



PUBLIC NOTICE

Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

News Media Information: 202-418-0500
Internet: <http://www.fcc.gov>
TTY: 1-888-835-5322

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DUE DILIGENCE ANNOUNCEMENT FOR THE UPCOMING AUCTION OF LICENSES IN THE LOWER 700 MHz BAND SCHEDULED FOR JULY 20, 2005

Report No. AUC-05-60-E (Auction No. 60)

This Public Notice provides due diligence information for potential bidders in the upcoming auction of licenses in the Lower 700 MHz band C block (Auction No. 60), scheduled for July 20, 2005 (Auction No. 60).¹ The information provided by this Public Notice is intended to aid potential bidders with their research and evaluation of the spectrum in the Lower 700 MHz band C block (710-716/740-746 MHz). Potential bidders should thoroughly research the nature and extent of existing and possible broadcast encumbrances in the Lower 700 MHz band C block (which corresponds to TV Channels 54 and 59) plus adjacent channels (*e.g.*, channels 53, 55, 58 and 60).

Spectrum in the Lower 700 MHz band is being reclaimed and licensed to new services, in accordance with statutory mandate,² as a result of the conversion of television broadcasting from analog to digital transmission systems together with the planned migration of broadcasters into core Channels 2-51. Each television station was temporarily assigned a second TV channel on which to broadcast its digital signal, while the original channel continues broadcasting the analog signal. Section 309(j) of the Communications Act requires analog broadcasters to cease operation in the recovered spectrum by the end of 2006 unless the Commission extends the end of the transition.³ Potential bidders should familiarize themselves with the policies regarding the transition to DTV.⁴

¹ Auction No. 60 will offer 5 C block licenses in the Lower 700 MHz band that remained unsold in Auction No. 49, which closed on June 23, 2003. *See* Auction of Licenses in the Lower 700 MHz Band Scheduled for July 20, 2005, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures, *Public Notice*, 20 FCC Rcd 6120 (WTB 2005). A list of the licenses available in Auction No. 60 and their descriptions is included in Attachment A of this Public Notice.

² *See* 47 U.S.C. § 309(j).

³ 47 U.S.C. § 309(j)(14)(A)-(B). As provided in the statute, the Commission is required to extend the end of the transition at the request of individual broadcast licensees on a market-by-market basis if one or more of the four largest network stations or affiliates is not broadcasting in digital, digital-to-analog converter technology is not generally available, or 15 percent or more of television households are not receiving a digital signal. 47 U.S.C. § 309(j)(14)(B)(i)-(iii).

⁴ *See generally* Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Second Memorandum Opinion and Order on Reconsideration of the Fifth and Sixth Report* (continued...)

Although licensees of new services in the Lower 700 MHz band will be permitted to operate during this transition, licensees will be required to provide interference protection to incumbent analog TV or digital television (“DTV”) operations. Prospective bidders should note that the Commission’s interference criteria may restrict the ability of such geographic licensees to use certain portions of the electromagnetic spectrum or provide service to certain regions in their geographic license areas.

In the *Lower 700 MHz Report and Order*,⁵ the Commission adopted allocation and service rules in connection with the reclamation of the spectrum in the Lower 700 MHz band. Among other licensing and technical rules, new Lower 700 MHz band licensees must comply with the interference protection requirements set forth in Section 27.60 of the Commission’s rules, which establishes standards for the protection of co- and adjacent-channel analog TV and DTV facilities.⁶ Thus, for example, a new licensee seeking to operate on the C block (710-716/740-746 MHz) portion of the Lower 700 MHz band must provide co-channel protection to nearby TV and DTV operations on Channels 54 and 59 and provide adjacent-channel protection to stations on Channels 53, 55, 58, and 60. In addition, Appendix D of the *Lower 700 MHz Report and Order* describes additional adjacent-channel interference considerations that are designed to mitigate the possibility of base-to-base interference that may arise at base receive stations that are in close proximity to high power transmitters operating on adjacent channels.⁷ Moreover, licensees intending to operate a facility at a power level of greater than 1 kilowatt must provide advance notice to the Commission and to licensees authorized in their area of operation.⁸ New Lower 700 MHz licensees must comply with these and other technical requirements that exist or may be adopted as a result of any future proceedings.

Prospective bidders should be aware that on January 18, 2005, the Wireless Telecommunications Bureau requested comment on a Petition for Declaratory Ruling filed by QUALCOMM Inc., which seeks clarification of certain requirements regarding interference protection for incumbent analog TV and DTV broadcasters, as well as the establishment of a streamlined review process in order to accelerate the

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and Orders, 14 FCC Rcd 1348 (1998); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Memorandum Opinion and Order on Reconsideration of the Sixth Report and Order*, 13 FCC Rcd 7418 (1998); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order*, 13 FCC Rcd 6860 (1998); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Sixth Report and Order*, 12 FCC Rcd 14588 (1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Fifth Report and Order*, 12 FCC Rcd 12809 (1997); Advanced Television Systems and Their Impact upon the Existing Television Broadcast Service, MM Docket No. 87-268, *Sixth Further Notice of Proposed Rule Making*, 11 FCC Rcd 10968 (1996) (collectively “DTV proceeding”); *see also* Review of the Commission’s Rules and Policies Affecting the Conversion to Digital Television, MM Docket No. 00-39, *Report and Order and Further Notice of Proposed Rule Making*, 16 FCC Rcd 5946 (2001), *on recon.*, *Memorandum Opinion and Order on Reconsideration*, 16 FCC Rcd 20594 (2001), *Second Report and Order and Second Memorandum Opinion and Order*, 17 FCC Rcd 15978 (2002), *Third Memorandum Opinion and Order on Reconsideration*, 17 FCC Rcd 18571 (2002).

⁵ Reallocation and Service Rules for the 698-746 MHz Spectrum Band (Television Channels 52-59), GN Docket No. 01-74, *Report and Order*, 17 FCC Rcd 1022 (2002) (“*Lower 700 MHz Report and Order*”).

⁶ 47 C.F.R. § 27.60 (co- and adjacent-channel interference protection to analog TV and DTV facilities).

⁷ *Lower 700 MHz Report and Order*, 17 FCC Rcd at 1121, Appendix D.

⁸ 47 C.F.R. § 27.50(c)(5). Specifically, licensees that must be notified are all Part 27 licensees authorized to operate on an adjacent spectrum block at a location within 75 kilometers of the facility operating at a power level greater than 1 kW ERP.

deployment of new services in the 700 MHz band.⁹ Further, the Wireless Telecommunications Bureau recently granted a waiver of Section 27.60 to Aloha Partners, L.P. (Aloha), finding that Aloha's operations would cause minimal interference to an incumbent broadcaster in the Tucson, Arizona market.¹⁰ Two parties have filed applications for review of that decision, arguing that the waiver will result in interference to a significantly larger number of viewers than the Commission had calculated, and moreover, that the waiver undermined a "no interference" standard in the Commission's rules.¹¹ These matters remain pending.

In order to allow for the introduction of new wireless services and to promote the transition of incumbent analog television licensees to DTV service, the Commission established a policy allowing broadcasters with analog stations to enter into voluntary band clearing arrangements with 700 MHz licensees consistent with the Commission's existing band-clearing rules and Section 6 of the Auction Reform Act of 2002.¹² This voluntary band clearing policy generally provides that the Commission will consider specific regulatory requests needed to implement voluntary agreements between incumbent broadcasters and new licensees to clear the Lower 700 MHz band early, if consistent with the public interest. The fundamentals of the Commission's voluntary clearing policy for the 700 MHz bands were established in a series of decisions beginning with the adoption of the *Upper 700 MHz First Report and Order* in January 2000.¹³ The fundamentals of this policy were extended to the Lower 700 MHz band in

⁹ See Pleading Cycle Established for QUALCOMM Inc. Petition for Declaratory Ruling, WT Docket No. 05-7, *Public Notice*, 20 FCC Rcd 2093 (WTB 2005). Specifically, Qualcomm asks the Commission to declare that: (1) OET-69, an engineering methodology used for evaluating TV coverage and interference, is an acceptable engineering methodology to demonstrate compliance with the Commission's interference protection standards in 47 C.F.R. § 27.60; (2) predicted interference to not more than two percent of the population served by a TV/DTV station is de minimis and therefore acceptable; and (3) streamlined processing should apply to OET-69 showings, including a 14-day comment period after which, if no objections are received, the next weekly Public Notice indicates acceptance of the 700 MHz licensee's engineering showing.

¹⁰ Aloha Partners, L.P. Request for Waiver of Section 27.60, *Memorandum Opinion and Order*, 20 FCC Rcd 3744 (WTB 2005), recon. pending. The Wireless Telecommunications Bureau previously granted a waiver of Section 27.60 to Access Spectrum, LLC, in August 2004. See Access Spectrum, LLC Request For Waiver Of Section 27.60, FCC File No. 0001669196, *Memorandum Opinion & Order*, 19 FCC Rcd 15545 (WTB 2005).

¹¹ See Application for Review, filed by Paxson Communications Corporation on March 21, 2005; Joint Application for Review filed by The Association for Maximum Service Television, Inc. and Tucson Communications, L.L.C., on March 30, 2005;

¹² Auction Reform Act of 2002, Pub. L. No. 107-195, 116 Stat. 715 ("Auction Reform Act") § 6(a), 47 U.S.C. § 337 note. The Auction Reform Act provides that a waiver of broadcast interference standards or the minimum spacing requirements is not to be granted if such waiver "will result in any degradation in or loss of service, or an increased level of interference to any television household except as the Commission's rules would otherwise expressly permit, exclusive of any waivers previously granted." *Id.*, Section 6(a).

¹³ See Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Upper 700 MHz First Report and Order*, 15 FCC Rcd 476 (2000) ("*Upper 700 MHz First Report and Order*"); Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *Memorandum Opinion and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 20845 at 20870-71 ¶ 61 (2000); Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, Carriage of the Transmissions of Digital Broadcast Stations, Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Third Report and Order*, 16 FCC Rcd 2703, 2718 at ¶ 36 (2001); Service Rules for the 746-764 and 776-794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, Carriage of the Transmissions of Digital Broadcast Stations, Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television, *Order on Reconsideration of the Third Report and Order*, 16 FCC Rcd 21633 (2001).

the *Lower 700 MHz Report and Order*.¹⁴ In considering such regulatory requests, the Commission will consider whether grant of the request would result in public interest benefits, such as making new or expanded public safety or other wireless services available to consumers or deploying wireless service to rural or other underserved communities.¹⁵ The Commission intends to weigh these benefits against any likely public interest costs, such as the loss of any of the four stations in the designated market area with the largest audience share, the loss of the sole service licensed to the local community, the loss of a community's sole service on a channel reserved for noncommercial educational broadcast service, or a negative effect on the pace of the DTV transition in the market.¹⁶

Potential bidders should also be aware of other matters pending before the Commission that may affect the availability of spectrum in Auction No. 60, or that may affect future operations in the lower 700 MHz band. For example, potential bidders should take note of the Commission's ongoing *DTV Second Periodic Review* proceeding.¹⁷ The *DTV Second Periodic Review Report and Order* established deadlines for DTV channel elections, and a procedure and time frame for evaluating, processing and confirming the elections. This process started in November 2004 and is expected to continue until at least January 2006, after which the Commission will propose a new DTV Table of Allotments. The Commission also addressed a number of other issues concerning the protection that must be provided to incumbent analog and digital broadcasters in channels 52-69 during the transition. Among other actions designed to facilitate the rapid conversion to DTV, the *Report and Order* also permitted satellite stations and certain stations with DTV allotments outside of the core spectrum to "flash cut" to DTV by the end of the digital transition. Several petitions for reconsideration are currently pending in this proceeding. Also, the *DTV Second Periodic Review Report and Order* deferred to a future proceeding two issues, including the question of how the Commission should interpret Section 309(j)(14) of the Communications Act, which requires the Commission to reclaim the 6 MHz each broadcaster uses for transmission of analog television service by December 31, 2006, unless an extension is granted.¹⁸

Further, the Commission has established rules and policies for digital low power television (LPTV) and television translator (TV translator) stations and modified certain rules applicable to digital Class A TV stations (Class A).¹⁹ In that proceeding, the Commission made channels 52-59 available for LPTV, TV translator and Class A stations to make on-channel conversion from analog-to-digital operation and allowed those stations to seek channels 52-59 as digital "companion" channels under certain conditions.²⁰ Channels 52-59 assigned to LPTV and TV translator stations for digital operation

¹⁴ See *Lower 700 MHz Report and Order*, 17 FCC Rcd at 1094 n. 537 and 1095 ¶ 184. Not all aspects of the voluntary clearing policy was applied to the lower 700 MHz band due to differences between the Upper 700 MHz band and the Lower 700 MHz band.

¹⁵ *Id.* at 1096 n. 549.

¹⁶ *Id.*

¹⁷ See *Second Periodic Review of the Commission's Rules and Policies Affecting the Conversion to Digital Television*, MB Docket No. 03-15, *Report and Order*, 19 FCC Rcd 18279 ("DTV Second Periodic Review Report and Order").

¹⁸ The other pending issue concerns whether the Commission should require labeling to provide consumers with information on the capabilities of digital television equipment at the point of sale.

¹⁹ See *Amendment of Parts 73 and 74 of the Commission's Rules to Establish Rules for Digital Low Power Television, Television Translator, and Television Booster Stations and the Amend Rules for Digital Class A Television Stations*, *Report and Order*, 19 FCC Rcd 19331 (2004) ("*LPTV DTV Report and Order*").

²⁰ *Id.* at ¶¶ 71-75. The Commission also permitted LPTV and TV translator stations to seek a digital conversion on Channel 60 under certain conditions. *Id.* at ¶¶ 76-77.

will be assigned with a secondary spectrum use priority and may not interfere with the operations of primary, interference-protected, 700 MHz wireless licensees.²¹ The Commission adopted provisions in an effort to prevent secondary digital LPTV and TV translator stations from technically conflicting with future operations of primary 700 MHz within their licensed service areas.²² The *LPTV DTV Report and Order* is subject to pending petitions for reconsideration.

The Commission has also issued a *Notice of Proposed Rulemaking* proposing to allow unlicensed radio transmitters to operate in the broadcast television spectrum at locations where that spectrum is not being used.²³ These proposals seek to provide for more efficient and effective use of the TV spectrum and are meant to facilitate the development of new and innovative types of unlicensed broadband devices and services for businesses and consumers. The Commission is currently reviewing this matter.²⁴

Potential bidders should be aware that there are incumbent licensees currently authorized to operate in the Lower 700 MHz band C block (TV Channels 54 and 59) plus adjacent channels (*e.g.*, channels 53, 55, 58 and 60), and that incumbents may have multiple authorizations (*e.g.*, a license and a construction permit (“CP”) or modified CP). These incumbents may also have pending applications to make changes in authorized facilities. For example, although a freeze was imposed on the filing of “maximization” applications by incumbent analog and digital television broadcast stations in the 698-746 MHz band,²⁵ the Media Bureau may continue to consider, on a case-by-case basis, requests for waiver of this freeze in certain circumstances, thereby allowing incumbent broadcasters to make certain changes to their authorized facilities.

To aid potential bidders with their research, attached to this Public Notice is a list of both analog television (NTSC) and DTV incumbent licensees, permittees and/or applicants in the Lower 700 MHz band C block (*see Attachment B*). The Commission makes no representations or guarantees that the listed licensees are the only licensees, permittees and/or applicants that could affect spectrum availability or operations in the Lower 700 MHz band C block.

²¹ *Id.* at ¶ 136.

²² *Id.* at ¶ 77.

²³ *See* Unlicensed Operation in the TV Broadcast Bands; Additional Spectrum for Unlicensed Devices Below 900 MHz and in the 3 GHz Band, *Notice of Proposed Rulemaking*, 19 FCC Rcd 10018 (2004).

²⁴ Among other DTV transition-related proceedings with pending matters: Requirements for Digital Television Receiving Capability, ET Docket No. 05-24, *Notice of Proposed Rule Making*, 20 FCC Rcd 2780 (2005) (the *DTV Tuners* proceeding regarding the Commission’s phase-in plan requiring that all new broadcast television receivers include DTV reception capability by July 1, 2007); Carriage of Digital Television Broadcast Signals: Amendments to Part 76 of the Commission’s Rules, CS Docket No. 98-120, *Further Notice of Proposed Rulemaking*, FCC 05-27 (2005) (the *Must Carry* proceeding examining the broadcast signal carriage responsibilities of cable television operators); Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices and Compatibility Between Cable Systems and Consumer Electronics Equipment, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 20885 (2003) (“plug and play” order in which the Commission adopted a standard to ensure the compatibility of cable television systems with DTV receivers and related consumer electronics equipment); Implementation of Section 304 of the Telecommunications Act of 1996, Commercial Availability of Navigation Devices, CS Docket No. 97-80, *Second Report and Order*, 20 FCC Rcd 6794 (2005) (proceeding regarding the requirement in Section 629 of the Communications Act mandating the commercial availability of “navigation devices,” the equipment used to access video programming and other services from multichannel video programming systems).

²⁵ *See* Freeze on the Filing of TV and DTV “Maximization” Applications in Channels 52-59, *Public Notice*, 17 FCC Rcd 11290 (MB 2002).

Potential bidders may obtain information about licenses available in Auction No. 60 through the Media Bureau's Consolidated Data Base System (CDBS) on the Internet at http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm or at <http://www.fcc.gov/mb/> (by selecting the "CDBS Access" listing on the "MB Shortcuts" drop down menu). Potential bidders may search for station information (link: http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/sta_sear.htm) and/or application information (link: http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/app_sear.htm). Potential bidders may also search for ownership information and antenna information, and download engineering data. An AL/TC search under the application search link permits searching for Assignment of License/Transfer of Control groups using the AL/TC group lead application. Potential bidders may query the database online and download a copy of their search results if desired.

Detailed instructions on using the CDBS is available online by selecting the "[Help](#)" link at the bottom of the (main) CDBS Public Access page, or at http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/help_pa.htm. Potential bidders should direct questions regarding the search capabilities of CDBS to the Media Bureau help line at (202) 418-2662, or via e-mail at mbinfo@fcc.gov.

The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases, including the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into the databases.

Potential bidders are solely responsible for identifying associated risks, and investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 60.

It should be noted that the Commission makes no representations or guarantees that the matters listed in this due diligence announcement are the only pending matters that could affect spectrum availability in these services. There may be additional pending or future applications (including those for modification), petitions for rulemaking, requests for special temporary authority ("STA"), waiver requests, petitions to deny, petitions for reconsideration, and applications for review pending before the Commission. Potential bidders are advised to perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned, including pending and future judicial proceedings that may relate to particular applicants or incumbent licensees, or the licenses available in Auction No. 60. Resolution of such matters could have an impact on the availability of spectrum for Auction No. 60. Further, while the Commission may continue to act on various pending proceedings and applications, informal objections petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

For further information, contact Keith Harper, Mobility Division, Wireless Telecommunications Bureau, at 418-2759; Shaun Maher, Video Division, Media Bureau, at (202) 418-1600; or Kim Matthews, Policy Division, Media Bureau, at (202) 418-2120.

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ATTACHMENT A

Auction No. 60 – Lower 700 MHz Band Licenses to be Auctioned

Market Number	Market Name	License Number	Block	Frequencies (MHz)	Bandwidth (MHz)	Population	Bidding Units	Upfront Payment	Minimum Opening Bid
MSA / RSA Licenses*									
CMA169	Mayaguez, PR	WZ-CMA169-C	C	710-716, 740-746	12	227,412	14,000	\$14,000	\$27,000
CMA202	Arecibo, PR	WZ-CMA202-C	C	710-716, 740-746	12	199,750	12,000	\$12,000	\$24,000
CMA723	Puerto Rico 1 - Rincon	WZ-CMA723-C	C	710-716, 740-746	12	14,767	1,000	\$1,000	\$1,800
CMA727	Puerto Rico 5 - Ceiba	WZ-CMA727-C	C	710-716, 740-746	12	41,757	2,500	\$2,500	\$5,000
CMA729	Puerto Rico 7 - Culebra	WZ-CMA729-C	C	710-716, 740-746	12	1,868	1,000	\$1,000	\$1,000

AUCTION TOTAL

5 Licenses

30,500

\$30,500

\$58,800

* The Cellular Market Areas (CMAs) were created from the Metropolitan Statistical Areas (MSAs) defined by the Office of Management and Budget (CMA001-CMA305), the Gulf of Mexico (CMA306), and Rural Service Areas (RSAs) established by the FCC (CMA307-CMA734). The CMA designation, not MSA/RSA, is used in the FCC Integrated Spectrum Auction System and in the Universal Licensing System.

ATTACHMENT B

**INCUMBENT CDBS RECORD LISTING FOR NTSC AND DTV CHANNELS 53-55 AND 58-60
AS OF 5/18/05**

Channel	State	City	Call Sign	Facility ID	Name	ARN	Status	Service
53	PR	ARECIBO	WCCV-TV	3001	ASOCIACION EVANGELISTICA CRISTO VIENE INC.	19991101AGR	CP	DT
54	PR	YAUCO	W54AQ	42151	ASOCIACION EVANGELISTICA CRISTO VIENE INC.	198904171Q	LIC	TX
54	PR	ARECIBO	WCCV-TV	3001	ASOCIACION EVANGELISTICA CRISTO VIENE INC.	19950719KH	LIC	TV
55	PR	SAN JUAN	WIPR-TV	53859	PUERTO RICO PUBLIC BROADCASTING CORP.	20000426ABF	CP	DT
58	PR	CAGUAS	WUJA	8156	CAGUAS EDUCATIONAL TV, INC.	19851107KE	LIC	TV
58	PR	MAYAGUEZ	W34CI	71730	WESTERN BROADCASTING CORP. OF PUERTO RICO	JG0601UA	CP	TX
59	PR	BAYAMON	WDWL	4110	BAYAMON CHRISTIAN NETWORK	20000419ABS	CP	DT
60	PR	SABANA GRANDE	W60AA	71726	WESTERN BROADCASTING CORP. OF PUERTO RICO	1432	LIC	TX
60	PR	ARECIBO	WMEI	26676	HECTOR NEGRONI CARTAGENA	19960415KE	CP MOD	TV
60	PR	ARECIBO	WMEI	26676	HECTOR NEGRONI CARTAGENA	20001220ABS	APP	TV