



Federal Communications Commission
Washington, D.C. 20554

DA04-2122

July 13, 2004

Via certified mail, return receipt requested

Ralph C. Derrickson
Vulcan Spectrum LLC
505 Union Station
505 Fifth Avenue South, Suite 900
Seattle, Washington, 98104

Re: Final Bid Withdrawal Payment For Auction No. 44

Dear Mr. Derrickson:

Vulcan Spectrum LLC ("Vulcan"), a participant in Auction No. 44, withdrew high bids on the following licenses: (i) CMA190-C, Boise City Idaho; (ii) CMA389-C, Idaho 2 – Idaho; (iii) CMA391-C, Idaho 4 – Elmore; and (iv) CMA392-C, Idaho 5 – Butte.¹ Auction No. 49, the subsequent auction for the licenses on which Vulcan withdrew high bids in Auction No. 44, has closed.² Therefore, in accordance with the Commission's rules, we are able to calculate Vulcan's final bid withdrawal payment obligations.

Under the Commission's rules, a bidder that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.³ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁴ This payment amount is deducted from any up-front payments or down payments deposited for this bidder's account with the Commission.⁵ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and upon appropriate request, the Commission will refund the interim three percent (3%) payment.⁶ If, in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn bid amount, then the bidder will be required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn

¹ Lower 700 MHz Auction Closes, Winning Bidders Announced, Down Payments Due October 4, 2002, *Ten-Day Petition to Deny Period, Public Notice*, DA 02-2323 at Attachment C (rel. September 20, 2002) ("*Auction No. 44 Winning Bidders' Public Notice*").

² Lower 700 MHz Auction Closes, Winning Bidders Announced, Down Payments Due July 2, 2003, *Ten-Day Petition to Deny Period, Public Notice*, DA 03-1978 (rel. June 18, 2003) ("*Auction No. 49 Winning Bidders' Public Notice*").

³ 47 C.F.R. § 1.2104(g)(1).

⁴ *Id.*; *Auction No. 44 Winning Bidders' Public Notice* at Attachment C. This attachment identifies bidders that withdrew bids in Auction 44 and indicates the interim three percent bid withdrawal payment.

⁵ 47 C.F.R. § 1.2106(e); *Auction No. 44 Winning Bidders' Public Notice* at Attachment C.

⁶ 47 C.F.R. § 1.2104(g)(1).

bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.⁷

With respect to Vulcan's bid withdrawals on four high bids in Auction No. 44, because all four licenses were sold in Auction No. 49, the Commission is now able to assess the full amount of the final bid withdrawal payment for each license.⁸ As shown in Attachment A, in Auction No. 49, the winning bid amount of: (i) \$341,000 for license CMA190-C was less than Vulcan's withdrawn bid amount of \$453,000; (ii) \$62,000 for license CMA389-C was less than Vulcan's withdrawn bid amount of \$110,000; (iii) \$166,000 for license CMA391-C was less than Vulcan's withdrawn bid amount of \$216,000; and (iv) \$115,000 for license CMA392-C was less than Vulcan's withdrawn bid amount of \$183,000. In accordance with Section 1.2104(g)(1) of the Commission's rules,⁹ Vulcan is assessed a final bid withdrawal payments of: (i) \$112,000 in connection with license CMA190-C; (ii) \$48,000 in connection with license CMA389-C; (iii) \$50,000 in connection with license CMA391-C; and (iv) \$68,000 in connection with license CMA392-C. Because the four licenses were unsold at the close of Auction No. 44, interim bid withdrawal payments equal to three percent of the withdrawn bids were deducted from any upfront payments or down payments on deposit in Vulcan's account with the Commission.¹⁰ The cumulative sum of these interim bid withdrawal payments is \$28,860.¹¹ Therefore, in accordance with Section 1.204(g)(1) of the Commission's rules, after applying the interim bid withdrawal payment of \$28,860 to the bid withdrawal payment obligations of \$278,000, Vulcan owes an outstanding balance of \$249,140.¹²

As a result, Vulcan is in debt to the United States in the amount of \$249,140, payable in full, immediately, and without further demand. As permitted under 31 U.S.C. § 3717, the debt is subject to interest, penalties, and administrative costs, and interest accrues from the date of this letter, which is also its mailing date. Vulcan, the debtor, may avoid payment of the interest if it tenders to the Commission full payment within 30 days of the date of this letter. Moreover, the debt is subject to an additional charge to cover the cost of processing and handling of delinquent debts, and a penalty charge in the amount permitted by law. The penalty charge for delinquent debt payments permitted by 31 U.S.C. § 3717 currently is 6 percent a year for the failure to pay any part of the debt more than 90 days past due.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.2104(g) of the Commission's Rules, 47 C.F.R. § 1.2104(g), Vulcan IS ASSESSED a final bid withdrawal payment of \$278,000 as a result of Vulcan's withdrawal of its bid on licenses CMA190-C,

⁷ *Id.*

⁸ *Auction No. 49 Winning Bidders' Public Notice* at Attachment A, pp. 3, 6.

⁹ 47 C.F.R. § 1.2104(g)(1).

¹⁰ 47 C.F.R. § 1.2104(g)(1); *Auction No. 44 Winning Bidders' Public Notice* at 3-4 and Attachment C, pp. 1-2.

¹¹ Attachment A.

¹² *Id.* To make the final bid withdrawal payment, Vulcan must submit payment in accordance with the instructions set forth in Attachment B.

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CMA389-C, CMA391-C, and CMA392-C as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, Vulcan's interim bid withdrawal payment of \$28,860 will be applied toward the final bid withdrawal payment for license EAG004F, leaving Vulcan with a debt to the Commission of \$249,140.

IT IS FURTHER ORDERED that Vulcan's debt of \$249,140 be paid immediately, in accordance with the payment instructions in Attachment B within 30 days of the date of this letter, and if it is unpaid 30 days of the date of this letter, interest will accrue from the date of this letter along with penalties and administrative costs permitted by 31 U.S.C. § 3717.

IT IS FURTHER ORDERED that this letter shall be sent to the applicant and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Rita Cookmeyer
Financial Policy Analyst
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

ATTACHMENT A

**Lower 700 MHz Band Spectrum
 Bid Withdrawal Payment Report**

License Number	Freq Blk	Market Description	Bidder Name	Vulcan	Winning Bid	Vulcan	Vulcan	Vulcan
				Withdrawn Net Bid Amount (Auction 44)	Amount (Auction 49)	Final Bid Withdrawal Payment	Interim Withdrawal Payment	Outstanding Balance
CMA190	C	Boise City	Vulcan Spectrum LLC (Vulcan)	\$453,000 (-)	\$341,000 =	\$112,000 -	\$13,590 =	\$98,410
CMA389	C	Idaho 2 - Idaho	Vulcan	\$110,000 (-)	\$ 62,000	\$ 48,000 -	\$ 3,300 =	\$44,700
CMA391	C	Idaho 4- Elmore	Vulcan	\$216,000 (-)	\$166,000	\$ 50,000 -	\$ 6,480 =	\$43,520
CMA392	C	Idaho 5 - Butte	Vulcan	\$183,000 (-)	\$115,000	\$ 68,000 -	\$5,490 =	<u>\$62,510</u>
								\$249,140

ATTACHMENT B

PAYMENT INSTRUCTIONS

Method of Payment

All payments must be made in U.S. dollars, must be in the form of a Wire Transfer. No personal checks, credit cards payments, or other forms of payment will be accepted.

To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261
Receiving Bank: Mellon in Pittsburgh, PA
BNF: FCC/Account #911-6106
OBI Field: (Skip one space between each informational item.)
"AUCTION PAY"
FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 11 and/or 21)
PAYMENT TYPE CODE (enter "APEN") same as FCC Form 159, Block 24A
FCC CODE 1 (same as FCC Form 159, Block 28A: "44")
PAYOR NAME: (the same payor name as FCC Form 159, Block 2)
LOCKBOX NO.: 358850

A completed FCC Remittance Advice Form (FCC Form 159) must accompany all payments. On the same business day that the applicant pays the amount due to Mellon Bank, the applicant must fax a completed FCC Form 159 to Mellon Bank at (412) 209-6045 at least one hour prior to placing the order for the wire transfer. The specified debt is due and payable to the United States immediately and without demand, and it is subject to interest, penalties, and additional administrative costs. Interest accrues from the date of the ORDER; however, to avoid the payment of charges (i.e., interest, penalties, and administrative costs) and enforced collection, full payment must be made and received within 30 days from the date of the ORDER. Debtor's failure to make complete timely payment will result in assessment of such charges permitted by 31 § U.S.C. 3717.

Further information

For questions regarding the submission of payment or the FCC Form 159, contact Gail Glasser or Tim Dates, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578 or (202) 418-0496.