

**Federal Communications Commission**  
Washington, D.C. 20554

June 7, 2013

DA 13-1335

*Via Certified Mail, Return Receipt Requested*

Mr. Warren C. Havens  
President, Environmental LLC  
President, V2G LLC  
2509 Stuart Street  
Berkeley, CA 94705

Mr. Warren C. Havens  
President, Skybridge Spectrum Foundation  
2649 Benvenue Ave., #4  
Berkeley, CA 94704

Re: Environmental, LLC, Skybridge Spectrum Foundation, V2G, LLC – Requests for Waiver of Section 1.2106(a), Auction of Licenses for Lower and Upper Paging Bands (Auction 95)

Dear Mr. Havens:

This letter denies the requests submitted on May 9, 2013, by Environmental LLC (ENL), Skybridge Spectrum Foundation (SSF), and V2G LLC (V2G) (collectively, “Applicants”) seeking waiver of the Commission’s rule requiring a higher upfront payment for any applicant that has previously been delinquent on any non-tax debt owed to any Federal agency.<sup>1</sup>

Each of the three Applicants states in its short-form application that it is a “former defaulter” within the meaning of section 1.2106(a) of the Commission’s rules.<sup>2</sup> Each Applicant nevertheless requests that the Commission find that a *de minimis* exception exists with respect to section 1.2106(a), but fails to point to any Commission rule or decision establishing such exception. In the alternative, each Applicant requests a waiver of the rule.

Section 1.2106(a) contains no *de minimis* exception. In the absence of any Commission rule or decision establishing such exception, we decline to apply a *de minimis* standard by which applicants who are former defaulters would not be required to submit the higher upfront payment required by the Commission’s rule.

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<sup>1</sup> 47 C.F.R. § 1.2106. An identical request was submitted in each Applicant’s Auction 95 short-form application (application to participate in Auction 95). FCC Form 175 applications of ENL, SSF, V2G – Request for Waiver, submitted May 9, 2013 (Waiver Requests).

<sup>2</sup> See 47 C.F.R. § 1.2106(a) (a former defaulter may participate in an auction so long as it is otherwise qualified and submits an upfront payment that is fifty percent more than would otherwise be necessary).

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ENL, SSF, and V2G fail to meet the standard for granting a waiver set forth in section 1.925 of the Commission's rules.<sup>3</sup> The Waiver Requests do not explain how the purpose of the rule would not be served or would be frustrated by applying the requirement for a higher upfront payment in these circumstances. Nor do the Waiver Requests demonstrate how grant of the waiver would serve the public interest. Finally, none of the three Waiver Requests present unique or unusual factual circumstances in the instant case that would make application of the rules inequitable, unduly burdensome, or contrary to the public interest, or give the applicants no reasonable alternative.

This action is taken pursuant to delegated authority under section 0.331 of the Commission's rules.<sup>4</sup>

Sincerely,

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

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<sup>3</sup> See 47 C.F.R. § 1.925(b)(3) (The Commission may grant a request for waiver if it is shown that: (i) The underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) In view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.).

<sup>4</sup> 47 C.F.R. § 0.331.