

EPA's TSCA Assistance Information Service (TSCA Hotline). For information about obtaining these documents through the TSCA Hotline, see "For General Information Contact" listed under **FOR FURTHER INFORMATION CONTACT**.

3. *In person.* The Agency has established an official record for this action under docket control number OPPTS-42214. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260-7099.

#### *C. How and to Whom Do I Submit Comments?*

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS-42214 in the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G-099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260-7093.

3. *Electronically.* You may submit your comments electronically by e-mail to: [oppt.ncic@epa.gov](mailto:oppt.ncic@epa.gov), or mail your computer disk to the address identified in this unit. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file

avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS-42214. Electronic comments may also be filed online at many Federal Depository Libraries.

#### *D. How Should I Handle CBI Information that I Want to Submit to the Agency?*

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

#### *E. What Should I Consider as I Prepare My Comments for EPA?*

We invite you to provide your views on the this action, including new approaches we have not considered, possible unintended consequences, and any data or information that you would like the Agency to consider. You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.
2. Describe any assumptions that you used.
3. Provide copies of any technical information and/or data you used that support your views.
4. Provide specific examples to illustrate your concerns.
5. Offer alternative ways to improve this notice.
6. Make sure to submit your comments by the deadline in this notice.
7. To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the

name, date, and **Federal Register** citation.

## **II. What Action is the Agency Taking?**

EPA is announcing the availability of a table entitled *Sunset Date/Status of TSCA Section 4 Testing, Reimbursement and Reporting Requirements and TSCA Section 4-Triggered 12(b) Export Notification Requirements*. EPA is making this table available to the public via the Internet, TSCA hotline, and TSCA Nonconfidential Information Center (NCIC or TSCA Docket) so that the information contained in it will be available soon after updating by EPA. For the purposes of complying with TSCA section 4 and TSCA section 4-triggered TSCA section 12(b) requirements, the applicability of a particular TSCA section 4 action to a given person is dependent solely on the final requirements specified for the chemical substance(s) and mixture(s) identified in final TSCA section 4 and/or section 12(b) actions published in the **Federal Register**. The table can be considered current as of the date specified at the top of the table. For the status of final TSCA section 4 and TSCA section 4-triggered section 12(b) actions taken after this date, consult the **Federal Register**. EPA plans to update and re-post/reissue this table on an ongoing basis in order to make the most current information available to the public in a timely manner.

### **List of Subjects**

Environmental protection, Chemicals, Reporting and recordkeeping requirements.

Dated: June 7, 2001.

**Charles M. Auer,**

*Director, Chemical Control Division, Office of Pollution Prevention and Toxics.*

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## **FEDERAL COMMUNICATIONS COMMISSION**

**[Report No. AUC-01-41-A (Auction No. 41); DA 01-1400]**

### **Narrowband PCS Spectrum Auction Scheduled for October 3, 2001; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedural Issues**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of 365 Personal

Communications Service (PCS) licenses in the 900 MHz band ("narrowband PCS") set to begin on October 3, 2001 (Auction No. 41) and seeks comment on reserve prices or minimum opening bids and other auction procedural issues.

**DATES:** Comments are due on or before June 25, 2001 and reply comments are due on or before July 2, 2001.

**ADDRESSES:** An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street, SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Howard Davenport, Auctions Attorney,

or Lyle Ishida, Auctions Analyst, at (202) 418-0660; or Lisa Stover, Project Manager, at (717) 338-2888.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 41 Procedures Public Notice* released June 12, 2001. The complete text of the *Auction No. 41 Procedures Public Notice*, including the attachment, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW., Washington, DC 20554. The *Auction No. 41 Procedures Public Notice* may also be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, NW., Washington, DC 20036, (202) 857-3800.

The *Auction No. 41 Procedures Public Notice* is also available on the Commission's web site at <http://www.fcc.gov>.

1. By this Public Notice, the Wireless Telecommunications Bureau ("Bureau") announces the auction of 365 Personal Communications Service (PCS) licenses in the 900 MHz band ("narrowband PCS") set to begin on October 3, 2001 (Auction No. 41). In Auction No. 41, eight (8) licenses will be offered on a nationwide basis and seven (7) licenses will be offered in each of 51 Major Trading Areas (MTAs), for a total of 357 MTA licenses. The following table describes the licenses that will be auctioned:

Channel Number	Channel Description	Frequency Bands	Bandwidth (kHz)
<b>Nationwide Licenses</b>			
18 .....	One 100 kHz unpaired channel .....	940.65—940.75 MHz .....	100 kHz
19 .....	One 50 kHz/50 kHz paired channel .....	901.3—901.35, 930.5—930.55 MHz .....	100 kHz
20 .....	One 50 kHz/50 kHz paired channel .....	901.9—901.95, 930.75—930.8 MHz .....	100 kHz
21 .....	One 50 kHz/150 kHz paired channel .....	901.5—901.55, 930—930.15 MHz .....	200 kHz
22 .....	One 50 kHz/150 kHz paired channel .....	901.6—901.65, 930.15—930.3 MHz .....	200 kHz
23 .....	One 50 kHz/100 kHz paired channel .....	901.45—901.5, 940.55—940.65 MHz .....	150 kHz
24 .....	One 50 kHz/100 kHz paired channel .....	901.55—901.6, 940.3—940.4 MHz .....	150 kHz
25 .....	One 50 kHz/100 kHz paired channel .....	901.85—901.9, 940.45—940.55 MHz .....	150 kHz
Nationwide sub-total.	.....	.....	1,150 kHz
<b>MTA Licenses</b>			
26 .....	One 50 kHz unpaired channel .....	901.35—901.4 MHz .....	50 kHz
27 .....	One 50 kHz unpaired channel .....	901.4—901.45 MHz .....	50 kHz
28 .....	One 50 kHz unpaired channel .....	940.4—940.45 MHz .....	50 kHz
29 <sup>1</sup> .....	One 50 kHz/50 kHz paired channel .....	901.95—902.0, 930.8—930.85 MHz .....	100 kHz
30 .....	One 50 kHz/100 kHz paired channel .....	901.65—901.7, 930.3—930.4 MHz .....	150 kHz
31 <sup>1</sup> .....	One 50 kHz/150 kHz paired channel .....	901.7—901.75, 930.85—931 MHz .....	200 kHz
32 <sup>1</sup> .....	One 12.5 kHz/100 kHz paired channel .....	901.8375—901.85, 940.9—941 MHz .....	112.5 kHz
MTA Subtotal .....	.....	.....	712.5 kHz
Grand Total .....	.....	.....	1,862.5 kHz

<sup>1</sup> NBPCS channels 29, 31, and 32 in MTA002 (Los Angeles-San Diego) will be available subject to protection of incumbent licenses held by Paging Systems, Inc. under call signs WPOI469, WPOI470, WPOI471, and WPOI472. See In the Matter of License Communications Services, Inc. *et al.*, Memorandum Opinion and Order, 62 FR 55375 (October 24, 1997).

2. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed \* \* \* before issuance of bidding rules, to permit notice and comment on proposed auction procedures \* \* \*." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific rules that will govern the day-to-day conduct of an auction, the Commission directed the

Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. We therefore seek comment on the following issues relating to Auction No. 41.

**I. Auction Structure**

*A. Simultaneous Multiple Round Auction Design*

3. We propose to award the licenses in a single, simultaneous multiple-round auction. As described further, this methodology offers every license for

bid at the same time with successive bidding rounds in which bidders may place bids. We seek comment on this proposal.

*B. Upfront Payments and Initial Maximum Eligibility*

4. The Bureau has been delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population

in each geographic license area, and the value of similar spectrum. As described further, the upfront payment is a refundable deposit made by each bidder to establish eligibility to bid on licenses. Upfront payments related to the specific spectrum subject to auction protect against frivolous or insincere bidding and provide the Commission with a source of funds from which to collect payments owed at the close of the auction. With these guidelines in mind for Auction No. 41, we propose to calculate upfront payments on a license-by-license basis using the following formula:

$\$.00002 * \text{kHz} * \text{License Area}$

Population with a minimum of \$1,000 per license.

5. Accordingly, we list all licenses, including the related license area population and proposed upfront payment for each, in Attachment A of the *Auction No. 41 Procedures Public Notice*. We seek comment on this proposal.

6. We further propose that the amount of the upfront payment submitted by a bidder will determine the number of bidding units on which a bidder may place bids—this limit is a bidder's "maximum initial eligibility." Each license is assigned a specific number of bidding units equal to the upfront payment listed in Attachment A, on a bidding unit per dollar basis. This number does not change as prices rise during the auction. A bidder's upfront payment is not attributed to specific licenses. Rather, a bidder may place bids on any combination of licenses as long as the total number of bidding units associated with those licenses does not exceed its maximum initial eligibility. Eligibility cannot be increased during the auction. Thus, in calculating its upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. We seek comment on this proposal.

### C. Activity Rules

7. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or must use an activity rule waiver (if any remain).

8. We propose to divide the auction into three stages, each characterized by

an increased activity requirement. The auction will start in Stage One. We propose that the auction generally will advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is approximately ten percent or below for three consecutive rounds of bidding. However, we further propose that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentage of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. We seek comment on these proposals.

9. For Auction No. 41, we propose the following activity requirements:

**Stage One:** In each round of the first stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses representing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4).

**Stage Two:** In each round of the second stage, a bidder desiring to maintain its current eligibility is required to be active on 90 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by ten-ninths (10/9).

**Stage Three:** In each round of the third stage, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty/forty-ninths (50/49).

10. We seek comment on these proposals. If commenters believe that these activity rules should be changed, they should explain their reasoning and comment on the desirability of an alternative approach. Commenters are advised to support their claims with analyses and suggested alternative activity rules.

### D. Activity Rule Waivers and Reducing Eligibility

11. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

12. The FCC auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) There are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

13. A bidder with insufficient activity may wish to reduce its bidding eligibility rather than use an activity rule waiver. If so, the bidder must affirmatively override the automatic waiver mechanism during the bidding period by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

14. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding system) during a bidding period in which no bids or withdrawals are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids or withdrawals will not keep the auction open.

15. We propose that each bidder in Auction No. 41 be provided with five activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth. We seek comment on this proposal.

### E. Information Relating to Auction Delay, Suspension, or Cancellation

16. For Auction No. 41, we propose 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, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive 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, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers. We seek comment on this proposal.

## II. Bidding Procedures

### A. Round Structure

17. The Commission will use its Automated Auction System to conduct the electronic simultaneous multiple round auction format for Auction No. 41. In contrast to prior auctions, Auction No. 41 will be conducted over the Internet. However, the Bureau's wide area network will be available at the standard charge, as in prior auctions. Prospective bidders concerned about their access to the Internet may want to establish a connection to the Bureau's wide area network as a backup. Full information regarding how to establish such a connection, and related charges, will be provided in the public notice announcing details of auction procedures. In past auctions, we have used the timing of bids to select a high bidder when multiple bidders submit identical high bids on a license in a given round. Given that bidders will access the Internet at differing speeds, we will not use this procedure in Auction No. 41. For Auction No. 41, we propose to use a random number generator to select a high bidder from among such bidders. As with prior auctions, remaining bidders will be able to submit higher bids in subsequent rounds. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The simultaneous multiple round format will consist of sequential bidding rounds, each followed by the release of round results. Details regarding the location and format of round results will be included in the same public notice.

18. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. We seek comment on this proposal.

### B. Reserve Price or Minimum Opening Bid

19. The Balanced Budget Act calls upon the Commission to prescribe methods for establishing a reasonable reserve price or a minimum opening bid when FCC licenses are subject to auction unless the Commission determines that a reserve price or minimum bid is not in the public interest. Consistent with this mandate, the Commission has 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.

20. Normally, a reserve price is an absolute minimum price below, which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, the auctioneer often has the discretion to lower the minimum opening bid amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

21. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 41. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool.

22. Specifically, for Auction No. 41, the Commission proposes the following license-by-license formula for calculating minimum opening bids:

$\$0.00004 * \text{kHz} * \text{License Area Population}$  with a minimum of \$1,000 per license.

23. The specific minimum opening bid for each license available in Auction No. 41 is set forth in Attachment A of the *Auction No. 41 Procedures Public Notice*. Comment is sought on this proposal. If commenters believe that these minimum opening bids will result in substantial numbers of unsold licenses, or are not reasonable amounts, or should instead operate as reserve

prices, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the minimum opening bids, we particularly seek comment on such factors as the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the narrowband PCS spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

### C. Minimum Acceptable Bids and Bid Increments

24. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. The Automated Auction System interface will list the nine acceptable bid amounts for each license. Once there is a standing high bid on a license, the Automated Auction System will calculate a minimum acceptable bid for that license for the following round, as described. The difference between the minimum acceptable bid and the standing high bid for each license will define the *bid increment*. The nine acceptable bid amounts for each license consist of the minimum acceptable bid (the standing high bid plus one bid increment) and additional amounts calculated using multiple bid increments (i.e., the second bid amount equals the standing high bid plus two times the bid increment, the third bid amount equals the standing high bid plus three times the bid increment, etc.).

25. Until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts for licenses that have not yet received a bid will be calculated differently, as explained.

26. For Auction No. 41, we propose to calculate minimum acceptable bids by using a smoothing methodology, as we have done in several other auctions. The smoothing formula calculates minimum acceptable bids by first calculating a *percentage increment*, not to be confused with the bid increment, for each license based on a weighted average of the activity received on each license in all previous rounds. This methodology tailors the percentage increment for each license based on

activity, rather than setting a global increment for all licenses.

27. In a given round, the calculation of the percentage increment for each license is made at the end of the previous round. The computation is based on an activity index, which is calculated as the weighted average of the activity in that round and the activity index from the prior round. The activity index at the start of the auction (round 0) will be set at 0. The current activity index is equal to a weighting factor times the number of new bids received on the license in the most recent bidding round plus one minus the weighting factor times the activity index from the prior round. The activity index is then used to calculate a percentage increment by multiplying a minimum percentage increment by one plus the activity index with that result being subject to a maximum percentage increment. The Commission will initially set the weighting factor at 0.5, the minimum percentage increment at 0.1 (10%), and the maximum percentage increment at 0.2 (20%).

#### Equations

$$A_i = (C * B_i) + ((1-C) * A_{i-1})$$

$$I_{i+1} = \text{smaller of } ((1 + A_i) * N) \text{ and } M$$

$$X_{i+1} = I_{i+1} * Y_i$$

where,

$A_i$  = activity index for the current round (round i)

C = activity weight factor

$B_i$  = number of bids in the current round (round i)

$A_{i-1}$  = activity index from previous round (round i-1),  $A_0$  is 0

$I_{i+1}$  = percentage increment for the next round (round i+1)

N = minimum percentage increment or percentage increment floor

M = maximum percentage increment or percentage increment ceiling

$X_{i+1}$  = dollar amount associated with the percentage increment

$Y_i$  = high bid from the current round

Under the smoothing methodology, once a bid has been received on a license, the minimum acceptable bid for that license in the following round will be the high bid from the current round plus the dollar amount associated with the percentage increment, with the result rounded to the nearest thousand if it is over ten thousand or to the nearest hundred if it is under ten thousand.

#### Examples

License 1

C = 0.5, N = 0.1, M = 0.2

*Round 1 (2 new bids, high bid = \$1,000,000)*

i. Calculation of percentage increment for round 2 using the smoothing formula:

$$A_1 = (0.5 * 2) + (0.5 * 0) = 1$$

$$I_2 = \text{The smaller of } ((1 + 1) * 0.1) = 0.2 \text{ or } 0.2 \text{ (the maximum percentage increment)}$$

ii. Calculation of dollar amount associated with the percentage increment for round 2 (using  $I_2$  from above):

$$X_2 = 0.2 * \$1,000,000 = \$200,000$$

iii. Minimum acceptable bid for round 2 = \$1,200,000

*Round 2 (3 new bids, high bid = \$2,000,000)*

i. Calculation of percentage increment for round 3 using the smoothing formula:

$$A_2 = (0.5 * 3) + (0.5 * 1) = 2$$

$$I_3 = \text{The smaller of } ((1 + 2) * 0.1) = 0.3 \text{ or } 0.2 \text{ (the maximum percentage increment)}$$

ii. Calculation of dollar amount associated with the percentage increment for round 3 (using  $I_3$  from above):

$$X_3 = 0.2 * \$2,000,000 = \$400,000$$

iii. Minimum acceptable bid for round 3 = \$2,400,000

*Round 3 (1 new bid, high bid = \$2,400,000)*

i. Calculation of percentage increment for round 4 using the smoothing formula:

$$A_3 = (0.5 * 1) + (0.5 * 2) = 1.5$$

$$I_4 = \text{The smaller of } ((1 + 1.5) * 0.1) = 0.25 \text{ or } 0.2 \text{ (the maximum percentage increment)}$$

ii. Calculation of dollar amount associated with the percentage increment for round 4 (using  $I_4$  from above):

$$X_4 = 0.2 * \$2,400,000 = \$480,000$$

iii. Minimum acceptable bid for round 4 = \$2,880,000

28. As stated, until a bid has been placed on a license, the minimum acceptable bid for that license will be equal to its minimum opening bid. The additional bid amounts are calculated using the difference between the minimum opening bid times one plus the minimum percentage increment, rounded as described, and the minimum opening bid. That is,  $I = (\text{minimum opening bid})(1 + N)\{\text{rounded}\} - (\text{minimum opening bid})$ . Therefore, when N equals 0.1, the first additional bid amount will be approximately ten percent higher than the minimum opening bid; the second, twenty percent; the third, thirty percent; etc.

29. In the case of a license for which the standing high bid has been withdrawn, the minimum acceptable bid will equal the second highest bid received for the license. The additional bid amounts are calculated using the difference between the second highest bid times one plus the minimum percentage increment, rounded, and the second highest bid.

30. The Bureau retains the discretion to change the minimum acceptable bids and bid increments if it determines that circumstances so dictate. The Bureau will do so by announcement in the Automated Auction System. We seek comment on these proposals.

#### *D. Information Regarding Bid Withdrawal and Bid Removal*

31. For Auction No. 41, we propose the following bid removal and bid withdrawal procedures. Before the close of a bidding period, a bidder has the option of removing any bid placed in that round. By using the remove selected bids function in the bidding system, a bidder may effectively "unsubmit" any bid placed within that round. A bidder removing a bid placed in the same round is not subject to a withdrawal payment.

32. Once a round closes, a bidder may no longer remove a bid. However, in any subsequent round, a high bidder may withdraw its standing high bids from previous rounds using the withdraw function in the bidding system. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions of the Commission rules. We seek comment on these bid removal and bid withdrawal procedures.

33. In the *Part 1 Third Report and Order*, 63 FR 2315 (January 15, 1998) the Commission explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent any bidding abuses. The Commission stated that the Bureau should assertively exercise its discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

34. Applying this reasoning, we propose to limit each bidder in Auction

No. 41 to withdrawing standing high bids in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. We seek comment on this proposal.

#### E. Stopping Rule

35. For Auction No. 41, the Bureau proposes to employ a simultaneous stopping rule approach. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers, or withdrawals are received. After the first such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

36. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 41:

i. Utilize a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used at any time or only in stage three of the auction.

ii. Keep the auction open even if no new acceptable bids or proactive waivers are submitted and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual, and a bidder with insufficient activity will either lose bidding

eligibility or use a remaining activity rule waiver.

iii. Declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the specified final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds.

37. The Bureau proposes to exercise these options only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising these options, the Bureau is likely to attempt to increase the pace of the auction by, for example, increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We seek comment on these proposals.

#### II. Conclusion

38. Comments are due on or before June 25, 2001, and reply comments are due on or before July 2, 2001. An original and four copies of all pleadings must be filed with the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, Room TW-A325, 445 Twelfth Street, SW., Washington, DC 20554, in accordance with § 1.51 of the Commission's rules. In addition, one copy of each pleading must be delivered to each of the following locations: (i) The Commission's duplicating contractor, International Transcription Service, Inc. (ITS), 1231 20th Street, NW., Washington, DC 20036; (ii) Office of Media Relations, Public Reference Center, Room CY-A257, 445 Twelfth Street, SW., Washington, DC 20554; (iii) Rana Shuler, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Room 4-A628, 445 Twelfth Street, SW., Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Public Reference Room, Room CY-A257, 445 12th Street, SW., Washington, DC 20554.

39. This proceeding has been designated as a "permit-but-disclose" proceeding in accordance with the Commission's *ex parte* rules. Persons making oral *ex parte* presentations are reminded that memoranda summarizing the presentations must contain

summaries of the substance of the presentations and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. Other rules pertaining to oral and written *ex parte* presentations in permit-but-disclose proceedings are set forth in § 1.1206(b) of the Commission's rules.

Federal Communications Commission.

**Louis J. Sigalos,**

*Deputy Chief, Auctions and Industry Analysis Division, WTB.*

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## FEDERAL COMMUNICATIONS COMMISSION

### Network Reliability and Interoperability Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of meeting.

**SUMMARY:** In accordance with the Federal Advisory Committee Act, this notice advises interested persons of the fourth meeting of the Network Reliability and Interoperability Council (Council) under its charter renewed as of January 6, 2000.

**DATES:** Tuesday, June 26, 2001 at 10:00 a.m. to 12:00 p.m.

**ADDRESSES:** Federal Communications Commission, 445 12th St. SW., Room TW-C305, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Kent R. Nilsson at 202-418-0845 or TTY 202-418-2989.

**SUPPLEMENTARY INFORMATION:** The Council was established by the Federal Communications Commission to bring together leaders of the telecommunications industry and telecommunications experts from academic, consumer and other organizations to identify and recommend measures that would enhance network reliability.

The Council will receive reports on, and discuss, the progress of its focus groups: Network Reliability, Wireline Spectrum Management and Integrity, and Interoperability. The Council may also discuss such other matters as come before it at the meeting.

Notice of this meeting was delayed because a date had to be set that would not conflict with the changing and conflicting schedules of NRIC V members. Future meetings of this Council will be held on October 30, 2001, and January 4, 2002. At each of those meetings, the Council will address