



Federal Communications Commission  
Washington, D.C. 20554

December 16, 2022

DA 22-1325

**Via Email and Certified Mail, Return Receipt Requested**

Efrain O. Saille  
1713 S. State Avenue  
Indianapolis, IN 46203

**Re: Final Default Payment Amount for Auction 94 Construction Permits FM1033-A (Cotulla, TX) and FM1048-C1 (Presidio, TX)**

**DO NOT DISCARD THIS IMPORTANT NOTICE  
OF A DEMAND FOR PAYMENT  
OF A DEBT OWED THE UNITED STATES AND ORDER OF PAYMENT**

Dear Mr. Saille:

This Order provides notice of the final default payment amount with respect to your default arising out of Auction 94, and provides notice that your interim default payment has been applied to satisfy your final default payment obligation. You were the winning bidder in Auction 94 for FM broadcast construction permits FM1033-A (Cotulla, TX) and FM1048-C1 (Presidio, TX) (hereinafter, the Permits), with net winning bids totaling \$19,825.00.<sup>1</sup> After the close of Auction 94, you defaulted on your payment obligations for your winning bids.<sup>2</sup>

In 2015, the Commission assessed an interim default payment of \$3,965.00, explaining that the Commission could not determine the full amount of your default payment until new construction permits for the relevant allotments are won in a subsequent auction.<sup>3</sup> Construction permits for the underlying allotments were won in Auction 98 with total net winning bids of \$20,625.00. Accordingly, the Commission is now able to calculate your final default payment obligation.<sup>4</sup>

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.<sup>5</sup> A bidder who defaults on that obligation or is disqualified is considered to be a defaulting bidder under the Commission's rules and is subject to a

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<sup>1</sup> See *Auction of FM Broadcast Construction Permit Closes; Winning Bidders Announced for Auction 94*, Public Notice, 28 FCC Rcd 6973, 6984-85 Attach. A (WTB 2013) (*Auction 94 Closing Public Notice*). In 2018, the functions of the Auctions and Spectrum Access Division were shifted from the Wireless Telecommunications Bureau to the Auctions Division of the Commission's Office of Economics and Analytics. See *Establishment of the Office of Economics and Analytics*, Order, 33 FCC Rcd 1539 (2018); see also 83 Fed. Reg. 63073 (Dec. 7, 2018).

<sup>2</sup> See *Notice of Interim Default Payment Obligation of Efrain O. Saille for Auction 94*, Letter Order, 30 FCC Rcd 601 (ASAD-WTB 2015) (*Interim Payment Letter*).

<sup>3</sup> *Interim Payment Letter*, 30 FCC Rcd at 603.

<sup>4</sup> 47 CFR § 1.2104(g)(2); see also *Interim Payment Letter*, 30 FCC Rcd at 603 (explaining that the final default payment obligation would be calculated once subsequent winning bids are established for the relevant allotments).

<sup>5</sup> 47 CFR § 1.2104(g)(2).

default payment.<sup>6</sup> The default payment has two components: a deficiency payment and an additional payment amount.<sup>7</sup> The deficiency payment component applies only if the subsequent winning bid the next time a construction permit for the allotment is won is less than the defaulted bid. The deficiency payment amount 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.<sup>8</sup> The additional payment amount is owed by each defaulting bidder.<sup>9</sup> Under the Commission's rules and the procedures adopted for Auction 94, the additional payment amount is equal to twenty percent (20%) of the defaulter's bid or the subsequent winning bid, whichever is less.<sup>10</sup>

As shown in Attachment A, and in accordance with section 1.2104(g)(2) of the Commission's rules, we have completed the final default payment calculation for your default arising out of Auction 94 and, after applying your interim default payment, have determined that you do not owe an additional amount for this default and that there is no remaining balance available for refund.<sup>11</sup>

### **Ordering Clauses**

Accordingly, IT IS ORDERED that, under 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 CFR § 1.2104(g)(2), Efrain O. Saille, is ASSESSED a final default payment obligation as computed in Attachment A.

IT IS FURTHER ORDERED that, under sections 1.2104 and 1.2106 of the Commission's rules, 47 CFR §§ 1.2104 and 1.2106, Efrain O. Saille's interim payment be applied towards the final default payment obligation.

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<sup>6</sup> 47 CFR §§ 1.2104(g)(2), 1.2109.

<sup>7</sup> 47 CFR § 1.2104(g)(2).

<sup>8</sup> 47 CFR § 1.2104(g)(2)(i).

<sup>9</sup> 47 CFR § 1.2104(g)(2).

<sup>10</sup> See 47 CFR § 1.2104(g)(2) (2005); *Auction of FM Broadcast Construction Permits Rescheduled for April 23, 2013; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and other Procedures for Auction 94*, AU Docket No. 12-239, Public Notice, 27 FCC Rcd 14299, 14341, para. 170-72 (WTB/MB 2012).

<sup>11</sup> You made an upfront payment of \$3,000.00 to participate in Auction 94. *Auction 94 Closing Public Notice*, 28 FCC Rcd at 6984-85, Attach A. After Auction 94, you failed to remit the required balance of your down payment or final payment on your winning bids for the Permit. *Interim Payment Letter*, 30 FCC Rcd at 602. The Commission applied your upfront payment toward your interim default payment obligation and notified you that you owed an additional \$965.00. *Id.* at 603. You paid that amount on February 23, 2015, making your total interim default payment amount of \$3,965.00 available to be applied to satisfy your final default payment obligation.

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IT IS FURTHER ORDERED that this Order be sent to Efrain O. Saille by certified mail, return receipt requested. This action is taken in accordance with authority delegated by sections 0.21(m) and 0.271 of the Commission's rules, 47 CFR §§ 0.21(m), 0.271.

Sincerely,

Gary D. Michaels  
Deputy Chief, Auctions Division  
Office of Economics and Analytics

Attachment

**ATTACHMENT A**

**Multi-Auction Default Payment Report**

<b>Permit</b>	<b>Permit Description</b>	<b>Defaulted Gross Bid Auction 94</b>	<b>Defaulted Net Bid Auction 94</b>	<b>Re-auction Gross Bid Auction 98</b>	<b>Re-auction Net Bid Auction 98</b>	<b>20% Payment</b>	<b>Lower Difference Payment</b>	<b>Final Payment</b>
MM-FM1033-A	Cotulla TX	\$1500.00	\$975.00	\$2,500.00	\$1,625.00	\$195.00	\$0.00	\$195.00
MM-FM1048-C1	Presidio TX	\$29,000.00	\$18,850.00	\$19,000.00	\$19,000.00	\$3,770.00	\$0.00	\$3,770.00

Total Final Default Payment	\$3,965.00
Less Interim Default Payment	\$3,965.00
<b>Outstanding Balance</b>	<b>\$0.00</b>