



Federal Communications Commission
Washington, D.C. 20554

June 19, 2012

DA 12-968

Via Certified Mail, Return Receipt Requested

Ozark Paging, LLC
Attn: William G. Bowles, Jr.
109 ½ Highway 63 South
Rolla, MO 65401-4214

Re: Ozark Paging, LLC - Eligibility for Refund of Amount on Deposit for Default Payment on Auction 40 Licenses CP BEA093-F1 (Joplin, MO-KS-OK); CP BEA094-F1 (Springfield, MO); and CP BEA098-F1 (Columbia, MO)

Dear Mr. Bowles:

By this letter, we notify Ozark Paging, LLC ("Ozark") of the availability of a refund of funds on deposit with the Federal Communications Commission ("Commission") related to Ozark's participation in the Commission's auction of Lower and Upper Paging Bands licenses (Auction 40).

Ozark, a participant in Auction 40, was the winning bidder for five Lower and Upper Paging Bands licenses in the following areas: Joplin, MO-KS-OK (BEA093-FI); Springfield, MO (BEA094-FI); St. Louis, MO-IL (BEA096-FI); Columbia, MO (BEA098-FI); and Kansas City, MO-KS (BEA099-FI).¹ After the close of Auction 40, Ozark defaulted on its final payment obligation for these licenses.² Two of the licenses, St. Louis, MO-IL and Kansas City, MO-KS, received subsequent winning bids during Auction 48.³ In 2009, the Commission assessed Ozark a final default payment of \$5,205.00 for those two licenses from the monies Ozark had on deposit.⁴

¹ See Lower and Upper Paging Bands Auction Closes; Winning Bidders Announced, *Public Notice*, 16 FCC Rcd 21,821 (WTB 2001) ("Auction 40 Closing Public Notice"). Ozark withdrew a provisionally winning bid during Auction 40 for a license in Jonesboro AR-MO (BEA095-EC). See *id.* at 21,850.

² See Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, and Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to Ozark Paging, LLC, Attn: William G. Bowles, Jr., 24 FCC Rcd 8426 (WTB 2009) ("Ozark Paging Letter").

³ See Lower and Upper Paging Bands Auction Closes; Winning Bidders Announced, *Public Notice*, 18 FCC Rcd 11,154, 11,181 (WTB 2003). The Jonesboro AR-MO license (BEA095-EC) also received a subsequent winning bid during Auction 48. See *id.* at 11,183. Because the subsequent winning bid for that license was greater than Ozark's withdrawn bid, Ozark was not liable for a withdrawal payment for that license. See *Ozark Paging Letter*, 24 FCC Rcd at 8428.

⁴ See *Ozark Paging Letter*, 24 FCC Rcd at 8429, 8432. The letter also dismissed Ozark's long-form applications for the five licenses for which it was the winning bidder in Auction 40. *Id.* at 8426, 8429-30.

The remaining three licenses were unsold at the end of Auction 48 and the Commission assessed Ozark an interim default payment of \$481.00 from the monies it had on deposit.⁵ Licenses for Joplin, MO-KS-OK (BEA093-FI); Springfield, MO (BEA094-FI); and Columbia, MO (BEA098-FI) were offered in a subsequent auction of Lower and Upper Paging Bands licenses (Auction 87), and because they received winning bids,⁶ the Commission is now able to calculate Ozark's final default payment obligation with respect to those three licenses.⁷

Under the Commission's rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid.⁸ A bidder who defaults on that obligation or is disqualified is subject to a default payment.⁹ The default payment has two components. The first component is the difference between the bidder's net defaulted bid and the subsequent net winning bid, or the difference between the bidder's gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time a license for the spectrum is won, should the subsequent winning bid be less than the defaulted bid.¹⁰ The second component of the default payment is an additional payment, which, pursuant to the rule in effect at the time of Auction 40, is equal to three percent (3%) of the defaulter's bid, or the subsequent winning bid, whichever is less.¹¹ In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to three percent (3%) of the defaulted bid.¹²

As shown in Attachment A, in accordance with section 1.2104(g)(2) of the Commission's rules, we have completed the final default payment calculation and, after applying the monies Ozark has on deposit,¹³ no outstanding balance is owed to the Commission. Therefore, in accordance with section 1.2104 of the Commission's rules, the Commission is prepared to refund the payor(s) of record the \$1,777.35 remaining funds on deposit with the Commission. To obtain a refund, the payor(s) of record¹⁴ must submit a request in accordance with the instructions set forth in Attachment B.

⁵ See *id.* at 8429, 8433. The Commission assessed Ozark an interim default deposit of 20 percent (20%) of Ozark's net winning bids on licenses BEA093, BEA094, and BEA098, totaling \$481.00. See *id.* at 8429; 47 C.F.R. § 1.2104(g)(2) (2002).

⁶ See Auction of Lower and Upper Paging Bands Licenses Closes; Winning Bidders Announced for Auction 87, *Public Notice*, 25 FCC Rcd 18,164, 18,487 (WTB 2010).

⁷ 47 C.F.R. § 1.2104(g)(2).

⁸ *Id.*

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

¹⁰ 47 C.F.R. § 1.2104(g)(2)(i).

¹¹ 47 C.F.R. § 1.2104(g)(2) (2001).

¹² *Id.*

¹³ Ozark paid an upfront payment of \$3,000.00 to participate in Auction 40. See *Auction 40 Closing Public Notice*, 16 FCC Rcd at 21,842. In June of 2002, Ozark paid an additional \$4,200.00 towards its outstanding balance for its net high bids, resulting in a total deposit of \$7,200.00. See *Ozark Paging Letter*, 24 FCC Rcd at 8428-29. The Commission applied \$5,205.00 of that amount towards Ozark's final default payment for the St. Louis, MO-IL and Kansas City, MO-KS licenses. See *id.* at 8429. As a result, Ozark had \$1,995.00 on deposit with the Commission to be applied towards its interim, and final default obligations.

¹⁴ See Entertainment Unlimited, Inc., Request for Refund of Late Payment Fees for PCS Licenses Purchased in Auction 22, *Memorandum Opinion and Order*, 16 FCC Rcd 10,030 (2001) (noting that the Commission does not

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and section 1.2104(g)(2) of the Commission's rules, 47 C.F.R. § 1.2104(g)(2), Ozark Paging, LLC is ASSESSED a final default payment as computed in Attachment A.

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

IT IS FURTHER ORDERED that, in accordance with section 1.2104 of the Commission's rules, the Commission is prepared to refund to the payor(s) of record, the remaining funds withheld in connection with Ozark Paging, LLC's default referenced above. To obtain a refund, the payor(s) of record must submit a request(s) in accordance with the instructions set forth in Attachment B.

IT IS FURTHER ORDERED that this Order shall be sent to Ozark Paging, LLC and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

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

Attachments

accept instructions regarding the refund of excess upfront payments from entities or individuals other than the payor of record).

ATTACHMENT A

Final Default Payment/Refund Report

License Number Frequency Block	Defaulted Gross Bid Auction 40	Defaulted Net Bid Auction 40	Re-auction Gross Bid Auction 87	Re-auction Net Bid Auction 87	3% Payment	Lower Difference Payment	Final Payment
CP-BEA093-FI	\$1,000.00	\$650.00	\$1,700.00	\$1,700.00	\$19.50	\$0.00	\$19.50
CP-BEA094-FI	\$1,700.00	\$1,105.00	\$14,000.00	\$14,000.00	\$33.15	\$0.00	\$33.15
CP-BEA098-FI	\$1,000.00	\$650.00	\$500.00	\$500.00	\$15.00	\$150.00	\$165.00

Total Final Default Payment Due	\$217.65
Total of Interim Default Payment and Amounts on Deposit	\$1,995.00
Total Refund Due	\$1,777.35

ATTACHMENT B

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

- For each payor of record, submit an Automated Clearing House Vendor/Miscellaneous Payment Enrollment Form (“ACH Form”) (see sample attached).¹⁵ You may obtain additional copies of this form at <http://www.fms.treas.gov/pdf/3881.pdf>.

The ACH form may be either faxed or mailed to the Commission. The fax number is (202) 418-2980. The mailing address is: Federal Communications Commission, Office of the Managing Director, Attention: Auctions Accounting Group, Room 1-C864, 445 12th Street SW, Washington, DC 20554. If you have questions concerning the completion of this form, please contact Gail Glasser at (202) 418-0578.

Submit a letter (along with the ACH form) signed by the payor of record, requesting a refund.

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

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¹⁵ Refunds will be processed via ACH credits. ACH is a domestic funds transfer system providing an electronic parallel to the Federal Reserve check clearing system. ACH is governed by the Rules of the National Automated Clearing House Association. Generally speaking, an ACH is an instrument for moving money electronically from one participating financial institution to another.