



Federal Communications Commission
Washington, D.C. 20554

January 30, 2007

DA 07-407

Via Certified Mail, Return Receipt Requested

Colorado CallComm, Inc.
Attn: John Gazzo
5721 Logan Street
Denver, CO 80216

Re: Interim Default Payment Obligation for Auction No. 48

Dear Mr. Gazzo:

This letter provides notice of the interim default payment obligation for Colorado CallComm, Inc. ("Colorado") with respect to its default arising out of a Federal Communications Commission ("Commission") auction of Upper and Lower Paging Band licenses ("Auction No. 48"). Colorado, a participant and high bidder in Auction No. 48, was the winning bidder on five licenses.¹ As described below, Colorado defaulted on its final payment obligation for its winning bid for license BEA141FE. Accordingly, this letter sets forth the interim default payment obligation of Colorado for its defaulted bid for BEA141FE.

Under the Commission's rules, a bidder who fails to timely remit the required down or final payment for a license for which it was the high bidder is in default, its application is dismissed, and it is subject to a default payment.² 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).³ This component of the default payment cannot be determined until after the license on which Colorado defaulted is re-auctioned. 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.⁴ If either

¹ See Lower and Upper Paging Bands Auction Closes; Winning Bidders Announced, *Public Notice*, 18 FCC Rcd 11154 (2003).

² 47 C.F.R. § 1.2104(g)(2), 1.2109(b).

³ 47 C.F.R. § 1.2104(g)(2).

⁴ *Id.*

bid amount is subject to a bidding credit, the three percent (3%) will be calculated using the same bid amounts and basis (net or gross bids) as in the first component of the default payment.⁵ 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 (3%) of the defaulted bid.⁶

On January 9, 2004, the Wireless Telecommunications Bureau (“Bureau”) announced that it was prepared to grant Colorado’s application for licenses BEA141FE and BEA141FM from Auction No. 48.⁷ The Bureau also announced that by no later than January 26, 2004, Colorado was required to submit its final payment for both licenses.⁸ If the payment was not received by that date, Colorado had until February 9, 2004 to submit the payment plus a late fee equal to five percent of the amount due. Colorado’s net winning bids for those two licenses totaled \$29,900.00.⁹ The Bureau applied Colorado’s down payments on deposit for those two licenses in the amount of \$5,980.00 towards the final payment due. Colorado was required to pay the remaining balance of \$8,840.00 for BEA141FM and \$15,080.00 for BEA141FE. Colorado made a payment in the amount of \$8,840.00 on January 26, 2004 for license BEA141FM and did not make a payment on the remaining balance for BEA141FE.

Accordingly, Colorado is considered to be in default on BEA141FE for which it was the high bidder in Auction No. 48 and it is subject to the applicable default payment.¹⁰ Pursuant to Section 1.2104(g)(2) of the Commission’s rules, Colorado owes an interim default payment of \$565.50, which is three-percent (3%) of its net winning bid of \$18,850.00.¹¹ Pursuant to Section 1.2106(e) of the Commission’s rules, we will apply Colorado’s payments on deposit to satisfy this interim default payment obligation.¹² Once a subsequent high bid is established for the relevant spectrum, we will determine Colorado’s final default payment obligation.¹³ If an additional payment is required, a further order will assess such payment.¹⁴

⁵ *Id.*

⁶ *Id.*

⁷ *See Auction No. 48 Closing Public Notice.*

⁸ *See Wireless Telecommunications Bureau Announces It is Prepared to Grant Upper and Lower Paging Band Licenses Upon Full and Timely Payment, DA 04-22, Public Notice, 19 FCC Rcd. 168 (2004).*

⁹ *See id.* at Attachment A.

¹⁰ 47 C.F.R. §§ 1.2104(g)(2), 1.2109(c).

¹¹ 47 C.F.R. § 1.2104(g)(2).

¹² *See* 47 C.F.R. § 1.2106(e).

¹³ *Id.*

¹⁴ *See Mountain Solutions Ltd., Inc., FCC 98-220, Memorandum Opinion and Order, 13 FCC Rcd. 21,983, 21,997 ¶ 25 (1998).*

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) of the Commission's rules, 47 C.F.R. § 1.2104(g)(2), Colorado CallComm, Inc. is ASSESSED an interim default payment of \$565.00 for its defaulted high bid for license BEA141FE in Auction No. 48.

IT IS FURTHER ORDERED that, pursuant to Sections 1.2104 and 1.2106 of the Commission's rules, 47 C.F.R. §§ 1.2104 and 1.2106, Colorado CallComm, Inc.'s funds on deposit will be applied to satisfy the interim default payment obligation.

IT IS FURTHER ORDERED that, pursuant to Section 1.2104(g) of the Commission's rules, 47 C.F.R. § 1.2104(g), that Colorado CallComm, Inc. will be subject to a final default payment for its defaulted high bid for license BEA141FE in Auction No. 48 once the spectrum associated with the license is re-auctioned and the full default payment amount is determined.

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 Sections 0.283 and 0.331 of the Commission's rules, 47 C.F.R. §§ 0.283 and 0.331.

Sincerely,

Rita Cookmeyer
Financial Policy Analyst
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau
