



Federal Communications Commission  
Washington, D.C. 20554

June 23, 2005

DA 05-1740

**Via Certified Mail, Return Receipt Requested**

Mr. Fred Fisher, President  
Citifone PCS, LLC  
2780 West 5<sup>th</sup> Street, Suite 16e  
Brooklyn, NY 11224

**Re: Final Default Payment For Auction No. 35**

Dear Mr. Fisher:

Citifone PCS, LLC ("Citifone"), a participant in Auction No. 35, defaulted on its final payment obligation with respect to one license after the close of the auction.<sup>1</sup> Auction No. 58, the subsequent auction for the license on which Citifone defaulted on its final payment obligation, has closed. As shown on Attachment A, in accordance with the Federal Communications Commission's ("Commission's") rules, we are now able to calculate Citifone's final default payment obligation.

Under the Commission's rules, a bidder who fails to remit the required down or final payment for a license for which it was the high bidder is subject to a default payment.<sup>2</sup> The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time the license is offered by the Commission (so long as the subsequent winning bid is less than the defaulted bid).<sup>3</sup> The second component of the default payment is an additional payment equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.<sup>4</sup> In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent of the defaulted bid.<sup>5</sup>

---

<sup>1</sup> License No. CWBTA470-C4 (West Plains, MO).

<sup>2</sup> 47 C.F.R. § 1.2104(g)(2), 1.2109(b).

<sup>3</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>4</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>5</sup> 47 C.F.R. § 1.2104(g)(2).

As shown in Attachment A, in accordance with Section 1.2104(g)(2), after applying any interim payments or amounts on deposit with the Commission, Citifone has met its obligation. Therefore, in accordance with Section 1.2104 of the Commission's rules, the Commission is prepared to refund the \$20,145.00 held in connection with license CWBTA470-C4. To obtain a refund, the payor of record<sup>6</sup> must submit a request in accordance with the instructions set forth in Attachment B.

### **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)(2) the Commission's rules, 47 C.F.R. §§ 1.2104(g)(2), Citifone PCS, LLC is ASSESSED a final default payment obligation as computed in Attachment A.<sup>7</sup>

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, Citifone's interim payments or funds on deposit will be applied towards the sum of the default payment, and the Commission will refund amounts due upon request from the payor of record.

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

---

<sup>6</sup> See In the Matter of Entertainment Unlimited, Inc., Request for Refund of Late Payment Fees for PCS Licenses Purchased in Auction No. 22, *Memorandum Opinion and Order*, 16 FCC Rcd. 10,030 (2001) (noting that the Commission does not accept instructions regarding the refund of excess upfront payments from entities or individuals other than the payor of record).

<sup>7</sup> 47 C.F.R. § 1.2104(g)(2).

**ATTACHMENT A**

**Multi-Auction Default Payment Report**

License Number Frequency block	Defaulted Gross Bid Auction # 35	Defaulted Net Bid Auction # 35	Reauction Gross Bid Auction # 58	Reauction Net Bid Auction # 58	3% Payment	Lower Difference Payment	Final Default Payment
CWBTA470-C4	\$158,000.00	\$118,500.00	\$252,000.00	\$189,000.00	\$3,555.00	\$0.00	\$3,555.00

Sum of Final Default Payments	\$3,555.00
Less Sum of Amounts on Deposit	\$23,700.00
<b>Refund Amount Due</b>	<b>\$20,145.00</b>

**ATTACHMENT B**

**REQUESTING REFUND INSTRUCTIONS**

In order to process refund requests, the FCC must receive wire transfer instructions that include the following information:

Name and Address of Bank  
ABA Number  
Contact and Phone Number  
Account Number to Credit  
Name of Account Holder  
Correspondent Bank (if applicable)  
ABA Number  
Account Number

Please include your Taxpayer Identification Number (TIN) and a copy of this letter. This information should be sent to the Auctions Accounting Group:

Federal Communications Commission  
Auctions Accounting Group  
Attn: Gail Glasser  
445 12th Street, SW, Room 1-C864  
Washington, DC 20554

Requests can also be faxed to the Auctions Accounting Group at (202) 418-2843.