



Federal Communications Commission
Washington, D.C. 20554

October 13, 2004

DA04-3226

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. Mark Grady
Communications Venture PCS, L.P.
19079 Market Street
P.O. Box 47
New Paris, IN 46553

Re: Final Withdrawal Payment for Auction No. 11

Dear Mr. Grady:

Communications Venture PCS, L.P. ("Communications Venture"), a participant and high bidder in Auction No. 11, withdrew its high bid on license BTA233F during the course of the auction.¹ Auction No. 22, the subsequent auction for license BTA233F, has closed.² Therefore, in accordance with the Federal Communications Commission's (Commission's) rules, we are now able to calculate Communications Venture's final bid withdrawal payment for this license.

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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.³ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁴ This payment amount is deducted from any up-front payments or down payments deposited for this bidder's account with the Commission.⁵ If, in a subsequent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

¹ License BTA233F (Kokomo, IN) was not sold in Auction No. 11 and pursuant to our rules an interim withdrawal bid payment of \$7,492.50 was assessed against Communications Venture for this license. "D, E and F Block Auction Closes," *Public Notice*, DA 97-81, 1997 WL 20711 (rel. Jan 15, 1997) ("*Auction No. 11 Winning Bidders Public Notice*"). Also, in Auction No. 11, Communications Venture withdrew a high bid on license BTA126F, which sold during Auction No. 11 for a lower amount to 21st Century Bidding Corp for a net bid in the amount of \$304,237.00. The final bid withdrawal payment of \$30,262.50 of Communications Venture with regard to license BTA126F was deducted from its Auction No. 11 upfront payment.

² "C, D, E, and F Block Broadband PCS License Auction Closes," *Public Notice*, 14 FCC Rcd 6688 (1999) ("*Auction No. 22 Closing PN*").

³ 47 C.F.R. § 1.2104(g)(1).

⁴ *Auction No. 11 Winning Bidders Public Notice*, at 3 (citing Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5563 at n. 51 (1994); C.H. PCS, Inc., 11 FCC Rcd 14,495 (1996) (requiring a three percent deposit).

⁵ 47 C.F.R. § 1.2106(d) and (e).

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 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 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 Communications Venture's bid withdrawal on its high bid for license BTA233F in Auction No. 11, because this was sold at Auction No. 22 the Commission is now able to assess the full amount of the final bid withdrawal payment for this license.⁸ As shown in Attachment A, in Auction No. 22, the net winning bid amount of \$47,122.50 for license BTA233F was less than Communications Venture's withdrawn net bid amount of \$249,750.00. In accordance with Sections 1.2104(g)(1) of the Commission's rules, Communications Venture is assessed a final bid withdrawal payment of \$202,627.50 in connection with license BTA233F. Because this license was unsold at the close of Auction No. 11, an interim bid withdrawal payment equal to three percent of the withdrawn bid was deducted from any upfront payments or down payments on deposit in Communications Venture's account with the Commission.⁹ The amount of this interim bid withdrawal payment is \$7,492.50.¹⁰ Therefore, in accordance with Section 1.2104(g)(1), after applying the interim bid withdrawal payment of \$7,492.50 to the bid withdrawal payment obligation of \$202,627.50, Communications Venture owes an outstanding balance of \$195,135.00 in connection with license BTA233F, on which Communications Venture withdrew a high bid during Auction No. 11.

Communications Venture is in debt to the United States in the amount of \$195,135.00, 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. Communications Venture, the debtor, may avoid payment of the interest if it tenders to the Commission full payment within 30 days of the date of the 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.

⁶ 47 C.F.R. § 1.2104(g)(1).

⁷ 47 C.F.R. § 1.2104(g)(1).

⁸ 47 C.F.R. § 1.2104(g)(1).

⁹ 47 C.F.R. §§ 1.2104(g)(1), 1.2106(e).

¹⁰ Attachment A.

Mr. Mark Grady
October 13, 2004

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), Communications Venture PCS, L.P., IS ASSESSED a final bid withdrawal payment of \$202,627.50 for license No. BTA233F, as computed in Attachment A.

IT IS FURTHER ORDERED, that pursuant to 47 C.F.R §§ 1.2104 and 1.2106, the interim bid withdrawal payment of \$7,492.50 will be applied towards the final bid withdrawal payment of \$202,627.50, leaving Communications Venture PCS, L.P., with a debt to the Commission in the amount of \$195,135.00.

It is FURTHER ORDERED that Communications Venture PCS, L.P.'s debt of \$195,135.00 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 Industry Analysis Division
Wireless Telecommunications Bureau

cc: David Lafuria
Lukas McGowan Nace & Gutierrez

ATTACHMENT A

**Broadband PCS Service, Blocks D, E, and F
Spectrum License Auction
Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	Auction 11 Comm. Vent. Withdrawn Net Bid Amount	Auction 22 ABC Wireless Net Bid Amount	Final Bid Withdrawal Payment - Difference Between Withdrawn Net Bid Amount and Final Net Bid Amount	Interim Bid Withdrawal Payment Amount	Balance Owed
B233F	Kokomo, IN	\$249,750.00	\$47,122.50	\$202,627.50	\$7,492.50	\$195,135.00

ATTACHMENT B

The following information is being provided to assist you in making your payment.

PAYMENT INSTRUCTIONS

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by Mellon Bank by 6:00 PM Eastern Time, no later than thirty days from the date of the ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261

Receiving Bank: Mellon Pittsburgh

BNF: FCC/Account #911-6106

OBI Field: (Skip one space between each information item)

“AUCTIONPAY”

FCC REGISTRATION NO. (same as FCC Form 159, Block 11 and/or 21)

PAYMENT TYPE CODE (enter “ADFT”) same as FCC Form 159, Block 24A

FCC CODE 1 (same as FCC Form 159, Block 28A: (“11”)

PAYOR NAME (same as FCC Form 159, Block 2)

LOCKBOX No.: 358850

A completed FCC Remittance Advice Form (FCC Form 159, Version 2/00) must accompany payments. On the same business day that the applicant submits payment to Mellon Bank, the applicant must submit a completed FCC Form 159 via facsimile 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.

For questions regarding the submission of payment, and 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.