



PUBLIC NOTICE

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WIRELESS TELECOMMUNICATIONS BUREAU GRANTS DISMISSAL REQUEST OF ELIGIBLE AUCTION NO. 35 WINNER AND DISMISSES APPLICATION FOR TWO C AND F BLOCK BROADBAND PERSONAL COMMUNICATIONS SERVICES (PCS) LICENSES

Report No. AUC-35 (Auction No. 35)

On November 14, 2002, the Commission released the *Final Refund Order*,¹ which gave (1) eligible winners in Auction No. 35 the option to request the dismissal of their pending applications for C and F block broadband PCS licenses for spectrum that had previously been licensed to NextWave Personal Communications Inc., NextWave Power Partners Inc., or Urban Comm-North Carolina, Inc. ("Pending Applications"); and (2) the payors of record the option to request a refund of the remainder² of the down payments associated with the Pending Applications.

The applicant listed in Attachment A to this Public Notice has filed a request that its Pending Application be dismissed. We have reviewed its respective request and have found upon review that the applicant complied with all of the requirements for relief as set forth in the *Final Refund Order*.³ Accordingly, we hereby dismiss its Pending Application, with prejudice.

Additionally, as provided in the *Final Refund Order*, the applicant listed in Attachment A is released from all payment obligations associated with its Pending Application, including default payments.⁴ Pursuant to the *Final Refund Order*, sections 1.934, 1.2107 and 1.2109 of the Commission's rules are waived with regard to such Pending Applications.⁵

¹ In the Matter of Disposition of Down Payment and Pending Applications By Certain Winning Bidders in Auction No. 35, Requests for Refunds of Down Payments Made In Auction No. 35, WT Docket No. 02-276, *Order and Order on Reconsideration*, 17 FCC Rcd 23354 (2002) ("*Final Refund Order*").

² See Requests for Refunds of Down Payments Made In Auction No. 35, *Order*, 17 FCC Rcd 6283 (2002), *appeal pending*, *Cellco Partnership d/b/a Verizon Wireless v. FCC* (D.C. Cir. Apr. 8, 2002) (Nos. 02-1110 & 02-1111) (refunding 85 percent of down payments for Pending Applications).

³ See *Final Refund Order*, 17 FCC Rcd at 23369-373, Appendix B - Procedures for Implementing the Order.

⁴ See *Final Refund Order*, 17 FCC Rcd at 23354, 23364, 23368 ¶¶ 1, 15-16, 22.

⁵ See 47 C.F.R. §§ 1.934, 1.2107, 1.2109.

In addition, the Commission is prepared to process a refund of the remainder of the down payment associated with the application listed in Attachment A, provided that the Commission has received a request for a refund made by the payor of record with respect to the application in accordance with Appendix B of the *Final Refund Order*.⁶ It is anticipated that the refund will be made in approximately ten (10) business days after the release date of this Public Notice, subject to administrative coordination.

This Public Notice contains the following attachments:

Attachment A: Application dismissed.

Attachment B: Instructions for Searching for the Application Listed in Attachment A using ULS.

Attachment C: Instructions for Accessing the FCC Network Using Windows 95/98.

Further information

For questions regarding refunds, contact Gail Glasser or Tim Dates, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578.

For questions regarding legal matters, contact Amal Abdallah, Wireless Telecommunications Bureau, Commercial Wireless Division, Policy and Rules Branch, at (202) 418-7307.

The news media should contact Meribeth McCarrick, Wireless Telecommunications Bureau, at (202) 418-0654.

⁶ See *Final Refund Order*, 17 FCC Rcd at 23369-373, Appendix B – Procedures for Implementing the Order.