



Federal Communications Commission  
Washington, D.C. 20554

April 9, 2004

DA 04-989

**Via Certified Mail**  
**Return Receipt Requested**

Mr. Douglas I. Brandon  
Ms. Cathleen A. Massey  
AT&T Wireless PCS, Inc.  
1150 Connecticut Avenue, NW  
Fourth Floor  
Washington, DC 20036

**Re: Final Withdrawal Payment for Auction No. 11**

Dear Mr. Brandon and Ms. Massey:

AT&T Wireless PCS, Inc. ("AT&T"), a participant and high bidder in Auction No. 11, withdrew its high bid on license BTA155E during the course of the auction.<sup>1</sup> Auction No. 22, the subsequent auction for license BTA155E, has closed.<sup>2</sup> Therefore, in accordance with the Commission's rules, we are now able to calculate AT&T's final 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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.<sup>3</sup> If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.<sup>4</sup> This payment amount is deducted from any up-front payments or down payments deposited for

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<sup>1</sup> License BTA155E (Ft. Wayne, IN) was not sold in Auction No. 11 and pursuant to our rules an interim withdrawn bid payment of \$57,060 was assessed against AT&T for this license.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*"). AT&T also withdrew high bids on the following licenses: BTA039E (Benton Harbor, MI); BTA169E (Grand Rapids, MI); BTA294E (Michigan City-La Porte, IN); and BTA379E (Rochester, NY), all of which were sold for lower bids in Auction No. 11. Accordingly, the Commission assessed final withdrawal payments against AT&T totaling \$276,085.00 for those licenses. *Id.*

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

<sup>3</sup> 47 C.F.R. §§ 1.2104(g)(1), 24.704(a)(1) (1997); *Auction No. 11 Winning Bidders Public Notice*, at 3.

<sup>4</sup> *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 14495 (1996) (requiring a three percent deposit).

this bidder's account with the Commission.<sup>5</sup> 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.<sup>6</sup> 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.<sup>7</sup>

With respect to AT&T's bid withdrawal on its high bid for license BTA155E 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.<sup>8</sup> As shown in Attachment A, in Auction No. 22, the winning bid amount of \$881,000 for license BTA155E was less than AT&T's withdrawn bid amount of \$1,902,000.<sup>9</sup> In accordance with Sections 1.2104(g)(1) of the Commission's rules, AT&T is assessed a final bid withdrawal payment of \$1,021,000 in connection with license BTA155E.<sup>10</sup> 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 AT&T's account with the Commission.<sup>11</sup> The amount of this interim bid withdrawal payment is \$57,060.<sup>12</sup> Therefore, in accordance with Section 1.2104(g)(1), after applying the interim bid withdrawal payment of \$57,060 to the final bid withdrawal payment obligation of \$1,021,000, AT&T owes an outstanding balance of \$963,940 in connection with license BTA155E, on which AT&T withdrew a high bid during Auction No. 11.

AT&T is in debt to the United States in the amount of \$963,940, 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. AT&T, 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 per year for the failure to pay any part of the debt more than 90 days past due.

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<sup>5</sup> 47 C.F.R. § 1.2106(d) and (e); *Auction No. 11 Winning Bidders Public Notice*, at 3.

<sup>6</sup> 47 C.F.R. § 1.2104(g)(1); *Auction No. 11 Winning Bidders Public Notice*, at 3.

<sup>7</sup> 47 C.F.R. § 1.2104(g)(1); *Auction No. 11 Winning Bidders Public Notice*, at 3.

<sup>8</sup> See *Auction No. 11 Winning Bidders Public Notice*, at 3, and at Attachment B1.

<sup>9</sup> See Attachment A to this letter, which calculates the final bid withdrawal payments.

<sup>10</sup> 47 C.F.R. §§ 1.2104(g)(1).

<sup>11</sup> 47 C.F.R. §§ 1.2104(g)(1); *Auction No. 11 Winning Bidders Public Notice*, at 3.

<sup>12</sup> Attachment A.

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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), AT&T Wireless PCS, Inc. IS ASSESSED a final bid withdrawal payment of \$1,021,000 for license BTA155E, as computed in Attachment A.

IT IS FURTHER ORDERED, that pursuant to 47 C.F.R §§ 1.2104 and 1.2106, AT&T Wireless PCS, Inc.'s interim bid withdrawal payment of \$57,060 will be applied towards the final bid withdrawal payment of \$1,021,000, leaving AT&T Wireless PCS, Inc. with a debt to the Commission of \$963,940.

It is FURTHER ORDERED that AT&T Wireless PCS, Inc.'s debt of \$963,940 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

cc: David C. Jatlow  
AT&T Wireless Services, Inc.  
1150 Connecticut Avenue, NW  
Fourth Floor  
Washington, DC 20036

**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 AT&T Withdrawn Net Bid Amount	Auction 22 CPAN, Inc. Net Bid Amount	Auction 22 Difference Between Withdrawn Net Bid Amount and Final Net Bid Amount	Interim Bid Withdrawal Payment Amount	Final Bid Withdrawal Payment Amount
B155E	Ft. Wayne, IN	\$1,902,000	\$881,000	\$1,021,000	\$57,060	\$963,940

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## **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 "APEN") 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 2/03)** 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, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578.