



# PUBLIC NOTICE

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## CLOSED AUCTION OF LICENSES FOR CELLULAR UNSERVED SERVICE AREAS SCHEDULED FOR JUNE 17, 2008

### Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 77

#### AU Docket No. 08-32

Report No. AUC-08-77-B (Auction 77)

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## I. GENERAL INFORMATION

### A. Introduction

1. By this Public Notice, we announce the procedures and minimum opening bid amounts for the upcoming closed auction of Cellular Radiotelephone Service licenses covering two different unserved areas (“Auction 77”). Auction 77 is scheduled to begin on June 17, 2008. On March 21, 2008, in accordance with Section 309(j)(3) of the Communications Act of 1934, as amended,<sup>1</sup> the Wireless Telecommunications Bureau (“Bureau”) released a public notice seeking comment on competitive bidding procedures to be used in Auction 77.<sup>2</sup> In the *Auction 77 Comment Public Notice*, the Bureau proposed to award the licenses using a single-round sealed-bid auction and sought comment on procedures for the conduct of Auction 77. The Bureau received one comment and no reply comments in response to the *Auction 77 Comment Public Notice*.<sup>3</sup>

#### 1. Background of Proceeding

2. The Federal Communications Commission has been awarding cellular licenses since 1982. Cellular radio service is a mobile radiotelephone service in which common carriers are authorized to offer and provide mobile telecommunications service for hire to the general public.<sup>4</sup>

#### 2. Licenses to be Offered in Auction 77

3. The spectrum to be auctioned is the subject of two groups of pending mutually exclusive long-form applications (FCC Form 601s) for unserved area licenses in the Cellular Radiotelephone Service. Participation in Auction 77 will be limited to those applicants identified in Attachment A. Licenses will be auctioned for each mutually exclusive applicant group (“MX group”) identified in Attachment A. The winning bidder in each group will be licensed to serve only the unserved area proposed in its long-form application(s) for that MX group.

4. In MX Group FGN001, one of the applicants, E.N.M.R. Telephone Cooperative (“ENMR”), has filed two applications that propose different Cellular Geographic Service Areas

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<sup>1</sup> 47 U.S.C. § 309(j)(3)(E)(i) (requirement to seek comment on proposed auction procedures); *see also* 47 U.S.C. § 309(j)(4)(F) (authorization to prescribe reserve price or minimum bid); 47 C.F.R. § 1.2104(c) and (d).

<sup>2</sup> “Closed Auction of Licenses for Cellular Unserved Service Areas Scheduled for June 17, 2008; Comment Sought on Competitive Bidding Procedures For Auction 77,” *Public Notice*, DA 08-543, 23 FCC Rcd 4492 (2008) (“*Auction 77 Comment Public Notice*”).

<sup>3</sup> Comments of Excomm, LLC (filed April 4, 2008). Excomm states that it is the successor in interest to applicant Chama Wireless, LLC. *See id.* at 1 n.1.

<sup>4</sup> 47 C.F.R. § 22.99.

(“CGSAs”).<sup>5</sup> ENMR was required by the Commission’s rules to file two separate applications for these CGSAs.<sup>6</sup> Because ENMR’s applications are not mutually exclusive with each other, but each of these applications is mutually exclusive with the competing applicant in the MX group, if ENMR qualifies to bid in the auction, it will submit one bid for the opportunity to have both of its applications processed in the event that it is the winning bidder in MX Group FGN001.<sup>7</sup>

5. Consistent with the Commission’s determination in the *Competitive Bidding Ninth Report and Order*, all pending mutually exclusive applications for unserved area licenses in the Cellular Radiotelephone Service must be resolved through a system of competitive bidding.<sup>8</sup> When the short-form applications of two or more applicants within an MX group are accepted for filing, mutual exclusivity exists for auction purposes.<sup>9</sup> Once mutual exclusivity exists for auction purposes, even if only one applicant within an MX group submits an upfront payment, that applicant is required to submit a bid in order to obtain the license.<sup>10</sup> Any applicant that submits a short-form application but fails to timely submit an upfront payment will not be eligible to bid.

## **B. Rules and Disclaimers**

### **1. Relevant Authority**

6. Prospective applicants must familiarize themselves thoroughly with the Commission’s general competitive bidding rules set forth in Title 47, Part 1, of the Code of Federal Regulations, including recent amendments and clarifications;<sup>11</sup> rules relating to the Cellular Radiotelephone Service contained in Title 47, Part 22, of the Code of Federal Regulations;<sup>12</sup> and rules relating to applications, environment, practice and procedure contained in Title 47, Part 1, of the Code of Federal Regulations.<sup>13</sup> Prospective applicants must also be

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<sup>5</sup> ULS file numbers 0002299670, 0002299667.

<sup>6</sup> See 47 C.F.R. § 22.949(b)(3) (“Each Phase II application must request authorization for one and only one CGSA.”).

<sup>7</sup> See 47 C.F.R. § 22.949(b)(2).

<sup>8</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Amendment of Part 22 of the Commission’s Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Ninth Report and Order*, 11 FCC Rcd 14769, 14770 ¶ 2 (1996) (“*Competitive Bidding Ninth Report and Order*”).

<sup>9</sup> See Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-252, *Second Report and Order*, 9 FCC Rcd 2348, 2376 ¶ 165 (1994) (“*Competitive Bidding Second Report and Order*”).

<sup>10</sup> Cf. Letter to J. Dominic Monahan, Esq., counsel to Rob Allen Hauser, from Margaret Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, re: Request for Refund of Upfront Payment for MX Group FM 130 in Closed Broadcast Auction No. 25, DA 01-144, 16 FCC Rcd 2181 (2001); Letter to Carl Northrup, counsel to Vodafone Airtouch Licenses, LLC, from Margaret Wiener, Deputy Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, re: Request for Refund for Licenses Purchased in Auction 26, DA 01-2709, 22 FCC Rcd 22,358 (2001).

<sup>11</sup> 47 C.F.R. Part 1, Subpart Q.

<sup>12</sup> 47 C.F.R. Part 22.

<sup>13</sup> 47 C.F.R. Part 1.

thoroughly familiar with the procedures, terms and conditions (collectively, “terms”) contained in this Public Notice and the Commission’s decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees.<sup>14</sup>

7. The terms contained in the Commission’s rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to Auction 77. Copies of most auctions-related Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions/>. Additionally, documents are available for public inspection and copying between 8:00 a.m. and 4:30 p.m. Eastern Time (ET) Monday through Thursday and 8:00 a.m. to 11:30 a.m. ET Fridays at the FCC Reference Information Center, 445 12th Street, SW, Room CY-A257, Washington, DC 20554. Documents may also be purchased from the Commission’s duplicating contractor, Best Copy and Printing, Inc. (“BCPI”), 445 12th Street, SW, Room CY-B402, Washington, DC 20554, 800-378-3160 or at <http://www.bcpweb.com>.<sup>15</sup>

## 2. Prohibition of Collusion; Compliance with Antitrust Laws

8. To ensure the competitiveness of the auction process, Section 1.2105(c) of the Commission’s rules prohibits auction applicants for licenses in any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements unless such applicants have identified each other on their short-form applications (FCC Forms 175) as parties with whom they have entered into agreements pursuant to Section 1.2105(a)(2)(viii).<sup>16</sup>

### a. Entities Subject to Anti-Collusion Rule

9. The anti-collusion rule will apply to any applicants that submit short-form applications seeking to participate in Auction 77. Under the terms of the rule, applicants that have applied for licenses covering the same markets (unless they have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under Section 1.2105(a)(2)(viii)) must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include

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<sup>14</sup> See, e.g., Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Second Report and Order*, 9 FCC Rcd 2348 (1994) (*Competitive Bidding Second Report and Order*); Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Order on Reconsideration of the Third Report and Order, Fifth Report and Order, and Fourth Further Notice of Proposed Rule Making*, 15 FCC Rcd 15293 (2000) (modified by Erratum, DA 00-2475 (rel. Nov. 3, 2000)) (“*Part 1 Fifth Report and Order*”); Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, *Seventh Report and Order*, 16 FCC Rcd 17546 (2001) (“*Part 1 Seventh Report and Order*”) (amending the anti-collusion rule, which is codified at 47 C.F.R. §1.2105(c)).

<sup>15</sup> When ordering documents from BCPI, please provide the appropriate FCC document number (for example, FCC 96-361 for the *Competitive Bidding Ninth Report and Order*, or DA 08-926 for this Public Notice).

<sup>16</sup> 47 C.F.R. §§ 1.2105(a)(2)(viii), 1.2105(c)(1). See also *Part 1 Seventh Report and Order*, 16 FCC Rcd 17546 (2001); *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15297-98 ¶¶ 7-8.

communications regarding the post-auction market structure.<sup>17</sup> **This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.**<sup>18</sup>

10. For purposes of this prohibition, Section 1.2105(c)(7)(i) defines “applicant” as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, as well as all holders of partnership and other ownership interests and any stock interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.<sup>19</sup>

11. Entities and parties subject to the anti-collusion rule should take special care in circumstances where their employees may receive information directly or indirectly from a competing applicant relating to any competing applicant’s bids or bidding strategies. In situations where the anti-collusion rule views the same person as the applicant with respect to two different entities filing competing applications, under Bureau precedent the bids and bidding strategies of one applicant are necessarily conveyed to the other and, absent a disclosed bidding agreement, an apparent violation of the anti-collusion rule occurs.<sup>20</sup> The Bureau has not addressed situations where employees who do not qualify as the applicant, (e.g., are not officers or directors) receive information regarding a competing applicant’s bids or bidding strategies and whether that information might be deemed to necessarily convey to the applicant. We note that the exception to the anti-collusion rule providing that non-controlling interest holders may have interests in more than one competing bidder without violating the anti-collusion rule, provided specified conditions are met (including a certification that no prohibited communications have occurred or will occur), does not extend to controlling interest holders.<sup>21</sup>

#### **b. Prohibition Applies Until Down Payment Deadline**

12. Section 1.2105(c)’s anti-collusion prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction.<sup>22</sup>

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<sup>17</sup> See, e.g., “Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E, and F Block Bidders,” *Public Notice*, DA 96-1460 (rel. August 28, 1996).

<sup>18</sup> See, e.g., *Star Wireless, LLC, Forfeiture Order*, 19 FCC Rcd 18626, 18628 ¶ 4, n.19 (EB 2004), (collusion rule applies to applicants regardless of whether they are qualified to bid), upheld on review, *Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., Order on Review*, 22 FCC Rcd 8943 (2007), affirmed *Star Wireless, LLC v. FCC*, D.C. Cir. No. 07-1190 (decided April 22, 2008); Letter to Robert Pettit, Esquire, from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 16 FCC Rcd 10080 (WTB 2000) (declining to exempt an applicant’s controlling interest from coverage by the anti-collusion rule, even though the applicant never made an upfront payment for the auction and was not listed as a qualified bidder).

<sup>19</sup> 47 C.F.R. § 1.2105(c)(7)(i).

<sup>20</sup> Letter to John Cooper, Aurora Communications, Inc., from Margaret W. Wiener, DA 06-157, 21 FCC Rcd 523 (Auc. Div. 2006); Letter to Howard A. Kalmenson, Lotus Communications Corp., from Margaret W. Wiener, DA 06-156, 21 FCC Rcd 520 (Auc. Div. 2006); Letter to Colby M. May from Barbara A. Kreisman and Margaret W. Wiener, DA 05-2445, 20 FCC Rcd 14648 (Video and Auc. Divs. 2005).

<sup>21</sup> 47 C.F.R. § 1.2105(c)(4).

<sup>22</sup> 47 C.F.R. § 1.2105(c)(1).

### c. Prohibited Communications

13. Applicants for the upcoming Auction 77 and other parties that may be engaged in discussion with such applicants are cautioned of the need to comply with the Commission's anti-collusion rule, Section 1.2105(c).<sup>23</sup> The anti-collusion rule prohibits not only a communication about an applicant's own bids or bidding strategy, but also a communication of another applicant's bids or bidding strategy.<sup>24</sup> While the anti-collusion rule provisions do not prohibit business negotiations among auction applicants, applicants must remain vigilant so as not to communicate directly or indirectly information that affects, or could affect, bids or bidding strategy, or the negotiation of settlement agreements.

14. The Commission remains vigilant about prohibited communications taking place in other situations. For example, the Commission has warned that prohibited "communications concerning bids and bidding strategies may include communications regarding capital calls or requests for additional funds in support of bids or bidding strategies to the extent such communications convey information concerning the bids and bidding strategies directly or indirectly."<sup>25</sup>

15. Bidders should use caution in their dealings with other parties, such as members of the press, financial analysts, or others who might become a conduit for the communication of prohibited bidding information. Similarly, an applicant's public statement of intent not to participate in Auction 77 bidding could also violate the rule.

16. Applicants for licenses for any of the same geographic license areas must not communicate directly or indirectly about bids or bidding strategy.<sup>26</sup> Accordingly, such applicants are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more competing applicants, and conveys information concerning the substance of bids or bidding strategies between such applicants. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm or engineering firm or consulting firm), a violation similarly could occur.<sup>27</sup> In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule.<sup>28</sup> A violation of the anti-collusion rule could occur in other contexts, such as an individual serving as an officer for two or more applicants.<sup>29</sup> Moreover, the Commission has

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<sup>23</sup> 47 C.F.R. § 1.2105(c).

<sup>24</sup> See *Western PCS BTA I Corp.*, 14 FCC Rcd 21571 (1999).

<sup>25</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Memorandum Opinion and Order*, 9 FCC Rcd 7684, 7689 ¶ 12 (1994).

<sup>26</sup> *Part I Seventh Report and Order*, 16 FCC Rcd at 17549-50 ¶ 6.

<sup>27</sup> Application of Nevada Wireless for a License to Provide 800 MHz Specialized Mobile Radio Service in the Farmington, NM-CO Economic Area (EA-155) Frequency Band A, *Memorandum Opinion and Order*, 13 FCC Rcd 11973, 11977 ¶ 11 (1998) ("Nevada Wireless Order").

<sup>28</sup> *Id.*

<sup>29</sup> See, e.g., *Letter to Colby M. May, TCCSA, Inc., d/b/a Trinity Broadcasting Network, from Barbara A. Kreisman, Chief, Video Division, Media Bureau, and Margaret W. Wiener, Chief, Auctions and Spectrum Access Division*, (continued...)

found a violation of the anti-collusion rule where a bidder used the Commission's bidding system to disclose "its bidding strategy in a manner that explicitly invited other auction participants to cooperate and collaborate in specific markets,"<sup>30</sup> and has placed auction participants on notice that the use of its bidding system "to disclose market information to competitors will not be tolerated and will subject bidders to sanctions."<sup>31</sup>

17. In addition, when completing short-form applications, applicants should avoid any statements or disclosures that may violate the Commission's anti-collusion rule.

**d. Disclosure of Bidding Agreements and Arrangements**

18. The Commission's rules do not prohibit applicants from entering into otherwise lawful bidding agreements before filing their short-form applications, as long as they disclose the existence of the agreement(s) in their short-form application.<sup>32</sup> If parties agree in principle on all material terms prior to the short-form filing deadline, each party to the agreement must identify the other party or parties to the agreement on its short-form application under Section 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the short-form filing deadline, they should not include the names of parties to discussions on their applications, and they may not continue negotiations, discussions or communications with any other applicants for licenses covering any of the same or overlapping geographic areas after the short-form filing deadline.<sup>33</sup>

**e. Anti-Collusion Certification**

19. By electronically submitting a short-form application following the electronic filing procedures set forth in Attachment B to this Public Notice, each applicant certifies its compliance with Section 1.2105(c). However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.<sup>34</sup> The Commission has stated that it "intend[s] to scrutinize carefully any instances in which bidding patterns suggest that collusion may be occurring."<sup>35</sup> Any applicant found to have violated the anti-collusion rule may be subject to sanctions.<sup>36</sup>

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*Wireless Telecommunications Bureau*, 20 FCC Rcd 14648 (WTB/MB 2005) (finding apparent violation of anti-collusion rule where applicants with mutually exclusive applications reported sharing same individual as an officer and director and reported having no bidding agreement).

<sup>30</sup> Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, 12 FCC Rcd 17970, 17976 ¶ 12 (1997).

<sup>31</sup> Mercury PCS II, LLC, *Memorandum Opinion and Order*, 13 FCC Rcd 23755, 23760 ¶ 11 (1998).

<sup>32</sup> 47 C.F.R. § 1.2105(c)(7)(i).

<sup>33</sup> Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, 11 FCC Rcd 9645 (1995) ("Anti-Collusion Public Notice").

<sup>34</sup> *Nevada Wireless Order*, 13 FCC Rcd at 11978 ¶ 13.

<sup>35</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Memorandum Opinion and Order*, 9 FCC Rcd 7684, 7689 ¶ 12 (1994).

<sup>36</sup> 47 C.F.R. §§ 1.2105(c), 1.2107(d), and 1.2109(d).



## f. Antitrust Laws

20. Applicants are also reminded that, regardless of compliance with the Commission's rules, they remain subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace.<sup>37</sup> Compliance with the disclosure requirements of the Commission's anti-collusion rule will not insulate a party from enforcement of the antitrust laws.<sup>38</sup> For instance, a violation of the antitrust laws could arise out of actions taking place well before any party submits a short-form application.<sup>39</sup> The Commission has cited a number of examples of potentially anticompetitive actions that would be prohibited under antitrust laws: for example, actual or potential competitors may not agree to divide territories horizontally in order to minimize competition, regardless of whether they split a market in which they both do business, or whether they merely reserve one market for one and another for the other.<sup>40</sup> Similarly, the Bureau has long reminded potential applicants and others that "[e]ven where the applicant discloses parties with whom it has reached an agreement on the short-form application, thereby permitting discussions with those parties, the applicant is nevertheless subject to existing antitrust laws."<sup>41</sup> To the extent the Commission becomes aware of specific allegations that suggest that violations of the federal antitrust laws may have occurred, the Commission may refer such allegations to the United States Department of Justice for investigation.<sup>42</sup> If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions, among other sanctions.<sup>43</sup>

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<sup>37</sup> Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Third Further Notice of Proposed Rule Making*, 14 FCC Rcd 21558, 21560 ¶ 4 and n.4 (1999) *citing* Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Memorandum Opinion and Order*, 9 FCC Rcd 7684, 7689 ¶ 12 (1994) (“[W]e wish to emphasize that all applicants and their owners continue to be subject to existing antitrust laws. Applicants should note that conduct that is permissible under the Commission's Rules may be prohibited by the antitrust laws.”); Implementation of Section 309(j) of the Communications Act-Competitive Bidding, PP Docket No. 93-253, *Fourth Memorandum Opinion & Order*, 9 FCC Rcd 6858, 6869 n. 134 (1994)(“[A]pplicants will also be subject to existing antitrust laws.”). (“*Fourth Memorandum Opinion and Order*”).

<sup>38</sup> *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2388 ¶ 226. *See also* “Justice Department Sues Three Firms Over FCC Auction Practices,” *Press Release* 98-536 (DOJ Nov. 10, 1998).

<sup>39</sup> The Commission has cited a number of examples of such anticompetitive behavior. *See, e.g.*, Implementation of Section 309(j) of the Communications Act-Competitive Bidding, PP Docket No. 93-253, *Fourth Memorandum Opinion & Order*, 9 FCC Rcd 6858 at 6869 n.134.

<sup>40</sup> Implementation of Section 309(j) of the Communications Act-Competitive Bidding, PP Docket No. 93-253, *Fourth Memorandum Opinion & Order*, 9 FCC Rcd 6858, 6869 n.134 (1994); *see also* *Anti-Collusion Public Notice*.

<sup>41</sup> *Anti-Collusion Public Notice*.

<sup>42</sup> *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2388 ¶ 226.

<sup>43</sup> 47 C.F.R. § 1.2109(d); *see also* *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2388 ¶ 226.

**g. Duty to Report Prohibited Communications; Reporting Procedure**

21. If an applicant makes or receives a communication that appears to violate the anti-collusion rule, it must report such communication in writing to the Commission immediately, and in no case later than five business days after the communication occurs.<sup>44</sup> The Commission recently clarified that each applicant's obligation to report any such communication continues beyond the five-day period after the communication is made, even if the report is not made within the five day period.<sup>45</sup>

22. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.<sup>46</sup> Thus, Section 1.65 requires an auction applicant to notify the Commission of any substantial change to the information or certifications included in its pending short-form application. Applicants are therefore required by Section 1.65 to report to the Commission any communications they have made to or received from another applicant after the short-form filing deadline that affect or have the potential to affect bids or bidding strategy unless such communications are made to or received from parties to agreements identified under Section 1.2105(a)(2)(viii).

23. Parties reporting communications pursuant to Section 1.2105(a)(2) must take care to ensure that any such reports of prohibited communications do not themselves give rise to a violation of the anti-collusion rule. For example, a party's report of a prohibited communication could violate the rule by communicating prohibited information to other applicants through the use of Commission filing procedures that would allow such materials to be made available for public inspection. A party seeking to report such prohibited communications should consider submitting its report with a request that the report or portions of the submission be withheld from public inspection.<sup>47</sup> Such parties are also encouraged to coordinate with the Auctions and Spectrum Access Division staff if they have any questions about the procedures for submitting

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<sup>44</sup> 47 C.F.R. § 1.2105(c)(6).

<sup>45</sup> See Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94-102, Section 68.4(a) of the Commission's Rules Governing Hearing Aid-Compatible Telephones, WT Docket No. 01-309, Biennial Regulatory Review – Amendment of Parts 1, 22, 24, 27, and 90 to Streamline and Harmonize Various Rules Affecting Wireless Radio Services, WT Docket 03-264, Former Nextel Communications, Inc. Upper 700 MHz Guard Band Licenses and Revisions to Part 27 of the Commission's Rules, WT Docket No. 06-169, Implementing a Nationwide, Broadband, Interoperable Public Safety Network in the 700 MHz Band, PS Docket No. 06-229, Development of Operational, Technical and Spectrum Requirements for Meeting Federal, State and Local Public Safety Communications Requirements Through the Year 2010, WT Docket No. 96-86, Declaratory Ruling on Reporting Requirement under Commission's Part 1 Anti-Collusion Rule, WT Docket No. 07-166, *Second Report and Order*, FCC 07-132, 22 FCC Rcd 15,289, 15,403-04 ¶¶ 285-286 (2007).

<sup>46</sup> 47 C.F.R. § 1.65.

<sup>47</sup> See 47 C.F.R. §0.459 (requests that materials or information submitted to the Commission be withheld from public inspection). Filers requesting confidential treatment of documents must be sure that the cover page of the filing prominently displays that the documents seek confidential treatment. For example, a filing might include a cover page stamped with "Request for Confidential Treatment Attached" or "Not for Public Inspection." Any such request must cover all of the material to which the request applies. See 47 C.F.R. §0.459(a).

such reports.<sup>48</sup> This Public Notice provides additional guidance on procedures for submitting application-related information below.<sup>49</sup>

24. Applicants must be aware that failure to comply with the Commission's rules can result in enforcement action.

#### **h. Winning Bidders Must Disclose Terms of Agreements**

25. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in any bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process.<sup>50</sup>

#### **i. Additional Information Concerning Anti-Collusion Rule**

26. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment D. These documents are available on the Commission's auction anti-collusion web page.<sup>51</sup>

### **3. Protection of Quiet Zones**

27. Cellular Radiotelephone Service licensees must protect the radio quiet zones set forth in the Commission's rules.<sup>52</sup> Licensees are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating within the areas described in the Commission's rules.<sup>53</sup>

### **4. Due Diligence**

28. Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of Cellular Radiotelephone Service licenses. **The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in the Cellular Radiotelephone Service subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC license constitute a guarantee of business success.** Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

29. Potential bidders are strongly encouraged to conduct their own research prior to the beginning of bidding in Auction 77 in order to determine the existence of any pending legislative, administrative or judicial proceedings that might affect their decision regarding participation in the auction. Participants in Auction 77 are strongly encouraged to continue such

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<sup>48</sup> See section VI. (contact information), below

<sup>49</sup> See section II.H. (maintaining current information in short-form applications), below.

<sup>50</sup> 47 C.F.R. § 1.2107(d).

<sup>51</sup> <http://wireless.fcc.gov/auctions/anticollusion>

<sup>52</sup> 47 C.F.R. § 1.924.

<sup>53</sup> *Id.*

research throughout the auction. In addition, potential bidders should perform technical analyses sufficient to assure themselves that, should they prevail in competitive bidding for a specific license, they will be able to build and operate facilities that will fully comply with the Commission's technical and legal requirements as well as other applicable Federal, state, and local laws.

30. Applicants should also be aware that certain pending and future proceedings, including rulemaking proceedings or petitions for rulemaking, applications (including those for modification), requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review, before the Commission may relate to particular applicants or incumbent licensees or the licenses available in Auction 77. Of course, pending and future judicial proceedings may relate to particular applicants or incumbent licensees, or the licenses available in Auction 77. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in Auction 77.

31. Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned and that could have an impact on the availability of spectrum for Auction 77. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these matters may not be resolved by the beginning of bidding in the auction.

32. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses being offered.

33. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases, including, for example, court docketing systems. To the extent the Commission's databases may not include all information deemed necessary or desirable by an applicant, applicants may obtain or verify such information from independent sources or assume the risk of any incompleteness or inaccuracy in said databases. Furthermore, the Commission makes no representations or guarantees regarding the accuracy or completeness of information that has been provided by incumbent licensees and incorporated into its databases.

34. Potential applicants are strongly encouraged to physically inspect any prospective sites located in, or near, the geographic area for which they plan to bid, and also to familiarize themselves with the environmental review obligations described below in Section I.B.7.

## **5. Use of Integrated Spectrum Auction System**

35. The Commission will make available a browser-based bidding system to allow bidders to participate in Auction 77 over the Internet using the Commission's Integrated Spectrum Auction System ("ISAS" or "FCC Auction System"). The Commission makes no warranty whatsoever with respect to the FCC Auction System. In no event shall the Commission, or any of its officers, employees or agents, be liable for any damages whatsoever (including, but not limited to, loss of business profits, business interruption, loss of business information, or any other loss) arising out of or relating to the existence, furnishing, functioning or use of the FCC Auction System that is accessible to qualified bidders in connection with

Auction 77. Moreover, no obligation or liability will arise out of the Commission's technical, programming or other advice or service provided in connection with the FCC Auction System.

## 6. Fraud Alert

36. As is the case with many business investment opportunities, some unscrupulous entrepreneurs may attempt to use Auction 77 to deceive and defraud unsuspecting investors. Common warning signals of fraud include the following:

- The first contact is a "cold call" from a telemarketer, or is made in response to an inquiry prompted by a radio or television infomercial.
- The offering materials used to invest in the venture appear to be targeted at IRA funds, for example, by including all documents and papers needed for the transfer of funds maintained in IRA accounts.
- The amount of investment is less than \$25,000.
- The sales representative makes verbal representations that: (a) the Internal Revenue Service ("IRS"), Federal Trade Commission ("FTC"), Securities and Exchange Commission ("SEC"), FCC, or other government agency has approved the investment; (b) the investment is not subject to state or federal securities laws; or (c) the investment will yield unrealistically high short-term profits. In addition, the offering materials often include copies of actual FCC releases, or quotes from FCC personnel, giving the appearance of FCC knowledge or approval of the solicitation.

37. Information about deceptive telemarketing investment schemes is available from the Commission as well as the FTC and SEC. Additional sources of information for potential bidders and investors may be obtained from: (i) the FCC by going to <http://wireless.fcc.gov/csinfo/#fraud> or by telephone at (888) 225-5322 (FCC's Consumer Call Center); (ii) the FTC by going to <http://ftc.gov/bcp/edu/pubs/consumer/invest/inv03.shtm> or by telephone at (877) FTC-HELP ((877) 382-4357); and (iii) the SEC by going to <http://sec.gov/cgi-bin/txt-srch-sec?text=fraud&section=Investor+Information&x=8&y=5> or by telephone at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center at (800) 876-7060.

## 7. Environmental Review Requirements

38. Licensees must comply with the Commission's rules regarding implementation of the National Environmental Policy Act and other federal environmental statutes.<sup>54</sup> The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's environmental rules for each such facility.<sup>55</sup> The Commission's environmental rules require, among other things, that the licensee consult with expert agencies having environmental responsibilities, including the U.S. Fish and Wildlife Service, the State

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<sup>54</sup> 47 C.F.R. Ch. 1, Subpart I.

<sup>55</sup> 47 C.F.R. §§ 1.1301-1.1319.

Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency (through the local authority with jurisdiction over floodplains). In assessing the effect of facilities construction on historic properties, the licensee must follow the provisions of the Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process.<sup>56</sup> The licensee must prepare environmental assessments for facilities that may have a significant impact in or on wilderness areas, wildlife preserves, threatened or endangered species or designated critical habitats, historical or archaeological sites, Indian religious sites, floodplains, and surface features. The licensee also must prepare environmental assessments for facilities that include high intensity white lights in residential neighborhoods or excessive radio frequency emission.

### C. Auction Specifics

#### 1. Auction 77 Start Date

39. Bidding in Auction 77 will be held on **Tuesday, June 17, 2008**. Unless otherwise announced, the licenses to provide cellular service in the two different unserved areas will be offered at the same time.

40. The start and finish time of bidding will be announced by public notice approximately ten days before the start of the auction.

#### 2. Auction Title

41. Auction 77 – Closed Cellular Unserved

#### 3. Bidding Methodology

42. The bidding methodology for Auction 77 will be single-round sealed-bid. The single-round sealed-bid format will consist of one bidding round followed by the release of auction results. In the event of tied bids in an MX group, the Commission will post an announcement in the FCC Auction System to announce an additional round of bidding for that MX group. The Commission will conduct Auction 77 over the Internet using the FCC Auction System, and telephonic bidding will be available as well. All telephone calls are recorded.

#### 4. Pre-Auction Dates and Deadlines

43. The following dates and deadlines apply:

Auction 77 Short-Form Application (FCC Form 175) Filing Window Opens.....	May 14, 2008; 9:00 a.m. ET
Auction 77 Short-Form Application (FCC Form 175) Filing Window Deadline .....	May 16, 2008; prior to 6:00 p.m. ET
Auction 77 Upfront Payment Deadline (via wire transfer) ...	June 2, 2008; 6:00 p.m. ET
Auction 77 Begins .....	June 17, 2008

#### 5. Requirements for Participation in Auction 77

44. Those wishing to participate in Auction 77 must:

<sup>56</sup> 47 C.F.R. Part 1, Appendix C.

- Submit a short-form application (FCC Form 175) electronically prior to 6:00 p.m. ET, May 16, 2008, following the electronic filing procedures set forth in Attachment B to this Public Notice.
- Submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. ET, June 2, 2008, following the procedures and instructions set forth in Attachment C to this Public Notice.
- Comply with all provisions outlined in this Public Notice and applicable Commission rules.

## II. SHORT-FORM APPLICATION (FCC FORM 175) REQUIREMENTS

45. An application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits.<sup>57</sup> In this process, parties desiring to participate in the auction file streamlined, short-form applications (FCC Form 175) in which they certify under penalty of perjury as to their qualifications.<sup>58</sup> Eligibility to participate in bidding is based on the applicants' short-form applications and certifications as well as their upfront payments, as explained below.<sup>59</sup>

46. Entities seeking licenses available in Auction 77 must file a short-form application electronically via the FCC Auction System prior to 6:00 p.m. ET on May 16, 2008, following the procedures prescribed in Attachment B to this Public Notice. Applicants filing a short-form application are subject to the Commission's anti-collusion rules beginning on the deadline for filing, as described above. Applicants bear full responsibility for submitting accurate, complete and timely short-form applications. All applicants must certify on their short-form applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license.<sup>60</sup> Applicants should read the instructions set forth in Attachment B to this Public Notice carefully and should consult the Commission's rules to ensure that, in addition to the materials described below, all the information that is required under the Commission's rules is included with their short-form applications.

47. An entity may not submit more than one short-form application for Auction 77. If a party submits multiple short-form applications for Auction 77, only one application will be accepted for filing.

48. Applicants also should note that submission of a short-form application (and any amendments thereto) constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Applicants are not permitted to make major modifications to their applications;

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<sup>57</sup> 47 C.F.R. § 1.2105.

<sup>58</sup> *Id.*; *Competitive Bidding Second Report and Order*, 9 FCC Rcd at 2376 ¶ 163.

<sup>59</sup> Section III.D. "Upfront Payments – Due June 2, 2008," below.

<sup>60</sup> 47 C.F.R. § 1.2105(a)(2)(v).

such impermissible changes include a change of the certifying official to the application.<sup>61</sup> Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

**A. Preferences for Small Businesses and Others**

**1. Size Standards for Bidding Credits**

49. Bidding credits for designated entities will not be available in Auction 77. While the Commission has taken steps to encourage the growth of wireless services in qualifying federally recognized tribal lands by adopting a bidding credit program, we note that there are no such lands within the geographic areas covered by the licenses offered in this auction.<sup>62</sup> Thus, tribal lands bidding credits will not be available to winning bidders in Auction 77.

**2. Installment Payments**

50. Installment payment plans will not be available in Auction 77.

**B. License Selection**

51. On its short-form application for Auction 77, an applicant must select the license for which it has filed a long-form application. Applicants will not be able to select the license for which they have not filed a long-form application.

52. Applicants will not be able to change their license selections after the short-form application filing deadline.<sup>63</sup> Applicants interested in participating in Auction 77 must have selected license(s) available in the respective auction by the short-form application deadline. Applicants must confirm their license selections before the deadline for submitting FCC Form 175. The FCC Auction System will not accept bids from an applicant on individual licenses that the applicant has not selected on its FCC Form 175.

**C. Disclosure of Bidding Arrangements**

53. Applicants will be required to identify in their short-form application for Auction 77 all parties with whom they have entered into any agreements, arrangements, or understandings of any kind relating to the licenses being auctioned in Auction 77, including any agreements relating to post-auction market structure.<sup>64</sup>

54. Applicants also will be required to certify under penalty of perjury in their short-form applications that they have not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified in the application to participate in Auction 77 regarding the amount of their bids,

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<sup>61</sup> 47 C.F.R. § 1.2105(b).

<sup>62</sup> *See generally*, Extending Wireless Telecommunications Services to Tribal Lands, WTB Docket No. 99-266, *Third Report and Order*, 19 FCC Rcd 17652 (2004); *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 18 FCC Rcd 4775, 4778-79 (2003); *Report and Order and Further Notice of Proposed Rulemaking*, 15 FCC Rcd 11794 (2000).

<sup>63</sup> 47 C.F.R. § 1.2105(b)(2).

<sup>64</sup> 47 C.F.R. § 1.2105(a)(2)(viii), (c)(1).



bidding strategies, or the particular licenses on which they will or will not bid.<sup>65</sup> If an applicant has had discussions, but has not reached an agreement by the short-form application filing deadline, it would not include the names of parties to the discussions on its application and may not continue such discussions with any applicants after the deadline.<sup>66</sup>

55. After the filing of short-form applications, the Commission's rules do not prohibit a party holding a non-controlling, attributable interest in one applicant from acquiring an ownership interest in or entering into a joint bidding arrangement with other applicants, provided that: (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants.<sup>67</sup> While the anti-collusion rules do not prohibit non-auction-related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.<sup>68</sup> Further, as discussed above, compliance with the disclosure requirements of the Commission's anti-collusion rule will not insulate a party from enforcement of the antitrust laws.<sup>69</sup>

#### **D. Ownership Disclosure Requirements**

56. All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by Sections 1.2105 and 1.2112 of the Commission's rules.<sup>70</sup> Specifically, in completing the short-form application for Auction 77, applicants will be required to fully disclose information on the real party or parties-in-interest and ownership structure of the applicant. The ownership disclosure standards for the short-form application are prescribed in Sections 1.2105 and 1.2112 of the Commission's rules.<sup>71</sup> Each applicant is responsible for information submitted in its short-form application being complete and accurate.

57. An applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the short-form application (FCC Form 175) (such as information submitted in an online FCC Form 602 or in an FCC Form 175 filed for a previous auction using ISAS) will automatically be entered into the applicant's short-form application. An applicant is responsible for ensuring that the information submitted in its short-form application for Auction 77 is complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of

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<sup>65</sup> 47 C.F.R. § 1.2105(a)(2)(ix).

<sup>66</sup> Section I.B.2. "Prohibition of Collusion; Compliance with Antitrust Laws," above.

<sup>67</sup> 47 C.F.R. § 1.2105(c)(4)(i), (ii).

<sup>68</sup> Section I.B.2. "Prohibition of Collusion; Compliance with Antitrust Laws," above.

<sup>69</sup> *Id.*

<sup>70</sup> Section 1.2105 requires the disclosure on the short-form application of the applicant's ownership information set forth in both Sections 1.2105 and 1.2112. 47 C.F.R. §§ 1.2105, 1.2112.

<sup>71</sup> *Id.*

the deadline for filing the short-form application. Applicants can update any information that was entered automatically and needs to be changed directly in the short-form application.

### **E. Provisions Regarding Former and Current Defaulters**

58. Each applicant must state under penalty of perjury on its short-form application whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110,<sup>72</sup> have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency.<sup>73</sup> In addition, each applicant must certify under penalty of perjury on its short-form application that, as of the short-form filing deadline, the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by Section 1.2110, are not in default on any payment for Commission licenses (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency.<sup>74</sup> Prospective applicants are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution. These statements and certifications are prerequisites to submitting an application in the FCC Auction System.

59. “Former defaulters” — i.e., applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies — are eligible to bid in Auction 77, provided that they are otherwise qualified. However, as discussed in Section III.D.3. below, former defaulters are required to pay upfront payments that are fifty percent more than the normal upfront payment amounts.<sup>75</sup>

60. “Current defaulters” — i.e., applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that are in default on any payment for any Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency as of the filing deadline for short-form applications — are not eligible to bid in Auction 77.<sup>76</sup>

61. Applicants are encouraged to review the Bureau’s previous guidance on default and delinquency disclosure requirements in the context of the short-form application process.<sup>77</sup>

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<sup>72</sup> 47 C.F.R. § 1.2110.

<sup>73</sup> 47 C.F.R. § 1.2105(a)(2)(xi); *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15317 ¶ 42 and n.142.

<sup>74</sup> 47 C.F.R. § 1.2105(a)(2)(x); *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15317 ¶ 42.

<sup>75</sup> 47 C.F.R. § 1.2106(a).

<sup>76</sup> 47 C.F.R. §§ 1.2105(a)(2)(x) and 1.2105(b)(1); *see Part 1 Fifth Report and Order*, 15 FCC Rcd at 15317 ¶ 42 and n.142 (“If any one of an applicant’s controlling interests or their affiliates...is in default on any Commission licenses or is delinquent on any non-tax debt owed to any Federal agency at the time the applicant files it[s] FCC Form 175, the applicant will not be able to make the certification required by Section 1.2105(a)(2)(x)...and will not be eligible to participate in Commission auctions.”)

<sup>77</sup> “WTB Reminds Prospective Broadband PCS Spectrum Auction Applicants of Default and Delinquency Disclosure Requirements,” *Public Notice*, 19 FCC Rcd 21920 (2004) (“*Auction Default Disclosure Public Notice*”). This public notice may be found at <http://wireless.fcc.gov/auctions/58/>.

For example, it has been determined that to the extent that Commission rules permit late payment of regulatory or application fees accompanied by late fees, such debts will become delinquent for purposes of Sections 1.2105(a) and 1.2106(a) only after the expiration of a final payment deadline.<sup>78</sup> Therefore, with respect to regulatory or application fees, the provisions of Sections 1.2105(a) and 1.2106(a) regarding default and delinquency in connection with competitive bidding are limited to circumstances in which the relevant party has not complied with a final Commission payment deadline.<sup>79</sup>

62. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the "red light rule," that implement the Commission's obligations under the Debt Collection Improvement Act of 1996, which governs the collection of claims owed to the United States.<sup>80</sup> Under the red light rule, the Commission will not process applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission. In the same rulemaking order, the Commission explicitly declared, however, that the Commission's competitive bidding rules "are not affected" by the red light rule.<sup>81</sup> As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of the Commission's competitive bidding rules, including the provisions and certifications of Sections 1.2105 and 1.2106, with regard to current and former defaults or delinquencies. Applicants are reminded, however, that the Commission's Red Light Display System, which provides information regarding debts owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of Section 1.2105.<sup>82</sup> Thus, while the red light rule ultimately may prevent the processing of long-form applications by auction winners, an auction applicant's "red light" status is not necessarily determinative of its eligibility to participate in an auction or of its upfront payment obligation.

63. Prospective applicants should note that any long-form applications amended after the close of competitive bidding will be reviewed for compliance with the Commission's red

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<sup>78</sup> Letter to Cheryl A. Tritt, Esq., Morrison and Foerster, LLP, from Margaret Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, 19 FCC Rcd 22907 (2004) (clarifying the term "debt" or "non-tax debt" as referenced in 47 C.F.R. §§ 1.2105(a) and 1.2106(a)). This letter may be found at: <http://wireless.fcc.gov/auctions/58/>.

<sup>79</sup> Even where Commission rules expressly permit late payment, subject to payment of an additional late fee, and do not impose a final payment deadline, the Commission may in some cases issue a demand for payment by a date certain. See 47 C.F.R. § 1.1164(a). Failure to comply with the terms of a particular demand letter in the time period provided may render the subject debt delinquent, notwithstanding rules generally permitting late payment.

<sup>80</sup> Amendment of Parts 0 and 1 of the Commission's Rules; Implementation of the Debt Collection Improvement Act of 1996 and Adoption of Rules Governing Applications or Requests for Benefits by Delinquent Debtors, MD Docket No. 02-339, *Report and Order*, 19 FCC Rcd 6540 (2004) (implementing Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996)) ("*Debt Collection Report and Order*").

<sup>81</sup> *Debt Collection Report and Order*, 19 FCC Rcd at 6541 n.11. Footnote 11 specifically mentions 47 C.F.R. § 1.2105(a)(2)(x) and (xi).

<sup>82</sup> *Auction Default Disclosure Public Notice*, 19 FCC Rcd at 21920 (addressing relationship between Commission's Red Light Display System and FCC Form 175 default and delinquency disclosure requirements for auction applicants).

light rule,<sup>83</sup> and such review may result in the dismissal of a winning bidder's long-form application.<sup>84</sup>

#### **F. Other Information**

64. Applicants owned by members of minority groups and/or women, as defined in Section 1.2110(c)(3),<sup>85</sup> may identify themselves in filling out their short-form applications regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of “designated entities” in its auctions.<sup>86</sup>

#### **G. Minor Modifications to Short-Form Applications (FCC Form 175)**

65. Applicants are not permitted to make major modifications to their short-form applications (e.g., change their license selections, change control of the applicant, or change the certifying official) after the short-form application deadline.<sup>87</sup> Thus, any change in control of an applicant, resulting from a merger for example, will be considered a major modification to the applicant’s FCC Form 175, which will consequently be dismissed.<sup>88</sup>

66. Applicants are, however, permitted to make only minor changes to their FCC Form 175 after the short-form application deadline. Permissible minor changes include, for example, deletion and addition of authorized bidders (to a maximum of three) and revision of addresses and telephone numbers of the applicants and their contact persons.

67. If an applicant wishes to make permissible minor changes to its short-form application, such changes should be made electronically to its Auction 77 short-form application using the FCC Auction System. Applicants are reminded to click on the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with a unique file number.

68. In addition, during those periods outside of the initial and resubmission filing windows (i.e., when an applicant cannot electronically update its FCC Form 175), an applicant should submit a letter briefly summarizing the changes and subsequently update its short-form applications in ISAS as soon as possible. Note: After the filing window has closed, the auction system will not permit applicants to make certain changes, such as legal classification. Any letter describing changes to an applicant’s short-form application should be submitted by electronic mail to the following address: [auction77@fcc.gov](mailto:auction77@fcc.gov). The electronic mail summarizing

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<sup>83</sup> *Debt Collection Report and Order*, 19 FCC Rcd 6540. See also 47 C.F.R. § 1.1112.

<sup>84</sup> Applicants that have their long-form applications dismissed will be deemed to have defaulted and will be subject to default payments under 47 C.F.R. §§ 1.2104(g) and 1.2109(c).

<sup>85</sup> 47 C.F.R. § 1.2110(c)(3).

<sup>86</sup> Designated entities are defined as small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies. See 47 C.F.R. § 1.2110(a).

<sup>87</sup> 47 C.F.R. § 1.2105(b).

<sup>88</sup> We reiterate that, even if an applicant’s FCC Form 175 is dismissed, the applicant would remain subject to the anti-collusion rule until the down-payment deadline, which will occur after the auction or the contingent subsequent auction.

the changes must include a subject or caption referring to Auction 77 and the name of the applicant (e.g., “RE: Changes to Auction 77 Short-Form Application of ABC Corp.”). The Bureau requests that parties format any attachments to electronic mail as Adobe<sup>®</sup> Acrobat<sup>®</sup> (pdf) or Microsoft<sup>®</sup> Word documents. Questions about short-form application (FCC Form 175) amendments should be directed to the Auctions and Spectrum Access Division at (202) 418-0660.

69. Applicants must not submit application-specific material through the Commission’s Electronic Comment Filing System (ECFS). Further, as discussed above, parties submitting information related to their applications should use caution to ensure that information contained in their submissions do not contain confidential information or communicate information that would violate the Commission’s anti-collusion rule.<sup>89</sup>

#### **H. Maintaining Current Information in Short-Form Applications (FCC Form 175)**

70. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application.<sup>90</sup> If an amendment reporting substantial changes is a “major amendment” as defined by Section 1.2105, the major amendment will not be accepted and may result in the dismissal of the short-form application.<sup>91</sup>

71. As noted in Section II.G., after the short-form filing deadline, applicants may make only minor changes to their short-form applications. Applicants must click on the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission. In addition, applicants must submit a letter, briefly summarizing the changes, by electronic mail at the following address: [auction77@fcc.gov](mailto:auction77@fcc.gov). The electronic mail summarizing the changes must include a subject or caption referring to Auction 77 and the name of the applicant. The Bureau requests that parties format any attachments to electronic mail as Adobe<sup>®</sup> Acrobat<sup>®</sup> (pdf) or Microsoft<sup>®</sup> Word documents.

72. Applicants must **not** submit application-specific material through ECFS.

### **III. PRE-AUCTION PROCEDURES**

#### **A. Auction Seminar**

73. An auction seminar will not be held for Auction 77. Applicants having questions about pre-auction procedures, conduct of the auction, the FCC Auction System, or the Cellular Radiotelephone Service and auction rules are encouraged to contact the appropriate staff listed in paragraph 124 of this Public Notice.

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<sup>89</sup> See section I.B.2.g., above.

<sup>90</sup> 47 C.F.R. § 1.65.

<sup>91</sup> 47 C.F.R. § 1.2105(b)(2).

**B. Short-Form Applications (FCC Form 175) — Due Prior to 6:00 p.m. ET on May 16, 2008**

74. In order to be eligible to bid in Auction 77, applicants must first follow the procedures set forth in Attachment B to this Public Notice to submit an FCC Form 175 application electronically via the FCC Auction System.<sup>92</sup> This application must be received at the Commission prior to 6:00 p.m. ET on May 16, 2008. **Late applications will not be accepted.** There is no application fee required when filing an FCC Form 175, but an applicant must submit an upfront payment to be eligible to bid.<sup>93</sup>

75. Applications may generally be filed at any time beginning at 9:00 a.m. ET on May 14, 2008, and the filing window will close prior to 6:00 p.m. ET on May 16, 2008. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their applications multiple times until the filing deadline on May 16, 2008.

76. Applicants must always click on the SUBMIT button on the Certify & Submit screen of the electronic form to successfully submit or modify their FCC Form 175. Any form that is not submitted will not be reviewed by the FCC. Additional information about accessing, completing, and viewing the FCC Form 175 is included in Attachment B. FCC Auctions Technical Support is available at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (text telephone (TTY)); hours of service are Monday through Friday, from 8:00 a.m. to 6:00 p.m. ET. In order to provide better service to the public, all calls to Technical Support are recorded.

**C. Application Processing and Minor Corrections**

77. After the deadline for filing short-form applications, the Commission will process all timely submitted applications to determine which are complete, and subsequently will issue a public notice identifying (1) those applications that are complete; (2) those applications rejected; and (3) those applications that are incomplete because of minor defects that may be corrected, and the deadline for resubmitting corrected applications.

78. As described more fully in the Commission's rules, after the May 16, 2008, short-form filing deadline, applicants may make only minor corrections to their applications. Applicants will not be permitted to make major modifications to their applications (*e.g.*, change their license selections, change control of the applicant, or change certifying official).<sup>94</sup> FCC personnel will communicate regarding a short-form application only with an applicant's contact person or certifying official, as designated on the applicant's FCC Form 175, unless the applicant's certifying official or contact person notifies the Commission in writing that applicant's counsel or other representative is authorized to speak on its behalf.<sup>95</sup>

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<sup>92</sup> 47 C.F.R. § 12105(a).

<sup>93</sup> See Section III.D. "Upfront Payments — Due June 2, 2008," below.

<sup>94</sup> 47 C.F.R. § 1.2105(b); see also *Two Way Radio of Carolina, Inc., Memorandum Opinion and Order*, 14 FCC Rcd 12035 (1999).

<sup>95</sup> In no event, however, will the FCC send registration materials to anyone other than the contact person listed on the applicant's FCC Form 175 or respond to a request for replacement registration materials from anyone other than (continued....)

**D. Upfront Payments — Due June 2, 2008**

79. In order to be eligible to bid in Auction 77, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and sent by facsimile to Mellon Bank in Pittsburgh, PA. **All upfront payments for Auction 77 must be received in the proper account at Mellon Bank by 6:00 p.m. ET on June 2, 2008.**

**1. Making Upfront Payments by Wire Transfer**

80. Wire transfer payments for Auction 77 must be received by 6:00 p.m. ET on June 2, 2008.<sup>96</sup> **No other payment method is acceptable.**<sup>97</sup> To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline. Applicants will need the following information:

ABA Routing Number: 043000261  
 Receiving Bank: Mellon Pittsburgh  
 500 Ross St.  
 Pittsburgh, PA 15262  
 BENEFICIARY: FCC/Account # 910-0198  
 Originating Bank Information (OBI Field): (Skip one space between each information item)  
 “AUCTIONPAY”  
 APPLICANT FCC REGISTRATION NUMBER (FRN): (same as FCC Form 159, block 21)  
 PAYMENT TYPE CODE: (same as FCC Form 159, block 24A: “A77U”)  
 FCC CODE 1: (same as FCC Form 159, block 28A: “77”)  
 PAYER NAME: (same as FCC Form 159, block 2)  
 LOCKBOX NO. # 358410

**NOTE:** The BNF and Lockbox number are specific to the upfront payments for Auction 77. Do not use BNF or Lockbox numbers from previous auctions.

81. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must send by facsimile a completed FCC Form 159 (Revised 7/05) to Mellon Bank at (412) 209-6045. On the cover sheet of the facsimile, write “Wire Transfer — Auction Payment for Auction 77.” In order to meet the Commission’s upfront payment deadline,

(Continued from previous page) \_\_\_\_\_  
 the authorized bidder, contact person, or certifying official listed on the applicant’s FCC Form 175. *See* Section III.E., below.

<sup>96</sup> A wire transfer is a transaction that you initiate through your bank. It authorizes your bank to wire funds from your account to our lockbox bank, the Mellon Bank in Pittsburgh, PA. Additional information on wire transfers is available on the Commission’s web site at <http://www.fcc.gov/fees/wiretran.html>.

<sup>97</sup> The Commission will not accept checks, credit cards, or ACH payments.

an applicant's payment must be credited to the Commission's account before the deadline.<sup>98</sup>

**Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.**

82. Please note that:

- All payments must be made in U.S. dollars.
- All payments must be made by wire transfer.
- Upfront payments for Auction 77 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-auction payments.
- Failure to deliver the upfront payment as instructed by the June 2, 2008, deadline will result in dismissal of the application and disqualification from participation in the auction.

## 2. FCC Form 159

83. A completed FCC Remittance Advice Form (FCC Form 159, Revised 7/05) must be sent by facsimile to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 7/05) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment C to this Public Notice. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

## 3. Upfront Payments and Bidding Eligibility

84. In the *Part 1 Order*, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction.<sup>99</sup> In addition, in the *Part 1 Fifth Report and Order*, the Commission ordered that applicants that are former defaulters be required to pay upfront payments 50 percent greater than non-former defaulters.<sup>100</sup> For purposes of this calculation, the "applicant" includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by Section 1.2110 of the Commission's rules.<sup>101</sup>

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<sup>98</sup> Letter to Patrick Shannon, Counsel for Lynch 3G Communications Corp., from Margaret W. Wiener, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, 18 FCC Rcd 11552 (2003).

<sup>99</sup> 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, 5697-98 ¶ 16 (1997) ("*Part 1 Order*").

<sup>100</sup> *Part 1 Fifth Report and Order*, 15 FCC Rcd at 15316-17 ¶¶ 40-42; 47 C.F.R. § 1.2106(a); see Section II.E. "Provisions Regarding Former and Current Defaulters," above.

<sup>101</sup> 47 C.F.R. § 1.2110(c).



85. Upfront payments help deter frivolous or insincere bidding. In addition, upfront payments provide the Commission with a source of funds in the event that the bidder incurs liability during the auction. Applicants must make the required upfront payment in order to be able to bid in Auction 77.<sup>102</sup>

86. In the *Auction 77 Comment Public Notice*, the Bureau proposed to set the upfront payment at \$500 for each applicant. The Bureau did not receive any comments in response to the proposed upfront payments, or on its proposal that the upfront payment amount would determine a bidder's eligibility to participate in the auction. Therefore, we adopt the upfront payment for each applicant in Auction 77 as proposed and set forth in Attachment A of this Public Notice.

87. **“Former defaulters” must calculate their upfront payment by multiplying the upfront payment amount by 1.5.**<sup>103</sup>

#### 4. Applicant's Wire Transfer Information for Purposes of Refunds of Upfront Payments

88. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information listed below be supplied to the FCC. Applicants can provide the information electronically during the initial short-form application filing window after the form has been submitted. (Applicants are reminded that information submitted as part of an FCC Form 175 will be available to the public; for that reason, wire transfer information should **not** be included in an FCC Form 175.) Wire Transfer Instructions can also be manually sent by facsimile to the FCC, Financial Operations, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418-2843. Eligibility for refunds is discussed in Section V.F., below. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418-0578.

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

#### E. Auction Registration

89. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for Auction 77. Qualified bidders are those applicants whose

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<sup>102</sup> *Auction 77 Comment Public Notice* at ¶ 10.

<sup>103</sup> 47 C.F.R. § 1.2106(a).

FCC Form 175 applications have been accepted for filing, are complete and have timely submitted upfront payments sufficient to make them eligible to bid in Auction 77.

90. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID<sup>®</sup> tokens that will be required to place bids, the Integrated Spectrum Auction System (ISAS) Bidder's Guide, and the Auction Bidder Line phone number.

91. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, June 12, 2008, should call (717) 338-2868. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

92. In the event that SecurID<sup>®</sup> tokens are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacements. Qualified bidders requiring the replacement of these items must call Technical Support at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY).

#### **F. Remote Electronic Bidding**

93. The Commission will conduct Auction 77 over the Internet, and telephonic bidding will be available as well. Only qualified bidders are permitted to bid. Each applicant should indicate its bidding preference – electronic or telephonic – on the FCC Form 175. In either case, each authorized bidder must have its own SecurID<sup>®</sup> token, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID<sup>®</sup> tokens, while applicants with two or three authorized bidders will be issued three tokens. **For security purposes, the SecurID<sup>®</sup> tokens, the telephonic bidding telephone number, and the Integrated Spectrum Auction System (ISAS) Bidder's Guide are only mailed to the contact person at the contact address listed on the FCC Form 175.** Please note that each SecurID<sup>®</sup> token is tailored to a specific auction; therefore, SecurID<sup>®</sup> tokens issued for other auctions or obtained from a source other than the FCC will not work for Auction 77.

94. Please note that the SecurID<sup>®</sup> tokens can be recycled, and the Bureau encourages bidders to return the tokens to the FCC. The Bureau will provide pre-addressed envelopes that bidders may use to return the tokens once the auction is closed.

#### **G. Mock Auction**

95. A mock auction will not be held for Auction 77. Applicants having questions about conduct of the auction or use of the FCC Auction System are encouraged to contact the appropriate staff listed in paragraph 124 of this Public Notice.

### **IV. AUCTION 77**

96. Auction 77 will be held on Tuesday, June 17, 2008. The start and finish time of the bidding round will be announced in a public notice listing the qualified bidders, which is to be released approximately 10 days before the start of the auction.

**A. Auction 77 Structure****1. Single-Round Sealed-Bid Auction**

97. In the *Auction 77 Comment Public Notice*, the Bureau proposed to award the licenses included in Auction 77 using a single-round sealed-bid auction. Excomm supports the Bureau's proposal.<sup>104</sup> We conclude that it is operationally feasible and appropriate to auction the cellular unserved service area licenses through a single-round sealed-bid auction.

**2. Auction Delay, Suspension, or Cancellation**

98. In the *Auction 77 Comment Public Notice*, the Bureau proposed 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, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding.<sup>105</sup> The Bureau received no comment on this issue.

99. Because our approach to notification of delay during an auction has proven effective in resolving exigent circumstances in previous auctions, we adopt the Bureau's proposed rules regarding auction delay, suspension, or cancellation. 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, administrative or weather necessity, evidence of an auction security breach or unlawful bidding activity, or for any other reason that affects the fair and efficient conduct of competitive bidding. 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.

**B. Bidding Procedures****1. Round Structure**

100. The Commission will conduct Auction 77 over the Internet, and telephonic bidding will be available as well. The toll-free telephone number for the Auction Bidder Line will be provided to qualified bidders. The start and finish time of the bidding round will be announced in the public notice listing qualified bidders, which is released approximately 10 days before the start of the auction.

101. The single-round sealed-bid format will consist of one bidding round followed by the release of auction results. In the event of tied bids in an MX group, the Commission will post an announcement in the FCC Auction System to announce an additional round of bidding for that MX group. Excomm supports this proposal.<sup>106</sup>

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<sup>104</sup> See Excomm Comments at 1-2.

<sup>105</sup> *Id.* at ¶ 9.

<sup>106</sup> See Excomm Comments at 1-2.

## 2. Reserve Price or Minimum Bid

102. Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses are subject to auction (i.e., because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest.<sup>107</sup> Consistent with this mandate, the Commission directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction.<sup>108</sup> Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the service areas, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum being auctioned.<sup>109</sup> The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.<sup>110</sup>

103. In the *Auction 77 Comment Public Notice*, the Bureau proposed to set the minimum bid at \$500 for each of the two cellular unserved areas in Auction 77. The Bureau received no comments concerning this proposal. Therefore, the minimum bid for each of the two cellular unserved areas is set at \$500 and is set forth in Attachment A of this Public Notice.

## 3. Bid Amounts

104. Bidders will be able to place a bid in any whole dollar amount equal to or greater than the minimum bid for the cellular unserved area for which they applied.

105. Bidders are also cautioned that they should type their bid amounts carefully because, even if mistakenly or erroneously made, bidders still assume a binding obligation to pay their full bid amount.<sup>111</sup>

## 4. Bid Removal and Bid Withdrawal

106. *Bid Removal.* Before the close of a bidding round, a bidder has the option of removing any bids placed in that round. Once a round closes, a bidder may no longer remove a bid. By using the “remove bids” function in the FCC Auction System, a bidder may effectively “unsubmit” any bid placed within that round. This procedure will enhance bidder flexibility during the auction, and therefore the Bureau adopts these proposals for Auction 77.

107. *Bid Withdrawal.* With respect to bid withdrawals, we proposed not to allow any bid withdrawals (withdrawal of provisionally winning bids from previous rounds) in Auction 77. We received no comments on this issue. Therefore, the Bureau adopts its proposal.

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<sup>107</sup> 47 U.S.C. § 309(j)(4)(F).

<sup>108</sup> Amendment of Part 1 of the Commission’s Rules — Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 375, 455-456 ¶ 141 (1997) (“*Part 1 Third Report and Order*”).

<sup>109</sup> *Id.*

<sup>110</sup> *Id.*

<sup>111</sup> See C.F.R. § 1.2104(g)(2).

## 5. Auction Results

108. At the end of the bidding round, the winning bid for each cellular unserved area will be determined based on the highest bid amount received for the area. Bids placed during a round will be made public at the conclusion of that round.<sup>112</sup> Specifically, after a round closes, the Bureau will compile reports of all bids placed and which bidders made them, the random numbers assigned to each bid (for tie-breaking purposes), new minimum acceptable bid amounts, and will post the reports for public access.

109. In the event of identical high bid amounts being submitted in a cellular unserved area (i.e., tied bids), the Bureau proposed to allow an additional bidding round or rounds, if necessary, for bidders to submit higher bids for the cellular unserved area with tied bids. The minimum bid for the next round will be calculated by rounding the tied bid amount up to the next \$100.<sup>113</sup> The license(s) will be awarded to the bidder submitting the highest bid in the additional round. If no bids are placed in the additional round, the license(s) will be awarded to the bidder that placed the tied bid that was assigned the higher random number (a random number having previously been assigned to each bid). If there is a tie for the winning bid in the additional round, the FCC may add another tie-breaking round or rounds, or stop the auction without awarding the license(s).

110. The Commission will announce the schedule for a subsequent round via an announcement in the FCC Auction System, concurrent with the release of round results. Excomm states that it has no objection to the proposal to conduct an additional round in the event of tied bids.<sup>114</sup> The Bureau believes that this approach is efficient and therefore adopts its proposal.

111. Excomm requests that the Bureau confirm that the amount of all bids submitted during the auction will be publicly revealed after the close of bidding to promote transparency in the auction process.<sup>115</sup> Consistent with past practice, the Bureau will announce the winning bid shortly after the close of the auction, and the amounts of all bids submitted during the auction will be made publicly available.

## 6. Auction Announcements

112. The Commission will use auction announcements to announce items such as the schedule for a subsequent round in the event of tied bids on a license. All auction announcements will be available by clicking a link in the FCC Auction System.

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<sup>112</sup> Because this is a closed auction in which two publicly identified applicants applied for each of the licenses, the Bureau did not propose to implement anonymous bidding procedures for this auction.

<sup>113</sup> If the amount of the tied bids is a multiple of \$100, the minimum bid for the next round will be calculated by adding \$100 to the tied bid amount.

<sup>114</sup> See Excomm Comments at 1-2.

<sup>115</sup> See *id.* at 2.

## V. POST-AUCTION PROCEDURES

### A. Down Payments

113. After bidding has ended in Auction 77, the Commission will issue a public notice declaring the auction closed and identifying winning bidders, down payments and final payments due.

114. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission for licenses offered in Auction 77 to 20 percent of the net amount of its winning bids.<sup>116</sup>

### B. Final Payments

115. Each winning bidder will be required to submit the balance of the net amount of its winning bids within 10 business days after the applicable deadline for submitting down payments.<sup>117</sup>

### C. Long-Form Application (FCC Form 601)

116. Within an MX group, the previously filed long-form application(s) (FCC Form 601) of the unsuccessful bidder will be dismissed following the grant of the winning bidder's license(s).

### D. Ownership Disclosure Information Report (FCC Form 602)

117. Winning bidders must ensure that ownership information reported on FCC Form 602 is accurate and up to date. Further instructions will be provided to winning bidders at the close of the auction.

### E. Default and Disqualification

118. Any winning bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 C.F.R. § 1.2104(g)(2). The payments include both a deficiency payment, equal to the difference between the amount of the bidder's bid and the amount of the winning bid the next time a license covering substantially the same spectrum and geographic area is won in an auction, plus an additional payment equal to a percentage of the defaulter's bid or of the subsequent winning bid, whichever is less.

119. The percentage of the bid that a defaulting bidder must pay in addition to the deficiency will depend in part on the auction format ultimately chosen for a particular auction, if the license is subsequently reauctioned. In package auctions without package bidding, the amount can range from three percent up to a maximum of twenty percent, established in advance of the auction and based on the nature of the service and the inventory of the licenses being offered.<sup>118</sup>

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<sup>116</sup> 47 C.F.R. § 1.2107(b).

<sup>117</sup> 47 C.F.R. § 1.2109(a).

<sup>118</sup> See *CSEA/Part 1 Report and Order*, 21 FCC Rcd at 903 ¶ 30.

120. As previously noted by the Commission, defaults weaken the integrity of the auction process and impede the deployment of service to the public, and an additional default payment of more than three percent will be more effective in deterring defaults. Accordingly, in the *Auction 77 Comment Public Notice*, the Bureau proposed to set the additional default payment for the auction of the two cellular unserved areas licenses at twenty percent of the applicable bid. Since Auction 77 is being conducted strictly to resolve conflicts between entities in two cellular unserved areas that were unable to resolve their mutually exclusive applications, a default by the winning bidder would suggest that the bidder has not made a good-faith effort to abide by FCC license assignment procedures, thereby weakening the integrity of the auction process. We proposed to impose the maximum payment percentage to deter such behavior. The Bureau received no comments on this proposal. Therefore, we adopt our proposal.

121. Finally, the Bureau notes that in the event of a default, the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid amount.<sup>119</sup> In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.<sup>120</sup>

#### F. Refund of Remaining Upfront Payment Balance

122. All upfront payments submitted by applicants in Auction 77 may be available to be refunded after the conclusion of the auction; subject to any required payments (i.e. winning bid, deficiency, and/or default payments). All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

123. Bidders are encouraged to file their refund information electronically using the **Refund Information** icon found on the *Auction Application Manager* page or through the **Wire Transfer for Refund Purposes** link available in various locations throughout the FCC Auction System. If an applicant has completed the refund instructions electronically, the refund will be sent automatically. If an applicant has not completed the refund instructions electronically, the applicant may send a written request for the refund, including wire transfer instructions and FCC Registration Number (FRN) by facsimile to the Auctions Accounting Group at (202) 418-2843 or by mail to:

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

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<sup>119</sup> 47 C.F.R. § 1.2109(b) and (c).

<sup>120</sup> 47 C.F.R. § 1.2109(d).

NOTE: Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Gail Glasser at (202) 418-0578.

## VI. CONTACT INFORMATION

### 124. Contact Information Table:

#### **GENERAL AUCTION INFORMATION**

General Auction Questions  
Auction Process and Procedures

FCC Auctions Hotline  
(888) 225-5322, option two;  
or (717) 338-2868  
Hours of service: 8:00 a.m. – 5:30 p.m. ET,  
Monday through Friday

#### **AUCTION LEGAL INFORMATION**

Auction Rules, Policies, Regulations

Auctions and Spectrum Access Division  
Sayuri Rajapakse (202) 418-0660

#### **LICENSING INFORMATION**

Service Rules, Policies, Regulations  
Licensing Issues, Engineering Issues  
Due Diligence, Incumbency Issues

Mobility Division (202) 418-0620  
Erin McGrath (legal)  
Gabriel Ubieta (engineering)  
Denise Walter (licensing)

#### **TECHNICAL SUPPORT**

Electronic Filing  
FCC Auction System (Hardware/Software  
Issues)

FCC Auctions Technical Support Hotline  
(877) 480-3201, option nine; or (202) 414-1250  
(202) 414-1255 (TTY)  
Hours of service: 8:00 a.m. – 6:00 p.m. ET,  
Monday through Friday

#### **PAYMENT INFORMATION**

Wire Transfers  
Refunds

FCC Auctions Accounting Branch  
Gail Glasser  
(202) 418-0578  
(202) 418-2843 (Fax)

#### **AUCTION BIDDER LINE**

Will be furnished only to qualified bidders

#### **FCC COPY CONTRACTOR**

Additional Copies of  
Commission Documents

Best Copy and Printing, Inc  
445 12th Street, SW, Room CY-B402  
Washington, DC 20554  
(800) 378-3160  
<http://www.bcpiweb.com>

#### **PRESS INFORMATION**

Chelsea Fallon (202) 418-7991

#### **FCC FORMS**

(800) 418-3676 (outside Washington, DC)  
(202) 418-3676 (in the Washington area)  
<http://www.fcc.gov/formpage.html>



**ACCESSIBLE FORMATS**

Braille, large print, electronic files, or audio format for people with disabilities

Consumer and Governmental Affairs Bureau  
(202) 418-0530 or (202) 418-0432 (TTY)  
[fcc504@fcc.gov](mailto:fcc504@fcc.gov)

**FCC INTERNET SITES**

<http://www.fcc.gov>  
<http://wireless.fcc.gov/auctions/>  
<http://wireless.fcc.gov/uls>

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**ATTACHMENT A**

**Auction 77 – Closed Auction of Licenses for Cellular Unserved Service Areas  
DA 08-926**

This page was intentionally inserted as a placeholder for Attachment A, which is available as a separate file.

**ATTACHMENT B****AUCTION 77 SHORT-FORM APPLICATION FILING INSTRUCTIONS**

This attachment provides instructions for filing a short-form application (FCC Form 175) to participate in Auction 77.

**Application Preparation and Submission for Auction 77**

An applicant must submit its short-form application (FCC Form 175) electronically, via the FCC Auction System. **Short-form applications for Auction 77 must be submitted and confirmed prior to 6:00 p.m. ET on Friday, May 16, 2008.** Late applications or unconfirmed submissions of electronic data will not be accepted.

Applicants are reminded that all information required in connection with applications to participate in spectrum license auctions is necessary to determine each applicant's qualifications, and as such will be available for public inspection. Accordingly, an applicant should not include any unnecessary sensitive information, such as Taxpayer Identification Numbers or Social Security Numbers, in its short-form application. Applicants may request that information submitted not be made routinely available for public inspection following the procedures set forth in Section 0.459.<sup>121</sup> Such requests must be included as an attachment to FCC Form 175 and identify the information to which the request applies. Because the required information bears on each applicant's qualifications, confidentiality requests will not be routinely granted.<sup>122</sup>

Applicants may make multiple changes to their short-form applications until the close of the filing window. However, applicants must press the **SUBMIT** button in the FCC Auction System for the changes to be submitted and considered by the Commission.

**A. Minimum Software Requirements**

The following software, at a minimum, is required to use the FCC Integrated Spectrum Auction System:

- Web Browser, either of the following:
  - Microsoft® Internet Explorer 6.0 or higher (recommended). Your browser must have either Microsoft VM or Java Plug-In Version 1.5 installed.
  - Mozilla® Firefox® 2.0 or higher, with Java Plug-In Version 1.5.

To obtain Java Plug-In Version 1.5, point your browser at [http://java.sun.com/javase/downloads/index\\_jdk5.jsp](http://java.sun.com/javase/downloads/index_jdk5.jsp) and click the Download button for the Java Runtime Environment (JRE) 5.0 option.

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<sup>121</sup> 47 C.F.R. § 0.459.

<sup>122</sup> 47 C.F.R. § 0.459(a).

- PDF Viewer: Adobe Acrobat Reader 5.0 or higher (available at <http://www.adobe.com>)

Currently, the Apple® Mac OS® is not supported.

## B. Logging On

To submit an FCC Form 175 electronically via the Internet, an applicant should start its web browser and point it to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location). Once on the *FCC Integrated Spectrum Auction System* page, the applicant may log on to create a short-form application using its FCC Registration Number (“FRN”) and password. To log in, the applicant must enter the FRN it used to complete its FCC Form 601 for unserved area licenses in the Cellular Radiotelephone Service.

## C. Application Filing Instructions

The FCC Form 175 requests information needed to determine whether an applicant qualifies to participate in competitive bidding for Commission licenses or construction permits.<sup>123</sup> Pursuant to Section 1.2105(a), FCC Form 175 must be submitted electronically. Applicants must submit required information as entries in the data fields of the FCC Form 175 whenever a data field is available for that information. Attachments should not be used to provide information that can be supplied within the data fields of the FCC Form 175.

The screens comprising FCC Form 175 consist of five series, each requesting five separate types of information: 1) *Applicant Information*; 2) *License Selection*; 3) *Agreements*; 4) *Ownership*; and 5) *Certify and Submit*. In addition, *Summary* screens, a sixth series, appear prior to the *Certify and Submit* screens. The *Summary* screens provide an overview of an applicant’s FCC Form 175 that facilitates reviewing and revising specific information, as well as an automated check for certain inconsistencies and omissions in submitted information.

To simplify filling out FCC Form 175, certain initial information applicants provide is used to determine what additional information is needed, and what subsequent screens will appear to collect that information. For example, a corporate applicant, unlike an individual applicant, must identify a corporate officer or director responsible for the application (sometimes called a responsible party). If an applicant identifies itself as an individual, no additional information is needed regarding an additional responsible party, and screens requesting responsible party information will not appear. However, if the applicant identifies itself as a corporation, subsequent screens in the FCC Form 175 will ask for responsible party information.

Applicants should be able to fill out FCC Form 175 by following the instructions below. Additional help in filling out FCC Form 175 can be accessed from the electronic FCC Form 175 in two ways: 1) by clicking on the **Help** link in the upper right of any screen, which will open Auction Application Online Filing Help; or 2) by clicking on the text of any **Common Question** link appearing on the right side of the screen. The common questions displayed relate to the current screen and vary from screen to screen. In the event the assistance provided by these

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<sup>123</sup> See generally, 47 C.F.R. § 1.2105.

sources is insufficient, filers should use the contact information provided in the *Procedures Public Notice* to obtain additional assistance.

## 1. Applicant Information

The *Applicant Information* screens are the first series of screens in FCC Form 175. In the *Applicant Information* screens, the applicant will provide basic information including

- the applicant's legal classification (e.g., individual, corporation, rural telephone cooperative, etc.)
- optional information regarding the applicant's status as a minority- or woman-owned business or a rural telephone company
- the applicant's name, which will be used as the bidder name during the auction
- citizenship for individuals, or jurisdiction of formation for legal entities
- for applicants classified as legal entities (e.g., corporations and partnerships), the name of and information regarding the entity's responsible individual
- the name, address, telephone and facsimile number of a contact person who will communicate with the Commission regarding the applicant's FCC Form 175<sup>124</sup>
- the names of up to three persons authorized to bid for the applicant in the auction
- the applicant's preference for electronic or telephonic bidding

Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- Applicants must indicate their legal classification before continuing to subsequent screens, because the legal classification will determine which subsequent screens will appear.
- P.O. Boxes may not be used for an applicant's address.
- To simplify filling out the FCC Form 175, an applicant that has the same address as its contact person can click on the **COPY APPLICANT ADDRESS** button to automatically fill in the contact person's address. P.O. Boxes may not be used for a contact person's address.
- Applicants must identify at least one authorized bidder. While applicants may change their authorized bidders at a later date, in Auction 77 only those bidders listed on the FCC Form 175 will be authorized to place bids for the applicant during the auction.
- Any qualified bidder may bid either via the Internet or by telephone during the auction. Specifying a preference for electronic or telephonic bidding assists the Commission in determining the staff required for telephonic bidding.

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<sup>124</sup> FCC personnel will communicate only with an applicant's contact person or certifying official, as designated on the applicant's FCC Form 175, unless the applicant's certifying official or contact person notifies the Commission in writing that applicant's counsel or other representative is authorized to speak on its behalf.

## 2. License Selection

The *License Selection* screens make up the second series of screens in FCC Form 175. In the *License Selection* screens, the applicant will identify the license offered in Auction 77 for which the applicant has filed a long-form application. Until the applicant selects a license, the applicant cannot submit the FCC Form 175. Applicants will not be able to select the license for which they have not filed a long-form application, and applicants will not be able to change their selection.

## 3. Agreements

The *Agreements* screens are the third series of screens in FCC Form 175. In the *Agreements* screens, applicants will provide information regarding auction-related agreements subject to disclosure under the Commission's rules.<sup>125</sup>

On the first screen, applicants must state whether the applicant has any agreements that are subject to disclosure under the Commission's rules by responding yes or no to a question asking whether the applicant has entered into partnerships, joint ventures, consortia, or other agreements or understandings of any kind relating to the licenses being auctioned, including any such agreement relating to the post-auction market structure. If an applicant answers "No," the applicant will continue with the *Ownership* series of screens, described below. If the applicant answers "Yes," the applicant will continue with additional *Agreements* screens.

In the additional *Agreements* screens, applicants must provide an identifying name for the agreement and must identify the parties, other than the applicant, to the agreement. The agreement identifier can be a brief description of the agreement or a simple reference name; however, each agreement identifier must be unique. Neither the name of the agreement or its description should indicate license selection.

The information required for the other parties to an agreement differs if the party is an individual or entity. Applicants may provide FRNs for the other parties to the agreement, if available. While providing the FRN is optional, it helps prevent identification errors resulting from parties having similar names or a single party using multiple names.

Up to three parties to the agreement (not including the applicant) can be identified on a single screen. Additional parties can be added by clicking the **ADD MORE PARTIES** button. In the event of an error, the name of a party and its associated FRN can be deleted from the form by clicking on the **RESET** button. After identifying all parties to a particular agreement, click the **FINISH THIS AGREEMENT** button.

The next screen, the *View/Edit Agreements* screen, lists the agreements and parties to each agreement that already have been entered. From this screen, you have the following options:

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<sup>125</sup> 47 C.F.R. § 1.2105(a)(2)(viii).

- Clicking the **Edit** icon or the **Agreements** link to return to the initial *Agreements* screen regarding whether or not the applicant has any agreements.
- Modifying agreement identifiers by clicking on them.
- Clicking the **Delete This Agreement** link to delete an agreement and associated parties.
- Modifying information regarding a particular party to an agreement by clicking on the party's name.
- Clicking the **Remove** icon next to information about a particular party to remove the corresponding party.
- Clicking the **Add Party to This Agreement** link to add a new party to an agreement.
- Clicking the **CREATE NEW AGREEMENT** button to add additional agreements.

When you have identified all agreements and the parties to each agreement, click the **CONTINUE** button.

#### 4. Ownership

The *Ownership* screens are the fourth series of screens in the FCC Form 175. In the *Ownership* screens, applicants will provide information regarding parties with ownership interests in the applicant that must be disclosed pursuant to Commission rules.<sup>126</sup> Commission rules also require the disclosure and description of FCC-regulated businesses that are owned by the applicant and parties with certain ownership interests in the applicant.<sup>127</sup>

##### a. Information Already on File with the Commission

Some applicants may have previously filed FCC Form 602 disclosing ownership information in connection with wireless services. To simplify filling out FCC Form 175, an applicant's most current FCC Form 602 ownership information on file with the Commission, if in an electronic format compatible with FCC Form 175, automatically will be entered into its FCC Form 175 for Auction 77. Applicants with ownership information automatically entered into FCC Form 175 will proceed directly to the *View/Edit Ownership* screen described below.

Each applicant is responsible for information submitted in its FCC Form 175 being complete and accurate. Applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for submitting their short-form applications for Auction 77. Applicants can update the information directly in the FCC Form 175. After the deadline for filing this FCC Form 175, ownership information in a submitted FCC Form 175 will

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<sup>126</sup> 47 C.F.R. §§ 1.2105(a)(2)(ii)(B), 1.2110 and 1.2112.

<sup>127</sup> 47 C.F.R. § 1.2112.



be considered to be the applicant's most current ownership information on file with the Commission.

**b. Disclosable Interest Holders and FCC-Regulated Businesses**

- Sections 1.2105 and 1.2112(a) of the Commission's rules lists the interest holders in the applicant that must be disclosed in FCC Form 175.<sup>128</sup>
- Section 1.2112(a)(7) lists the FCC-regulated business entities, or applicants for an FCC license, that must be disclosed in FCC Form 175.<sup>129</sup>

The initial *Ownership* screen enables the applicant to add information regarding either a disclosable interest holder or the FCC-regulated businesses in which the applicant has an interest. Each screen will specify the information that the applicant must provide. Please note the following with respect to particular information requested:

- **If an application includes one or more disclosable interest holders with an indirect ownership in the applicant,<sup>130</sup> the application must include an attachment regarding the relationship between the indirect interest holder(s) and the applicant.** The attachment should provide an overview of the ownership chain that links the indirect owners to the applicant, e.g., indirect owner X owns 50% of holding company Y; indirect owner Z owns 50% of holding company Y; and holding company Y owns 100% of the applicant.<sup>131</sup> One attachment connecting all indirect owners to the applicant is sufficient. Applicants should not provide separate attachments for each indirect owner. An overview of the ownership connections is sufficient. The attachment should not duplicate all the detailed information already provided in the data fields of the FCC Form 175.
- The "Percent of Interest Held in Applicant" should reflect the disclosable interest holder's aggregate ownership interest in the applicant. In some cases, e.g., circumstances where there is joint ownership or indirect ownership resulting in different owners sharing the same ownership interests, the sum of all the percentages held by disclosable interest holders may exceed 100%.
- FCC-regulated businesses in which the applicant has an interest can be entered from the initial *Add Ownership Disclosure Information* screen. FCC-regulated businesses in which a disclosable interest holder has an interest can be entered from the *Add FCC Regulated Business* screen in the series of screens for entering information about a disclosable interest holder.

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<sup>128</sup> 47 C.F.R. §§ 1.2105, 1.2112(a). Section 1.2105 requires the disclosure on the short-form application of applicant ownership information as set forth in Section 1.2112.

<sup>129</sup> 47 C.F.R. § 1.2112(a)(7).

<sup>130</sup> 47 C.F.R. § 1.2112(a)(6).

<sup>131</sup> *Id.*

- When adding an FCC-regulated business, “Percent of Interest Held” refers to the percent of interest held by the applicant or disclosable interest holder, as applicable, in the FCC-regulated business.
- To simplify filling out the FCC Form 175, applicants can click on the **Select Business(es) Already Submitted** link when entering an FCC-regulated business previously entered as an FCC-regulated business for the applicant or another disclosable interest holder. When doing so, be certain to enter the “Percent of Interest Held” in the FCC-regulated business by the current party, either the applicant or the disclosable interest holder, with respect to which the FCC-regulated business is being entered.

### c. View/Edit Ownership Disclosure Information

The *View/Edit Ownership Disclosure Information* screen summarizes ownership information already entered in the FCC Form 175, either automatically from compatible ownership information on file with the Commission or directly by the applicant, and provides links enabling existing information to be revised and additional information to be added.

Existing ownership information is divided into three groups:

- Disclosable Interest Holders of this Applicant
- FCC-Regulated Businesses of this Applicant
- Affiliates of this Applicant

To view the detailed information submitted regarding the applicant, a disclosable interest holder, FCC-regulated business, or an affiliate, click on the relevant party’s name. To delete existing information or add a new entry in one of the categories, click on the relevant link. This screen also provides a link enabling applicants to add an FCC-regulated business directly to an existing disclosable interest holder, without needing to reenter the disclosable interest holder’s information.

### d. Bidding Credit Revenue Information

Bidding credits for designated entities are not available for cellular unserved area licenses.<sup>132</sup>

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<sup>132</sup> Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, Amendment of Part 22 of the Commission’s Rules to Provide for the Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules, CC Docket No. 90-6, *Ninth Report and Order*, 11 FCC Rcd 14769, 14791, ¶ 45 (1996) (“*Competitive Bidding Ninth Report and Order*”).

## 5. Summary

The *Summary* screens are the fifth series of screens in FCC Form 175. The *Summary* screens summarize information applicants have provided in previous screens, offering an overview of an applicant's FCC Form 175 to help locate specific information. The *Summary* screens will appear prior to the *Certify and Submit* screens, in order to permit the applicant to review all the information entered in previous screens and to provide an opportunity to check for errors in the information submitted.

The first *Summary* screen, the *Summary Overview* screen, lists the first four series of screens in the application and provides a **VIEW/EDIT** button to access each one.

- Clicking **VIEW/EDIT** for Applicant Information produces a *Detail for Applicant Information* screen showing what you entered for each data entry field. To change any data item, click the **Edit** icon for the relevant data field
- Clicking **VIEW/EDIT** for License Selection takes you to the *View/Edit License Selection* screen discussed above in the License Selection section.
- Clicking **VIEW/EDIT** for Agreements takes you to the *Agreements* screen discussed above in the Agreements section.
- Clicking **VIEW/EDIT** for Ownership takes you to the *View/Edit Ownership Disclosure Information* screen discussed above in the Ownership section.

Clicking on the **CHECK ERRORS** button initiates an automated check of the application. If the automated check encounters any errors that must be corrected before submitting the application, the error(s) will be listed in an Error box at the top of the screen. To correct one of these errors, click its corresponding **EDIT** button. In addition, if the automated check encounters any apparent errors that might render the application incomplete if the application is submitted with current information, the apparent error will be listed in a Warning box. To revise the information related to the apparent error, click its corresponding **EDIT** button.

Each applicant is solely responsible for providing complete and accurate information in its FCC Form 175. The automated check is provided to assist applicants in completing FCC Form 175. However, the automated check cannot be relied upon to determine whether the information provided in the FCC Form 175 is complete or accurate. The automated check may not catch all errors and applicants cannot rely on the automated check to determine the completeness or the accuracy of submitted information.

If the automated check does not encounter any errors, a box will appear displaying the message “**No Errors found - You may continue to Certify and Submit.**” Applicants may then click the **CONTINUE TO CERTIFY** button.

## 6. Attaching Additional Information

If an applicant needs to provide additional information not requested directly in the screens comprising the FCC Form 175, that information can be provided in an attachment. For example, applicants can describe the relationship among indirect owners of the applicant.

The screen for adding an attachment to FCC Form 175 can be accessed by clicking on the **Attachments** link in the upper right of any screen. The *Add Attachment* screen requests information regarding the type of attachment to be added, the name of the file to be attached, and a brief description of the attachment.

NOTE: If the attachment is a request for a waiver of any of the Commission's rules or procedures, the applicant must identify the "Type" of attachment as a "Waiver" to facilitate prompt processing.

Once the requested information is provided, applicants can add the attachment to the application by clicking on the **ADD ATTACHMENT** button. A list of any attachments already uploaded along with the applicant's FCC Form 175 will appear at the bottom of the screen.

When uploading attachments, applicants may use a variety of file formats, including Word 2000 or earlier, WordPerfect 5.x or later, Adobe PDF, and ASCII text. Applicants must, however, verify that the files contain all exhibit information, and files may be no larger than 10 Mb and must not be password-protected. Graphics files (e.g., .bmp, .tiff, .jpg) and spreadsheets (e.g., Excel, Lotus) are supported but not recommended.

## 7. Certify and Submit

The *Certify and Submit* screens are the sixth and final series of screens in FCC Form 175. In the *Certify and Submit* screens, applicants will provide certifications required of all participants in the Commission's competitive bidding processes.<sup>133</sup>

The first *Certify and Submit* screen requires each applicant to indicate whether the applicant, any affiliate, any controlling interest, and any affiliate of a controlling interest have ever been in default on any Commission license or have ever been delinquent on any non-tax debt owed to any Federal agency.<sup>134</sup> Applicants associated with a relevant entity that previously has been in default or delinquent – but is not currently – may participate in an auction, if otherwise qualified. However, such applicants must submit an upfront payment equal to 50 percent more than otherwise required.<sup>135</sup>

The second *Certify and Submit* screen lists the certifications required of all applicants in the Commission's competitive bidding processes and requests that the applicant's certifying official be identified and sign the application.

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<sup>133</sup> See generally, 47 C.F.R. § 1.2105(a)(2) (iv)-(vii) and (ix)-(xi).

<sup>134</sup> 47 C.F.R. § 1.2105(a)(2)(xi).

<sup>135</sup> 47 C.F.R. § 1.2106(a).

**Who Can Certify.** A short-form application can be certified by: (1) the applicant, if the applicant is an individual; (2) one of the partners, if the applicant is a partnership; (3) an officer, director, or duly-authorized employee, if the applicant is a corporation; (4) an officer, if the applicant is an unincorporated association; (5) the trustee, if the applicant is an amateur radio service club; or (6) a duly elected or appointed official who is authorized to do so under the laws of the applicable jurisdiction, if the applicant is a governmental entity.

All applicants must certify on their short-form applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license.<sup>136</sup> Applicants are reminded that submission of a FCC Form 175 constitutes a representation by the certifying official that he or she is an authorized representative of the applicant and has read the form's instructions and certifications, and that the contents of the application, its certifications and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution. As noted above, a change of certifying official is considered a major change of the short-form application and will not be permitted after the short-form deadline.

Once the two *Certify and Submit* screens have been filled out, the application may be submitted by clicking on the **SUBMIT** button.

After the application has been submitted, a confirmation screen will be displayed that states the submission time and date, along with a unique file number. Applicants should print a copy of the confirmation page for their records. Applicants may then view and print copies of their submitted applications by clicking on the **PRINT PREVIEW** button.

Short-form applications for Auction 77 must be submitted and confirmed prior to 6:00 p.m. ET on Friday, May 16, 2008. Late applications or unconfirmed submissions of electronic data will not be accepted.

## **8. Withdrawing an Application Before the Short-Form Filing Deadline and Updating Existing Applications**

### **a. Withdrawing an Application**

To withdraw a submitted application before the short-form application filing deadline, applicants should click on the **Withdraw Application** icon on the Auction Application Manager *Create or Review Auction Applications* page. All previously-submitted data will be deleted.

**Applications may not be withdrawn after the short-form application filing deadline.**

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<sup>136</sup> 47 C.F.R. § 1.2105(a)(2)(v).

## b. Updating Existing Applications

The *Create or Review Auction Applications* page displays any application created or submitted within a filing window. This page shows the application status, the date and time the application was last updated, and the date and time the application was last submitted. This page may be used as a reference to confirm the date and time of the most recent submission of the application.

To review or continue working on an existing application, an applicant should click the application auction number, which will produce the application's *Summary* page in a view/edit mode. Applicants must go to the *Certify and Submit* screens and click the **SUBMIT** button to submit any changes made to their short-form applications. After the revised application has been submitted, a confirmation page will be displayed that states the submission time and date, along with your unique file number. Applicants should print a copy of the confirmation page for their records. Applicants may then view and print copies of their submitted applications by clicking on the **PRINT PREVIEW** button.

After the filing deadline, applicants may make only minor changes to their short-form applications. An applicant will not be permitted to make major modifications to its application (e.g., changes to applicant's license selections or certifying official, or changes in control of the applicant.<sup>137</sup>

## 9. Refund of Upfront Payment

On *My Auctions* page, applicants can click on the **See Wire Transfer for Refund Purposes** link to provide wire transfer instructions for purposes of refunds of upfront payments. The Commission will use this information to refund excess funds on deposit upon receipt of a written refund request.

### D. Application Review

Once the short-form application review process is complete, short-form applications can be viewed by searching for them in the FCC database. To start a search, go to either <http://auctions.fcc.gov/> (primary location) or <http://auctions2.fcc.gov/> (secondary location) and click the **Auction Applications** link in the Public Access area on the *FCC Integrated Spectrum Auction System* page.

### E. Technical Support

For technical assistance with using FCC software, contact the FCC Technical Support Hotline at (877) 480-3201, option nine; (202) 414-1250; or (202) 414-1255 (TTY). The FCC Technical Support Hotline is available Monday through Friday from 8 a.m. to 6 p.m. ET. All calls to the FCC Technical Support Hotline are recorded.

*Paperwork Reduction Act Approval:* The FCC Form 175 was assigned control number 3060-0600 and was approved by the Office of Management and Budget on November 1, 2006.

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<sup>137</sup> 47 C.F.R. § 1.2105(b).

## ATTACHMENT C

AUCTION-SPECIFIC INSTRUCTIONS FOR  
FCC REMITTANCE ADVICE (FCC FORM 159-February 2003 Edition)Upfront Payments

The following information supplements the standard instructions for FCC Form 159 (Revised 7/05), and is provided to help ensure correct completion of FCC Form 159 for upfront payments for Auction 77. Applicants need to complete FCC Form 159 carefully, because:

- **Mistakes may affect bidding eligibility; and**
- **Lack of consistency between information provided in FCC Form 159 (Revised 7/05), FCC Form 175, long-form application, and correspondence about an application may cause processing delays.**

Therefore appropriate cross-references between the FCC Form 159 Remittance Advice and the short-form application (FCC Form 175) are described below:

Block Number	Required Information
1	LOCKBOX # - Enter "358410"
2	Payer Name - Enter the name of the person or company making the payment. If the applicant itself is the payer, this entry would be the same as FCC Form 175.
3	Total Amount Paid - Enter the amount of the upfront payment associated with the FCC Form 159 (Revised 7/05).
4-8	Street Address, City, State, ZIP Code - Enter the street mailing address ( <b>not Post Office box number</b> ) where mail should be sent to the payer. If the applicant is the payer, these entries would be the same as FCC Form 175 from the Applicant Information section.
9	Daytime Telephone Number - Enter the telephone number of a person knowledgeable about this upfront payment.
10	Country Code - For addresses outside the United States, enter the appropriate postal country code (available from the Mailing Requirements Department of the U.S. Postal Service).
11	Payer FRN - Enter the payer's ten-digit FCC Registration Number (FRN) registered in the Commission Registration System (CORES).

- 21 Applicant FRN (Complete only if applicant is different than payer.) – Enter the applicant’s ten-digit FRN registered in CORES.
- 24A Payment Type Code - Enter “A77U”
- 25A Quantity - Enter the number “1”
- 26A Fee Due - Amount of Upfront Payment
- 27A Total Fee - Will be the same amount as 26A.
- 28A FCC Code 1 - Enter the number “77” (indicating Auction 77).

NOTES:

- Do not use Remittance Advice (Continuation Sheet), FCC Form 159-C, for upfront payments.
- If applicant is different from the payer, complete blocks 13 through 21 for the applicant, using the same information shown on FCC Form 175. Otherwise leave them blank.
- Since credit card payments will not be accepted for upfront payments for an auction, leave Section E blank.

**Winning Bidder Requirements, Down Payments and Final Payments**

Specific information regarding down payments and final payments will be included in a post-auction public notice announcing the winning bidders.



## ATTACHMENT D

SUMMARY LISTING OF JUDICIAL, COMMISSION AND BUREAU DOCUMENTS  
ADDRESSING APPLICATION OF THE ANTI-COLLUSION RULE**A. Judicial Decisions:**

*Star Wireless, LLC v. FCC*, No. 07-1190, slip op. (D.C. Cir. Apr. 22, 2008).

*High Plains Wireless, L.P. v. FCC*, 276 F.3d 599 (D.C. Cir. 2002).

**B. Commission Decisions:**

Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, WT Docket No. 06-150, *Second Report and Order*, FCC 07-123, 22 FCC Rcd 15289, 15395 ¶¶ 285-86, 15489 (2007).

Star Wireless, LLC and Northeast Communications of Wisconsin, Inc., *Order on Review*, FCC 07-80, 22 FCC Rcd 8943 (2007).

Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Seventh Report and Order*, FCC 01-270, 16 FCC Rcd 17546 (2001).

Notice of Apparent Liability for Forfeiture of Western PCS BTA I Corp., *Memorandum Opinion and Order*, FCC 99-385, 14 FCC Rcd 21571 (1999); Application of Western PCS BTA I Corp., *Notice of Apparent Liability for Forfeiture*, FCC 98-42, 13 FCC Rcd 8305 (1998).

Notice of Apparent Liability for Forfeiture of US West Communications, Inc., *Order*, FCC 99-90, 14 FCC Rcd 8816 (1999); Application of US West Communications, Inc., *Notice of Apparent Liability for Forfeiture*, FCC 98-41, 13 FCC Rcd 8286 (1998).

Application of Mercury PCS II, LLC, *Memorandum Opinion and Order*, FCC 98-203, 13 FCC Rcd 23755 (1998); Applications of: Mercury PCS II, LLC, *Notice of Apparent Liability for Forfeiture*, FCC 97-388, 12 FCC Rcd 17970 (1997).

Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, FCC 97-413, 13 FCC Rcd 374, 463-469 ¶¶ 155-166 (1997).

Commercial Realty St. Pete, Inc., *Memorandum Opinion and Order*, FCC 96-400, 11 FCC Rcd 15374 (1996); Commercial Realty St. Pete, Inc., *Notice of Apparent Liability for Forfeiture*, FCC 95-58, 10 FCC Rcd 4277 (1995).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Memorandum Opinion and Order*, FCC 94-295, 9 FCC Rcd 7684, 7687-7689 ¶¶ 8-12 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fourth Memorandum Opinion and Order*, FCC 94-264, 9 FCC Rcd 6858, 6866-6869 ¶¶ 47-60 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Memorandum Opinion and Order*, FCC 94-215, 9 FCC Rcd 7245, 7253-7254 ¶¶ 48-53 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, FCC 94-178, 9 FCC Rcd 5532, 5570-5571 ¶¶ 91-92 (1994).

Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Second Report and Order*, FCC 94-61, 9 FCC Rcd 2348, 2386-2388 ¶¶ 221-226 (1994).

### **C. Wireless Telecommunications Bureau Decisions:**

Application of Nevada Wireless, *Memorandum Opinion and Order*, DA 98-1137, 13 FCC Rcd 11973 (Wireless Telecom. Bur. 1998).

Applications of High Plains Wireless, L.P., *Memorandum Opinion and Order*, DA 97-2451, 12 FCC Rcd 19627 (Wireless Telecom. Bur. 1997).

Applications of Mercury PCS II, LLC, *Memorandum Opinion and Order on Reconsideration*, DA 97-2324, 12 FCC Rcd 18093 (Wireless Telecom. Bur. 1997); Applications of Mercury PCS II, LLC, *Memorandum Opinion and Order*, DA 97-1782, 13 FCC Rcd 5756 (Wireless Telecom. Bur. 1997).

Applications of GWI PCS, Inc., *Memorandum Opinion and Order*, DA 97-674, 12 FCC Rcd 6441 (Wireless Telecom. Bur. 1997).

Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service, MM Docket No. 94-131, *Order*, DA 95-2292, 11 FCC Rcd 9655 (Wireless Telecom. Bur. 1995).

#### **1. Public Notices:**

Wireless Telecommunications Bureau Reminder of Anti-Collusion Rule Obligations, *Public Notice*, DA 04-3677, 19 FCC Rcd 22880 (Wireless Telecom. Bur. 2004).

Wireless Telecommunications Bureau Staff Provides Guidance on Completing the Short-Form Application (FCC Form 175) for Auction No. 40, Auction of Licenses for Lower and Upper Paging Bands, *Public Notice*, DA 01-2122, 16 FCC Rcd 16391 (Wireless Telecom. Bur. 2001).

Wireless Telecommunications Bureau Responds to Questions About the Local Multipoint Distribution Service Auction, *Public Notice*, DA 98-37, 13 FCC Rcd 341 (Wireless Telecom. Bur. 1998).

Wireless Telecommunications Bureau Provides Guidance on the Anti-Collusion Rule for D, E and F Block Bidders, *Public Notice*, DA 96-1460, 11 FCC Rcd 10134 (Wireless Telecom. Bur. 1996).

FCC Staff Clarifies Application of Anti-Collusion Rule to Broadband PCS "C" Block Reauction, *Public Notice*, DA 96-929, 11 FCC Rcd 7031 (Auc. Div. 1996).

Wireless Telecommunications Bureau Clarifies Spectrum Auction Anti-Collusion Rules, *Public Notice*, DA 95-2244, 11 FCC Rcd 9645 (Wireless Telecom. Bur. 1995).

## **2. Letters from the Office of General Counsel, the Wireless Telecommunications Bureau and the Media Bureau:**

Letter to John Cooper, Aurora Communications, Inc., from Margaret W. Wiener, DA 06-157, 21 FCC Rcd 523 (Auc. Div. 2006).

Letter to Howard A. Kalmenson, Lotus Communications Corp., from Margaret W. Wiener, DA 06-156, 21 FCC Rcd 520 (Auc. Div. 2006).

Letter to Colby M. May from Barbara A. Kreisman and Margaret W. Wiener, DA 05-2445, 20 FCC Rcd 14648 (Video and Auc. Divs. 2005).

Letter to Robert Pettit from Margaret W. Wiener, DA 00-2905, 16 FCC Rcd 10080 (Auc. Div. 2000).

Letter to John Reardon, Mobex Communications, Inc., from Amy J. Zoslov, DA 98-1861, 13 FCC Rcd 17877 (Auc. Div. 1998).

Letter to Elliott J. Greenwald from Christopher J. Wright, DA 98-644, 13 FCC Rcd 7132 (Gen. Counsel 1998).

Letter to David L. Nace from Kathleen O'Brien Ham, DA 96-1566, 11 FCC Rcd 11363 (Auc. Div. 1996).

Letter to Mark Grady from Kathleen O'Brien Ham, DA 96-587, 11 FCC Rcd 10895 (Auc. Div. 1996).

Letter to Jonathan D. Blake from Kathleen O'Brien Ham, DA 95-2404, 10 FCC Rcd 13783 (Auc. Div. 1995).

Letter to Leonard J. Kennedy from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 14, 1994).

Letter to R. Michael Senkowski from Rosalind K. Allen, Acting Chief, Commercial Radio Division, Wireless Telecommunications Bureau (released December 1, 1994).

Letter to Gary M. Epstein and James H. Barker from William E. Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

Letter to Alan F. Ciamporcero from William E Kennard, General Counsel, Federal Communications Commission (released October 25, 1994).

**D. Enforcement Bureau Decisions:**

Application of Star Wireless, LLC, *Forfeiture Order*, DA 04-3026, 19 FCC Rcd 18626 (Enf. Bur. 2004); Application of Star Wireless, LLC, *Notice of Apparent Liability for Forfeiture*, DA 03-2722, 18 FCC Rcd 17648 (Enf. Bur. 2003).

Application of Northeast Communications of Wisconsin, Inc., *Forfeiture Order*, DA 04-3027, 19 FCC Rcd 18635 (Enf. Bur. 2004); Application of Northeast Communications of Wisconsin, Inc., *Notice of Apparent Liability for Forfeiture*, DA 03-2723, 18 FCC Rcd 17672 (Enf. Bur. 2003).

**E. Civil Actions Initiated by U.S. Department of Justice:**

*U.S. v. Omnipoint Corp.*, Proposed Final Judgments and Competitive Impact Statements, Department of Justice, 63 Fed. Reg. 65,228 (Nov. 25, 1998).

“Justice Department Sues Three Firms Over FCC Auction Practices,” *Press Release*, U.S. Department of Justice (Nov. 10, 1998).

Complaint, *U.S. v. Omnipoint Corp.*, No. 1:98CV02750 (D.D.C. Nov. 10, 1998).

Complaint, *U.S. v. Mercury PCS II, L.L.C.*, No. 1:98CV02751 (D.D.C. Nov. 10, 1998).

Complaint, *U.S. v. 21st Century Bidding Corp.*, No. 1:98CV02752 (D.D.C. Nov. 10, 1998).

**How to Obtain Copies of the Anti-Collusion Decisions:**

Many of the documents listed in this attachment can be retrieved from the following Commission web site: <http://wireless.fcc.gov/auctions/anticollusion>.

The documents may be located by using our search engine (select the link “search”). Documents retrieved from the web site are available in various formats including Word, WordPerfect, Acrobat Reader, Excel, and ASCII Text. To review a document in its entirety, including footnotes, it is necessary to access the document in WordPerfect, MS Word, or Acrobat Reader.

Additionally, all of the documents can be ordered in hard copy for a fee from the Commission’s duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW, Room CY-B402, Washington, DC 20554, (800) 378-3160 (telephone) or <http://www.bcpweb.com>.