



PUBLIC NOTICE

Federal Communications Commission
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Washington, D.C. 20554

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DA 04-3270
October 15, 2004

BROADBAND PCS SPECTRUM AUCTION START DATE RESCHEDULED FOR JANUARY 26, 2005

New Pre-Auction Dates and Deadlines Established for Auction No. 58

Report No. AUC-04-58-D (Auction No. 58)

The upcoming auction of licenses in the broadband Personal Communication Service (“Auction No. 58”), initially scheduled to commence on January 12, 2005, is rescheduled to begin on January 26, 2005.¹ In addition, certain pre-auction events and deadlines are rescheduled as follows:

Auction Seminar.....	November 1, 2004
Short-Form Application (FCC Form 175) Filing Window Opens.....	November 16, 2004; 9:00 a.m. ET
Short-Form Application (FCC Form 175) Deadline	November 30, 2004; 6:00 p.m. ET
Upfront Payments (via wire transfer).....	December 29, 2004; 6:00 p.m. ET
Mock Auction.....	January 21, 2005
Auction Begins.....	January 26, 2005

These dates and deadlines replace those previously announced in any prior public notice regarding Auction No. 58, including the *Auction No. 58 Procedures Public Notice*.² All other previously announced auction procedures and requirements remain the same.

In light of the Commission’s decision in the Memorandum Opinion and Order, FCC 04-249, released today, October 15, 2004, the Wireless Telecommunications Bureau (“Bureau”) is rescheduling the start date and the pre-auction dates and deadlines for Auction No. 58 in order to provide additional time for

¹ See Broadband PCS Spectrum Auction Scheduled for January 12, 2005; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 04-1639 (rel. June 18, 2004). The Bureau released an erratum to the public notice of June 18, 2004. See Erratum to Broadband PCS Spectrum Auction Scheduled for January 12, 2005; Correction to Formulas for Upfront Payments and Minimum Opening Bids (rel. June 21, 2004) (the public notices of June 18, 2004 and June 21, 2004, are collectively referred to as the “*Auction No. 58 Comment Public Notice*”). Eight broadband PCS licenses were later added to the inventory of licenses to be auctioned. See Revised Inventory for Broadband PCS Spectrum Auction; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, DA 04-2451 (rel. Aug 3, 2004). See also Broadband PCS Spectrum Auction Scheduled for January 12, 2005; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 58, *Public Notice*, DA 04-3005 (rel. Sept. 16, 2004) (“*Auction No. 58 Procedures Public Notice*”).

² See, e.g., Sections I.A., I.C., I.J., III.A., III.B., III.D., III.G., IV. in the *Auction No. 58 Procedures Public Notice*.

bidder preparation and planning. The Bureau originally provided more than six months for bidders to prepare for Auction No. 58, which normally should provide more than sufficient time for planning purposes. Requests to amend or waive the Commission's eligibility rules for certain broadband PCS licenses, however, created some uncertainty regarding whether such licenses would be available in open or closed bidding. Now that a final decision has been made on those matters, we therefore believe a slight modification to our auction schedule is warranted.

The Bureau is not persuaded by the recent letter request filed by CTIA – The Wireless Association (“CTIA”) on October 5, 2004, which sought to postpone for three to four weeks the deadline for filing short-form applications for Auction No. 58 in order to shorten the time period in which the anti-collusion rules would be in effect.³ Offering no support for its assertion, CTIA states that extending the period in which to file short form applications should not interfere with the time allotted for Commission staff to prepare for the auction or to review applicants' filings. This statement significantly underestimates the administrative, technical and regulatory review that Commission staff undertakes to conduct an auction. Moreover, contrary to CTIA's representations, the amount of time that the Bureau originally allotted between the short form filing deadline and the auction start date was not “protracted.” For the last three years, taking into account auction-specific circumstances, the Bureau has consistently factored similar timing into its competitive bidding schedules to provide conditions that will promote competitive auctions. We note that sufficient time for preparation is necessary for bidders and the Commission alike.

In addition, the Commission's anti-collusion rules are also intended to ensure a competitive auction environment. The Bureau therefore reiterates that applicants for any of the same geographic license areas are prohibited from communicating with each other before or during the auction about bids, bidding strategies, or settlements unless such applicants have identified each other on their short-form applications (FCC Form 175) as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii).⁴ Thus, applicants for any of the same geographic license areas must affirmatively avoid all discussions with each other that affect, or in their reasonable assessment have the potential to affect, bidding or bidding strategy. This prohibition begins at the short-form application filing deadline (*i.e.*, November 30, 2004) and ends at the down payment deadline after the auction closes.⁵ Moreover, this prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.⁶

For further information concerning this matter, contact the Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, as listed below:

For legal questions: Scott A. Mackoul or Audrey Bashkin, (202) 418-0660
For general auction questions: Jeff Crooks, (202) 418-0660
Lisa Stover, (717) 338-2888

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³ See Letter to Marlene H. Dortch, Secretary, Federal Communications Commission, from Diane J. Cornell, Vice President, Regulatory Policy, CTIA – The Wireless Association, dated October 5, 2004.

⁴ 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1). See also Section I.B.2. in the *Auction No. 58 Procedures Public Notice*.

⁵ 47 C.F.R. § 1.2105(c)(1).

⁶ For purposes of this prohibition, Section 1.2105(c)(7)(i) defines applicant as including all controlling interests in the entity submitting a short-form application to participate in the auction, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application, and all officers and directors of that entity. 47 C.F.R. § 1.2105(c)(7)(i).

FCC AUCTION SEMINAR REGISTRATION FORM

Auction No. 58

The FCC will sponsor a one-day seminar for Auction No. 58 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 FCC 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:

Monday, November 1, 2004
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Registration 9:30 a.m. - 10:00 a.m.
Seminar 10:00 a.m. - 2:00 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 no later than
Thursday, October 28, 2004, by fax to:

FCC Auction 58
Auctions and Spectrum Access Division
1270 Fairfield Road
Gettysburg, PA 17325-7245

Fax: 717-338-2850
Phone: 717-338-2888

Note: The seminar will also be available on the Internet as a live webcast, and an archived webcast will be available within a few days after the seminar. To access the live or archived webcast, click on the Auction Seminar link on the Auction No. 58 Home Page, <http://wireless.fcc.gov/auctions/58/>. For further information about accessing FCC webcasts, please visit <http://www.fcc.gov/realaudio/>.

I/We will attend the Auction No. 58 Seminar, scheduled for Monday, November 1, 2004.

Name of attendee: _____

Name of attendee: _____

Company name: _____

Company address: _____

Phone: _____ Fax: _____