Telesaurus contends that the public's confidence in the manner in which the Commission awards bidding credits will be severely affected if the Bureau does not award a stay in order to ascertain whether PCS Partners qualifies as a very small business.⁶² As explained above, the integrity of the competitive bidding process is protected by the applicant's certifications, the corresponding sanctions available for false certifications, the Commission's careful review of the long-form application, and the petition to deny process.⁶³ After the appropriate review, PCS Partners' short-form application was accepted for filing and after receipt of its up-front payment it was listed as qualified to bid in the auction. The integrity of the competitive bidding process is not compromised when the Commission's policies and practices are consistently and correctly applied. Thus, we find that grant of Telesaurus's Request for Stay would not serve the public interest, because doing so would defeat one of the underlying policy objectives of Section 309(j), which requires the Commission to promote the "rapid deployment of new technologies, products and services for the benefit of the public . . . without administrative or judicial delays."⁶⁴

IV. CONCLUSION

16. Accordingly, it is ORDERED, pursuant to sections 4(i) and 309(d)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309(d)(2), and Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, the Petition for Reconsideration and Request for Stay filed by Telesaurus Holdings GB, LLC on June 4, 2001 IS HEREBY DENIED.

⁵⁸ Petition at 21.

⁵⁹ *Auction No. 39 Procedures Public Notice*, 16 FCC Rcd at 6989 ("It is the responsibility of all prospective bidders to remain current with all Commission rules and with all public notices and pronouncements, including orders on delegated authority or by the Commission relevant to one or more of the licenses or otherwise pertaining to this auction."). Section 0.406 of the Commission's rules instructs those having business before the Commission to familiarize themselves with any applicable regulations. 47 C.F.R. § 0.406.

⁶⁰ *Id.*

⁶¹ See paragraph 7 and note 32 above.

⁶² Petition at 20-22.

⁶³ See ¶ 6, *supra*.

⁶⁴ 47 U.S.C. § 309(j)(3)(A).

17. It is FURTHER ORDERED that copies of this Order will be sent to the Telesaurus Holdings GB, LLC and PCS Partners, L.P. and their representatives by certified mail, return receipt requested.

FEDERAL COMMUNICATIONS COMMISSION

Kathleen O'Brien Ham,
Deputy Chief, Wireless Telecommunications Bureau