



PUBLIC NOTICE

Federal Communications Commission
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Washington, DC 20554

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DA 05-1555
June 9, 2005

AUCTION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE LICENSES SCHEDULED FOR DECEMBER 7, 2005

COMMENT SOUGHT ON RESERVE PRICES OR MINIMUM OPENING BIDS AND OTHER PROCEDURES FOR AUCTION NO. 63

Comments Due: June 28, 2005

Reply Comments Due: July 6, 2005

Report No. AUC-05-63-A (Auction No. 63)

By this public notice, the Wireless Telecommunications Bureau (“Bureau”) announces the auction of 22 Multichannel Video Distribution and Data Service (“MVDDS”) licenses (Auction No. 63). This auction is scheduled to commence on December 7, 2005. Auction No. 63 will offer the MVDDS licenses that remained unsold in Auction No. 53, which closed on January 27, 2004.¹ These licenses authorize the use of one block of unpaired spectrum in the 12.2-12.7 GHz band and may be used for any digital fixed one-way non-broadcast service, including direct-to-home/office wireless service.² Mobile and aeronautical services are not authorized.³ Two-way services may be provided by using other spectrum or media for the return or upstream path.⁴ Licenses are not available in every market. A complete list of the licenses available in Auction No. 63 is included as Attachment A of this public notice.⁵

¹ See Multichannel Video Distribution and Data Service Spectrum Auction Closes, Winning Bidders Announced, *Public Notice*, 19 FCC Rcd 1834 (2004).

² 47 C.F.R. § 101.1407; Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band, ET Docket No. 98-206, *Memorandum Opinion and Order and Second Report and Order*, 17 FCC Rcd 9614, 9668-9669 ¶¶ 136-138 (2002), *appeal pending* (“*Second Report and Order*”). Broadcast services are intended for reception of the general public and not on a subscribership basis.

³ 47 C.F.R. § 101.1407.

⁴ *Id.*

⁵ The following eligibility restriction applies to MVDDS licenses: no cable operator, nor any entity owning an attributable interest in a cable operator, may hold an attributable interest in an MVDDS license if such cable operator's service area significantly overlaps the MVDDS license area. See 47 C.F.R. § 101.1412.

Auction No. 63 will use the FCC’s Integrated Spectrum Auction System (“ISAS” or “FCC Auction System”), which is the Commission’s new auction application filing and bidding system and is an extensive redesign of the previous auction application and bidding systems. The redesign includes FCC Form 175 application enhancements such as discrete data elements in place of free-form exhibits and improved data accuracy through automated checking of FCC Form 175 applications. Enhancements have also been made to the FCC Form 175 application search function. The auction bidding system has also been updated for easier navigation, customizable results, and improved functionality.

The following table describes the licenses that will be offered in Auction No. 63:

Frequency Band (GHz)	Total Bandwidth	Pairing	Geographic Area Type	No. of Licenses
12.2 – 12.7	500 MHz	Unpaired	MVDDS Service Area ⁶	22

Section 309(j)(3) of the Communications Act of 1934, as amended, requires the Commission to “ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed . . . before issuance of bidding rules, to permit notice and comment on proposed auction procedures”⁷ Consistent with the provisions of Section 309(j)(3) and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction.⁸ We therefore seek comment on the following issues relating to Auction No. 63.

⁶ MVDDS service areas, the contours of which have remained unchanged since their adoption in 2003, are based on the Designated Market Areas delineated by Nielsen Media Research, Inc. (“Nielsen Media”) in its publication entitled “U.S. Television Household Estimates” dated September 2002. See 47 C.F.R. § 101.1401; Amendment of Parts 2 and 25 of the Commission’s Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission’s Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band, ET Docket No. 98-206, *Third Report and Order*, 18 FCC Rcd 13468, 13471-74 ¶¶ 8-13 (2003). Designated Market Area (DMA®) is a registered trademark of Nielsen Media. An MVDDS license does not confer any right to use the DMA trademark or any associated maps, ranks, regions, data, or analyses owned by Nielsen Media, and that right must be sought from Nielsen Media.

⁷ 47 U.S.C. § 309(j)(3)(E)(i).

⁸ See Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374, 448 ¶ 124-125 (1997) (“*Part 1 Third Report and Order*”) (directing the Bureau to seek comment on specific mechanisms related to day-to-day auction conduct including, for example, the structure of bidding rounds and stages, establishment of minimum opening bids or reserve prices, minimum acceptable bids, initial maximum eligibility for each bidder, activity requirements for each stage of the auction, activity rule waivers, criteria for determining reductions in eligibility, information regarding bid withdrawal and bid removal, stopping rules, and information relating to auction delay, suspension or cancellation). See also 47 C.F.R. § 0.131; Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Proceeding, *Order, Memorandum Opinion and Order, and Notice of Proposed Rule Making*, 12 FCC Rcd 5686, 5697-5698 ¶ 16 (1997) (“*Part 1 Order*”).

I. Auction Structure

A. Simultaneous Multiple-Round Auction Design

We propose to award all licenses included in Auction No. 63 in a simultaneous multiple-round auction. As described further below, this methodology offers every license for bid at the same time with successive bidding rounds in which bidders may place bids on individual licenses. We seek comment on this proposal.

B. Upfront Payments and Bidding Eligibility

The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area and the value of similar spectrum.⁹ As described further below, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction.¹⁰ With these guidelines in mind for Auction No. 63, we propose to calculate upfront payments on a license-by-license basis as follows:

The upfront payment for each license in Auction No. 63 is based on 50 percent of the corresponding minimum opening bid amount from Auction No. 53,¹¹ with a minimum of \$1,000 per license.¹²

The specific proposed upfront payment for each license available in Auction No. 63 is set forth in Attachment A. We seek comment on this proposal.

We further propose that the amount of the upfront payment submitted by a bidder will determine the maximum number of bidding units on which a bidder may place bids. This limit is a bidder's initial bidding eligibility. Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A, on a bidding unit per dollar basis. Bidding units for a given license do not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses it selected on its FCC Form 175 as long as the total number of bidding units associated with those licenses does not exceed the bidder's current eligibility. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must determine the **maximum** number of bidding units upon which it may wish to be active (bid on or hold provisionally winning bids on) in any single round, and submit an upfront payment amount covering that total number of bidding units. Provisionally winning bids at the end of the auction become the winning bids.¹³ We seek comment on this proposal.

⁹ *Part 1 Order*, 12 FCC Rcd at 5697-98 ¶ 16. *See also Part 1 Third Report and Order*, 13 FCC Rcd at 425 ¶ 86; Implementation of Section 309(j) of the Communications Act-Competitive Bidding, *Second Report and Order*, 9 FCC Rcd 2348, 2378-79 ¶¶ 171-175 (1994) (“*Competitive Bidding Second Report and Order*”).

¹⁰ *Competitive Bidding Second Report and Order*, 9 FCC Rcd 2348, 2378-79 ¶¶ 171-176.

¹¹ *See Auction of Licenses in the Multichannel Video Distribution and Data Service Rescheduled for January 14, 2004, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Auction Procedures, Public Notice*, 18 FCC Rcd 17553 (2003) (“*Auction No. 53 Procedures Public Notice*”).

¹² Results are rounded using our standard rounding procedure: results above \$10,000 are rounded to the nearest \$1,000; results below \$10,000 but above \$1,000 are rounded to the nearest \$100; and results below \$1,000 are rounded to the nearest \$10.

¹³ *See* Section II.D. “Provisionally Winning Bids,” *infra*.

C. Activity Rules

In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. Bidders are required to be active on a specific percentage of their current bidding eligibility during each round of the auction. A bidder that does not satisfy the activity rule either will lose bidding eligibility or use an activity rule waiver (if any remain).

We propose to divide the auction into two stages, each characterized by a different activity requirement. The auction will start in Stage One. We propose that the auction generally will advance from Stage One to Stage Two when the auction activity level, as measured by the percentage of bidding units receiving new provisionally winning bids, is approximately twenty percent or below for three consecutive rounds of bidding. However, we further propose that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids,¹⁴ the number of new bids, and the percentage increase in revenue. We seek comment on these proposals.

For Auction No. 63, we propose the following activity requirements:

Stage One: In each round of the first stage of the auction, a bidder desiring to maintain its current bidding eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility for the next round of bidding unless an activity rule waiver is used. During Stage One, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by five-fourths (5/4).

Stage Two: In each round of the second stage, a bidder desiring to maintain its current bidding eligibility is required to be active on 95 percent of its current bidding eligibility. During Stage Two, a bidder's reduced eligibility for the next round will be calculated by multiplying the bidder's current round activity by twenty-nineteenths (20/19).

We seek comment on these proposals. Commenters that believe these activity rules should be modified should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

D. Activity Rule Waivers and Reducing Eligibility

Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either proactive or automatic and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any bidding round where a bidder's activity level is below the minimum required

¹⁴ For example, when monitoring activity for determining when to change stages, we may consider the percentage of bidding units of the licenses receiving new provisionally winning bids, excluding any FCC-held licenses.

unless: (1) the bidder has no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirement. **Note: If a bidder has no waivers remaining and does not satisfy the required activity level, its eligibility will be permanently reduced, possibly eliminating the bidder from further bidding in the auction.**

A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding round by using the “reduce eligibility” function in the FCC Auction System. In this case, the bidder’s eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described above. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

A bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity rule waiver (using the “apply waiver” function in the FCC Auction System) during a bidding round in which no bids or withdrawals are submitted, the auction will remain open and the bidder’s eligibility will be preserved. An automatic waiver applied by the FCC Auction System in a round in which there are no new bids or withdrawals will not keep the auction open. **Note: Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.**

We propose that each bidder in Auction No. 63 be provided with three activity rule waivers that may be used at the bidder’s discretion during the course of the auction as set forth above. We seek comment on this proposal.

E. Information Relating to Auction Delay, Suspension, or Cancellation

For Auction No. 63, we propose that, by public notice or by announcement during the auction, the Bureau may delay, suspend, or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and efficient conduct of competitive bidding.¹⁵ In such cases, the Bureau, in its sole discretion, may elect to resume the auction starting from the beginning of the current round, resume the auction starting from some previous round, or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

II. Bidding Procedures

A. Round Structure

The Commission will conduct Auction No. 63 over the Internet. Telephonic bidding will also be available. The toll free telephone number through which telephonic bidding may be accessed will be provided to bidders.

The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction. The simultaneous multiple-round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

¹⁵ 47 C.F.R. § 1.2104(i).

The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. We seek comment on this proposal.

B. Reserve Price or Minimum Opening Bid

Section 309(j) calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid amount when FCC licenses are subject to auction, unless the Commission determines that a reserve price or minimum opening bid amount is not in the public interest.¹⁶ Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid amount and/or reserve price prior to the start of each auction.¹⁷

Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid amount, on the other hand, is the minimum bid price set at the beginning of the auction below which no bids are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid amount and the reserve price to be the same amount.

In light of Section 309(j)'s requirements, the Bureau proposes to establish minimum opening bid amounts for Auction No. 63. The Bureau believes a minimum opening bid amount, which has been used in other auctions, is an effective bidding tool.¹⁸

Specifically, for Auction No. 63, we propose to calculate minimum opening bids on a license-by-license basis as follows:

The minimum opening bid amount for each license in Auction No. 63 is based on a 50 percent reduction of the corresponding minimum opening bid amount from Auction No. 53,¹⁹ with a minimum of \$1,000 per license.²⁰

The specific minimum opening bid amount for each license available in Auction No. 63 is set forth in Attachment A of this public notice. We seek comment on this proposal.

If commenters believe that these minimum opening bid amounts will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid amount levels or formulas. In establishing the minimum opening bid amounts, we particularly seek

¹⁶ 47 U.S.C. § 309(j)(4)(F). The Commission's authority to establish a reserve price or minimum opening bid is set forth in 47 C.F.R. § 1.2104(c) and (d).

¹⁷ *Part I Third Report and Order*, 13 FCC Rcd at 454-55 ¶ 141.

¹⁸ *See, e.g.*, Auction of 800 MHz SMR Upper 10 MHz Band, Minimum Opening Bids or Reserve Prices, *Order*, 12 FCC Rcd 16354 (1997); Auction of the Phase II 220 MHz Service Licenses, Auction Notice and Filing Requirements for 908 Licenses Consisting of Economic Area (EA), Economic Area Grouping (EAG), and Nationwide Licenses, Scheduled for September 15, 1998, Minimum Opening Bids and Other Procedural Issues, *Public Notice*, 13 FCC Rcd 16445 (1998); *Auction No. 53 Procedures Public Notice*, 18 FCC Rcd 17553.

¹⁹ *See Auction No. 53 Procedures Public Notice*, 18 FCC Rcd 17553.

²⁰ *See note 12, supra.*

comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the MVDDS spectrum. We also seek comment on whether, consistent with Section 309(j), the public interest would be served by having no minimum opening bid amount or reserve price.

C. Minimum Acceptable Bid Amounts and Bid Increments

In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts.²¹ The FCC Auction System will list the nine acceptable bid amounts for each license.

The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until there is a provisionally winning bid for the license. After there is a provisionally winning bid for a license, the minimum acceptable bid amount for that license will be equal to the amount of the provisionally winning bid plus an additional amount. The minimum acceptable bid amount will be calculated by multiplying the provisionally winning bid amount times one plus the minimum acceptable bid percentage — *e.g.*, if the minimum acceptable bid percentage is 5 percent, the minimum acceptable bid amount will equal (provisionally winning bid amount) * (1.05), rounded. We will round the result using our standard rounding procedures.²²

The nine acceptable bid amounts for each license consist of the minimum acceptable bid amount and additional amounts calculated using the minimum acceptable bid amount and the bid increment percentage. We will round the results using our standard rounding procedures.²³ The first additional acceptable bid amount equals the minimum acceptable bid amount times the sum of one plus the bid increment percentage, rounded — *e.g.*, if the bid increment percentage is 5 percent, the calculation is (minimum acceptable bid amount) * (1 + 0.05), rounded, or (minimum acceptable bid amount) * 1.05, rounded; the second additional acceptable bid amount equals the minimum acceptable bid amount times the sum of one plus two times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.10, rounded; the third additional acceptable bid amount equals the minimum acceptable bid amount times the sum of one plus three times the bid increment percentage, rounded, or (minimum acceptable bid amount) * 1.15, rounded; etc. Note that the bid increment percentage need not be the same as the minimum acceptable bid percentage.

In the case of a license for which the provisionally winning bid has been withdrawn, the minimum acceptable bid amount will equal the second highest bid received for the license.²⁴

For Auction No. 63, the Bureau proposes to use a minimum acceptable bid percentage of five percent. This means that the minimum acceptable bid amount for a license will be approximately five percent greater than the provisionally winning bid amount for the license. The Bureau proposes to use a bid increment percentage of five percent.

The Bureau retains the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, and the bid increment percentage if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System during the auction. We seek comment on these proposals.

²¹ Bidders must have sufficient eligibility to place a bid on the particular license. *See* Section I.B. “Upfront Payments and Bidding Eligibility,” *supra*.

²² *See* note 12, *supra*.

²³ *See* note 12, *supra*.

²⁴ *See* Section II.E. “Information Regarding Bid Withdrawal and Bid Removal,” *infra*.

D. Provisionally Winning Bids

At the end of a bidding round, a provisionally winning bid for each license will be determined based on the highest bid amount received for the license. In the event of identical high bid amounts being submitted on a license in a given round (*i.e.*, tied bids), we propose to use a random number generator to select a single provisionally winning bid from among the tied bids. If the auction were to end with no higher bids being placed for that license, the winning bidder would be the one that placed the selected provisionally winning bid. However, the remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. If any bids are received on the license in a subsequent round, the provisionally winning bid again will be determined by the highest bid amount received for the license.

A provisionally winning bid will remain the provisionally winning bid until there is a higher bid on the same license at the close of a subsequent round, unless the provisionally winning bid is withdrawn.²⁵ Provisionally winning bids at the end of the auction become the winning bids. Bidders are reminded that provisionally winning bids confer credit for activity.²⁶

E. Information Regarding Bid Withdrawal and Bid Removal

For Auction No. 63, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding round, a bidder has the option of removing any bid placed in that round. By removing selected bids in the FCC Auction System, a bidder may effectively “unsubmit” any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment. Once a round closes, a bidder may no longer remove a bid.

A bidder may withdraw its provisionally winning bids using the “withdraw bids” function in the FCC Auction System. A bidder that withdraws its provisionally winning bid(s) is subject to the bid withdrawal payment provisions of the Commission rules.²⁷ We seek comment on these bid removal and bid withdrawal procedures.

In the *Part 1 Third Report and Order*, the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction.²⁸ The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission’s bid withdrawal procedures.

Applying this reasoning, we propose to limit each bidder in Auction No. 63 to withdrawing provisionally winning bids in no more than one round during the course of the auction. To permit a bidder to withdraw bids in more than one round may encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The round in which withdrawals may be used will be at each bidder’s discretion; withdrawals otherwise must be in accordance with the Commission’s rules.²⁹ There is no limit on the

²⁵ *Id.*

²⁶ See Section I.C. “Activity Rules,” *supra*.

²⁷ 47 C.F.R. §§ 1.2104(g), 1.2109.

²⁸ *Part 1 Third Report and Order*, 13 FCC Rcd at 460 ¶ 150.

²⁹ See 47 C.F.R. § 1.2104(g).

number of provisionally winning bids that may be withdrawn in the round in which withdrawals are used. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. We seek comment on this proposal.

F. Stopping Rule

The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time."³⁰ For Auction No. 63, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain available for bidding until bidding closes simultaneously on all licenses.

Bidding will close simultaneously on all licenses after the first round in which no bidder submits any new bids, applies a proactive waiver, or withdraws any provisionally winning bids. Thus, unless circumstances dictate otherwise, bidding will remain open on all licenses until bidding stops on every license.

However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 63:

1. Use a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver, places a withdrawal or submits any new bids on any license for which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage two of the auction.
2. Keep the auction open even if no bidder submits any new bids, applies a waiver or places any withdrawals. In this event, the effect will be the same as if a bidder had applied a waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.
3. Declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) and the auction will close.

The Bureau proposes to exercise these options only in certain circumstances, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We seek comment on these proposals.

III. Conclusion

Comments are due on or before June 28, 2005, and reply comments are due on or before July 6, 2005. All filings must be addressed to the Commission's Secretary Attn: WTB/ASAD, Office of the Secretary, Federal Communications Commission. Parties who file by paper must file an original and four copies of each filing. U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW, Washington, DC 20554. Filings can be sent by hand or messenger delivery, by commercial

³⁰ 47 C.F.R. § 1.2104(e).

overnight courier, or by first-class or overnight U. S. Postal Service mail.³¹ Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureau also requires that all comments and reply comments be filed electronically. Comments and reply comments and copies of material filed with the Commission pertaining to Auction No. 63, must be sent by electronic mail to the following address: auction63@fcc.gov.³² The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 63 Comments and the name of the commenting party. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of comments and reply comments will be available for public inspection between 8:00 a.m. and 4:30 p.m. Monday through Thursday and 8:00 a.m. to 11:30 a.m. on Fridays in the FCC Reference Information Center, Room CY-A257, 445 12th Street, SW, Washington, DC 20554, and will also be posted on the web page for Auction No. 63 at <http://wireless.fcc.gov/auctions/63/>.

This proceeding has been designated as a “permit-but-disclose” proceeding in accordance with the Commission’s *ex parte* rules.³³ Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.³⁴ Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in Section 1.1206(b) of the Commission’s rules.³⁵

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

For legal questions: Brian Carter, (202) 418-0660

For general auction questions: Debbie Smith, Roy Knowles, or Barbara Sibert, (717) 338-2888

For service rules questions, contact the Broadband Division, Wireless Telecommunications Bureau, as follows: Mindy Littell (legal) or Michael Pollak (technical), (202) 418-2487.

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³¹ The Commission’s contractor will receive hand-delivered or messenger-delivered paper filings for the Commission’s Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Commercial overnight mail (other than U. S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton, Drive, Capitol Heights, MD 20743.

³² Comments and reply comments in response to this public notice may not be filed using the Commission’s Electronic Comment Filing System, which is used for the Commission’s docketed rule making proceedings.

³³ 47 C.F.R. §§ 1.1200(a), 1.1206.

³⁴ 47 C.F.R. § 1.1206(b).

³⁵ *Id.*

Auction No. 63 - Multichannel Video Distribution and Data Service (MVDDS)

DA 05-1555

Attachment A

Market Number	Description	License Number	Frequencies (GHz)	Bandwidth (MHz)	Bidding Units	Upfront Payment	Minimum Opening Bid
MVD038	Grand Rapids-Kalmzoo-B.Crk	DV-MVD038	12.2 -12.7	500	47,000	\$47,000	\$47,000
MVD040	Birmingham (Ann and Tusc)	DV-MVD040	12.2 -12.7	500	46,000	\$46,000	\$46,000
MVD132	Chico-Redding	DV-MVD132	12.2 -12.7	500	12,000	\$12,000	\$12,000
MVD136	Duluth-Superior	DV-MVD136	12.2 -12.7	500	12,000	\$12,000	\$12,000
MVD149	Bluefield-Beckley-Oak Hill	DV-MVD149	12.2 -12.7	500	9,500	\$9,500	\$9,500
MVD150	Wheeling-Steubenville	DV-MVD150	12.2 -12.7	500	9,500	\$9,500	\$9,500
MVD153	Bangor	DV-MVD153	12.2 -12.7	500	9,000	\$9,000	\$9,000
MVD167	Utica	DV-MVD167	12.2 -12.7	500	7,000	\$7,000	\$7,000
MVD173	Elmira	DV-MVD173	12.2 -12.7	500	6,500	\$6,500	\$6,500
MVD175	Rapid City	DV-MVD175	12.2 -12.7	500	6,000	\$6,000	\$6,000
MVD176	Watertown	DV-MVD176	12.2 -12.7	500	6,000	\$6,000	\$6,000
MVD177	Marquette	DV-MVD177	12.2 -12.7	500	6,000	\$6,000	\$6,000
MVD184	Grand Junction-Montrose	DV-MVD184	12.2 -12.7	500	4,800	\$4,800	\$4,800
MVD185	Meridian	DV-MVD185	12.2 -12.7	500	4,700	\$4,700	\$4,700
MVD190	Eureka	DV-MVD190	12.2 -12.7	500	3,900	\$3,900	\$3,900
MVD193	St. Joseph	DV-MVD193	12.2 -12.7	500	3,800	\$3,800	\$3,800
MVD198	Ottumwa-Kirkville	DV-MVD198	12.2 -12.7	500	3,400	\$3,400	\$3,400
MVD205	Presque Isle	DV-MVD205	12.2 -12.7	500	2,000	\$2,000	\$2,000
MVD207	Helena	DV-MVD207	12.2 -12.7	500	1,600	\$1,600	\$1,600
MVD208	Alpena	DV-MVD208	12.2 -12.7	500	1,200	\$1,200	\$1,200
MVD209	North Platte	DV-MVD209	12.2 -12.7	500	1,100	\$1,100	\$1,100
MVD210	Glendive	DV-MVD210	12.2 -12.7	500	1,000	\$1,000	\$1,000

Auction Total

22 Licenses

204,000

\$204,000

\$204,000

Note: After Auction No. 53, the Bureau revised the market designators for MVDDS licenses to "MVD." Consequently, MVDDS licenses are designated with license numbers beginning with the letters "MVD." See WTB Announces Changes in the Universal Licensing System to Revise the Names of Market Designators for Multichannel Video Distribution and Data Service Licenses, *Public Notice*, 19 FCC Rcd 10679 (2004).