



Federal Communications Commission
Washington, D.C. 20554

September 18, 2008

DA 08-2115

Via Certified Mail, Return Receipt Requested

V. David Miller II, President
Cross Telephone Company
704 3rd Avenue
Warner, OK 74469

Re: Final Bid Withdrawal Payment for Auction 66

Dear Mr. Miller:

Cross Telephone Company (“Cross”), a participant in Auction 66, withdrew its high bid on the Advanced Wireless Service license AW-CMA331-A (Arkansas 8 - Franklin) in that auction. Auction 78, the subsequent auction for that license, has closed.¹ As shown on Attachment A, in accordance with the Federal Communications Commission’s (“Commission’s”) rules, we are now able to calculate Cross’s final bid withdrawal payment obligation.

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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid. Under the rule in effect at the time of Auction 66, if a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to ten percent (10%) of the net amount of the withdrawn bid.² This payment amount is deducted from any upfront payments or down payments deposited for the bidder’s account with the Commission.³ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and, upon appropriate request, the Commission will refund the interim ten percent

¹ See Auction of AWS-1 and Broadband PCS Licenses Closes, Winning Bidders Announced for Auction 78, *Public Notice*, 23 FCC Rcd 12,749 (2008).

² See 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 n. 51 (1994); “Auction of Advanced Wireless Services Licenses Scheduled for June 29, 2006, Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 66,” *Public Notice*, 21 FCC Rcd 4562 (2006).

³ See 47 C.F.R. § 1.2106(d) and (e).

(10%) payment.⁴ If, in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn amount, then the bidder will be required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.⁵

As shown in Attachment A, in accordance with Section 1.2104(g)(1), after applying any interim bid withdrawal payments or amounts on deposit with the Commission, Cross has a refund due of \$3,910.00.

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) of the Commission's rules, 47 C.F.R. §§ 1.2104(g), Cross Telephone Company is ASSESSED a final bid withdrawal payment as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, Cross Telephone Company's interim bid withdrawal payment or funds on deposit will be applied towards the sum of the final bid withdrawal payment.

IT IS FURTHER ORDERED that, in accordance with Section 1.2104 of the Commission's rules, the Commission is prepared to refund to the payor(s) of record, the remaining funds withheld in connection with Cross Telephone Company's withdrawal referenced above. To obtain a refund, the payor(s) of record⁶ must submit a request(s) in accordance with the instructions set forth in Attachment B.

⁴ See 47 C.F.R. § 1.2104(g)(1).

⁵ See 47 C.F.R. § 1.2104(g)(1).

⁶ See Entertainment Unlimited, Inc., Request for Refund of Late Payment Fees for PCS Licenses Purchased in Auction 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).

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,

Margaret Wiener
Chief, Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

ATTACHMENT A

Multi-Auction Bid Withdrawal Payment/Refund Report

License Number Frequency Block	Withdrawn Gross Bid Auction 66	Withdrawn Net Bid Auction 66	Re-auction Gross Bid Auction 78	Re-auction Net Bid Auction 78	10% Deposit Withheld from Auction 66	Final Bid Withdrawal Payment
AW-CMA331-A	\$46,000.00	\$39,100.00	\$19,000.00	\$190,000.00	\$3,910.00	\$0.00

Total Final Bid Withdrawal Obligation for AW-CMA331-A	\$0.00
Less Total of Interim Withdrawal Payment and Amounts on Deposit	\$3,910.00
Total Refund Due for AW-CMA331-A	\$3,910.00

ATTACHMENT B

The Commission will make refunds upon compliance with the following procedures:

- For each payor of record, submit an Automated Clearing House Vendor/Miscellaneous Payment Enrollment Form (“ACH Form”) (see sample attached).⁶ You may obtain additional copies of this form at <http://www.fms.treas.gov/pdf/3881.pdf>.

The ACH form may be either faxed or mailed to the Commission. The fax number is (202) 418-2843. The mailing address is: Federal Communications Commission, Office of the Managing Director, Attention: Auctions Accounting Group, Room 1-C846, 445 12th Street SW, Washington, DC 20554. If you have questions concerning the completion of this form, please contact Gail Glasser at (202) 418-0578.

- Submit a letter (along with the ACH form) signed by the payor of record, requesting a refund. The Commission will calculate the amount of the applicable refund.

Refunds will be processed within approximately two weeks of the Commission’s receipt of the ACH form and accompanying letter from the payor of record.

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⁶ Refunds will be processed via ACH credits. ACH is a domestic funds transfer system providing an electronic parallel to the Federal Reserve check clearing system. ACH is governed by the Rules of the National Automated Clearing House Association. Generally speaking, an ACH is an instrument for moving money electronically from one participating financial institution to another.