

## II. 31 NOTICES OF COMMENCEMENT FROM: 01/10/02 TO 01/23/02—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P-01-0789	01/14/02	12/20/01	(G) Modified tall-oil pitch
P-01-0805	01/14/02	11/12/01	(G) Alkylamine, alkoxylated
P-01-0806	01/14/02	11/16/01	(G) Alkylamine initiated, alkylene oxide polymer
P-01-0848	01/22/02	01/21/02	(G) Hydroxy functional acrylic emulsion
P-01-0849	01/22/02	01/21/02	(G) Hydroxy functional acrylic emulsion
P-01-0850	01/22/02	01/21/02	(G) Hydroxy functional acrylic emulsion
P-01-0851	01/22/02	01/21/02	(G) Hydroxy functional acrylic emulsion
P-01-0852	01/22/02	01/21/02	(G) Hydroxy functional acrylic emulsion
P-01-0853	01/22/02	01/21/02	(G) Hydroxy functional acrylic emulsion
P-01-0874	01/18/02	12/20/01	(G) Urethane polymer
P-01-0875	01/18/02	12/20/01	(G) Urethane polymer salt
P-97-0064	01/10/02	11/28/01	(S) Nitriles, rosin
P-98-1223	01/17/02	12/29/01	(S) 1,3-benzenedicarboxylic acid, polymer with alpha, alpha'-[(methylethylidene)di-4,1-phenylene]bis[omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)] and 2,2'-oxybis[ethanol]

**List of Subjects**

Environmental protection, Chemicals, Premanufacturer notices.

Dated: February 5, 2002.

**Carolyn Thornton,**

*Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.*

[FR Doc. 02-4307 Filed 2-26-02; 8:45 am]

BILLING CODE 6560-50-S

**FEDERAL COMMUNICATIONS COMMISSION**

[Report No. AUC-02-45-A (Auction No. 45); DA 02-265]

**Auction No. 45 Cellular Licenses for Rural Service Areas Scheduled for May 29, 2002; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures**

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the auction of three cellular Rural Service Area licenses to commence on May 29, 2002 (Auction No. 45) and seeks comment on auction procedures.

**DATES:** Comments are due on or before February 19, 2002 and reply comments are due on or before February 26, 2002.

**ADDRESSES:** The Wireless Telecommunications Bureau ("Bureau") requires that all comments and reply comments be sent by electronic mail to the following address: [auction45@fcc.gov](mailto:auction45@fcc.gov). The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 45 Comments. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat®

(pdf) or Microsoft® Word documents. Copies of 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.

**FOR FURTHER INFORMATION CONTACT:**

Legal questions: Denise Coca (202) 418-0660. For general auction questions: Jeff Crooks (202) 418-0660, Lisa Stover (717) 338-2888. For service rule questions: Dwain Livingston (202) 418-1338.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 45 Comment Public Notice* released February 5, 2002. The complete text of the *Auction No. 45 Comment Public Notice*, including attachments, is available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Auction No. 45 Comment Public Notice* may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, telephone 202-863-2893, facsimile 202-863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com).

**I. General Information**

1. By the *Auction No. 45 Comment Public Notice*, the Bureau announces the auction of three cellular Rural Service Area (RSA) licenses to commence on May 29, 2002 ("Auction No. 45"). This auction will include cellular frequency block A in each of the following RSA markets: 332—Polk, AR; 582—Barnes, ND; and 727—Ceiba, PR. A description of these licenses is included as Attachment A of the *Auction No. 45 Comment Public Notice*.

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. The Bureau therefore seeks comment on the following issues relating to Auction No. 45.

**II. Auction Structure****A. Simultaneous Multiple Round Auction Design**

3. The Bureau proposes to award all licenses included in Auction No. 45 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. The Bureau seeks comment on this proposal.

**B. Upfront Payments and Initial Maximum Eligibility**

4. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each cellular RSA 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. 45, the Bureau proposes to calculate upfront payments on a license-by-license basis using the following formula:

$$\$0.0125 * \text{MHz} * \text{License Area} \\ \text{Population with a minimum of} \\ \$1,000 \text{ per license.}$$

5. Accordingly, the Bureau lists all licenses, including the related license area population and proposed upfront payment for each, in Attachment A of the *Auction No. 45 Comment Public Notice*. The Bureau seeks comment on this proposal.

6. The Bureau further proposes 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 of the *Auction No. 45 Comment Public Notice*, 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. The Bureau seeks 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 current bidding eligibility and/or be the standing high bidder during each round of the auction rather than waiting until the end to participate.

8. The Bureau proposes a single stage auction with the following activity requirement. In each round of the auction, a bidder desiring to maintain its eligibility to participate in the auction is required to be active on one hundred (100) percent of its bidding eligibility. A bidder's activity will be the

sum of the bidding units associated with (i) licenses upon which it places bids during the current round, and (ii) licenses upon which it is the standing high bidder. Failure to maintain the requisite activity level will result in the use of an activity rule waiver, if any remain, or a reduction in the bidder's bidding eligibility. The Bureau seeks comment on this proposal.

#### D. Activity Rule Waivers and Reducing Eligibility

9. 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.

10. The Automated 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: (i) There are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

11. 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 previously. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

12. 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.

13. The Bureau proposes that each bidder be provided with three activity rule waivers that may be used at the bidder's discretion during the course of the auction as set forth previously. The Bureau seeks comment on this proposal.

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

14. For Auction No. 45, the Bureau proposes 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 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. The Bureau emphasizes 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. The Bureau seeks comment on this proposal.

### III. Bidding Procedures

#### A. Round Structure

15. The Commission will conduct Auction No. 45 over the Internet. Telephonic Bidding will also be available. As a contingency, the FCC Wide Area Network, which requires access to a 900 number telephone service, will be available as well. Prospective bidders concerned about their access to the Internet may want to establish a connection to the FCC 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.

16. 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.

17. 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. The Bureau seeks comment on this proposal.

#### *B. Reserve Price or Minimum Opening Bid*

18. 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 opening 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.

19. 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.

20. In light of the Balanced Budget Act's requirements, the Bureau proposes to establish minimum opening bids for Auction No. 45. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool.

21. Specifically, for Auction No. 45, the Commission proposes the following license-by-license formula for calculating minimum opening bids:  

$$\$0.0250 * \text{MHz} * \text{License Area}$$
  
 Population with a minimum of \$1,000 per license.

The specific minimum opening bid for each license available in Auction No. 45 is set forth in Attachment A of the *Auction No. 45 Comment Public Notice*. Comment is sought on this proposal.

22. 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, the Bureau particularly seeks 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 cellular 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*

23. 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.

24. 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 further. 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 further.

26. For Auction No. 45, the Bureau proposes to calculate minimum acceptable bids by using a smoothing methodology, as the Bureau has 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 that particular 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*

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

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

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

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

28. 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 \$10,000, to the nearest hundred if it is under \$10,000 but over \$1,000, or to the nearest ten if it is below \$1,000.

#### *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  $I_2$ ):

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

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  $I_3$ ):

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

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  $I_4$ ):

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

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

29. As stated previously, 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 previously, 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.

30. 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.

31. 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. The Bureau seeks comment on these proposals.

#### *D. High Bids*

32. At the end of a bidding round, the Automated Auction System will determine the high bid on each license. In the event of identical high bids on a license in a given round (*i.e.*, tied bids), the Bureau proposes to use a random number generator to select a high bid from among the tied bids. Remaining bidders will be able to submit higher bids in subsequent rounds.

33. A high bid will remain the high bid until there is a higher bid on the same license at the close of a subsequent round. A high bid from a previous round is sometimes referred to as a "standing high bid." Bidders are reminded that standing high bids confer activity credit.

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

34. For Auction No. 45, the Bureau proposes 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. Once a round closes, a bidder may no longer "remove" a bid.

35. 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. The Bureau seeks comment on these bid removal and bid withdrawal procedures.

36. 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.

37. Applying this reasoning, the Bureau proposes to limit each bidder in Auction No. 45 to withdrawing standing high bids in no more than one round during the course of the auction. To permit a bidder to withdraw bids in more than one round would likely encourage insincere bidding or the use of withdrawals for anti-competitive purposes. The round 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 the round in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Bureau seeks comment on this proposal.

#### *F. Stopping Rule*

38. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." For Auction No. 45, the Bureau proposes to employ a simultaneous stopping rule approach. A simultaneous stopping rule means that all licenses remain open until bidding closes simultaneously on all licenses.

39. Bidding will close simultaneously on all licenses after the first round in which no new acceptable bids, proactive waivers, or withdrawals are received. Thus, unless circumstances dictate otherwise, bidding will remain open on all licenses until bidding stops on every license.

40. However, the Bureau proposes to retain the discretion to exercise any of the following options during Auction No. 45:

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.

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 a specified preceding number of rounds.

41. 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. The Bureau seeks comment on these proposals.

#### IV. Conclusion

42. Comments are due on or before February 19, 2002, and reply comments are due on or before February 26, 2002. Because of the disruption of regular mail and other deliveries in Washington, DC, the Bureau requires that all comments and reply comments be filed electronically. Comments and reply comments must be sent by electronic mail to the following address: [auction45@fcc.gov](mailto:auction45@fcc.gov). The electronic mail containing the comments or reply comments must include a subject or caption referring to Auction No. 45 Comments. The Bureau requests that parties format any attachments to electronic mail as Adobe® Acrobat® (pdf) or Microsoft® Word documents. Copies of 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.

43. In addition, the Bureau requests that commenters fax a courtesy copy of their comments and reply comments to the attention of Kathryn Garland at (717) 338-2850.

44. 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.

**Margaret Wiener,**

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

[FR Doc. 02-4743 Filed 2-26-02; 8:45 am]

**BILLING CODE 6712-01-P**

#### FEDERAL COMMUNICATIONS COMMISSION

[DA 02-361]

#### Current and Future Spectrum Use by the Energy, Water, and Railroad Industries

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document the FCC seeks comment on the findings of the National Telecommunications and Information Administration Report, released January 30, 2002, titled "Current and Future Spectrum Use by the Energy, Water, and Railroad Industries". Congress requires the FCC to submit a report to Congress addressing any needs identified from NTIA's Report. Comments received on NTIA's report will aid the Commission in preparing its report to Congress.

**DATES:** Written comments are due on or before March 6, 2002 and reply comments are due on or before March 18, 2002.

**ADDRESSES:** Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW., TW-325, Washington, DC 20054.

**FOR FURTHER INFORMATION CONTACT:** John J. Schauble, Esq., Chief, Policy and Rules Branch, Public Safety and private Wireless Division, Wireless Telecommunications Bureau, at (202)

418-0680, or via e-mail to [jschaubl@fcc.gov](mailto:jschaubl@fcc.gov).

**SUPPLEMENTARY INFORMATION:** The full text of the NTIA Report, comments and reply comments will be available for public inspection and duplication during regular business hours at the FCC Reference Information Center (RIC) of the Consumer Information Bureau (CIB), Federal Communications Commission, 445 Twelfth Street, SW., Room CY-A257, Washington, DC, 20554. The full text of the NTIA Report is also available at NTIA's Web site at <http://www.ntia.doc.gov/osmhome/reports.html>. This document may also be purchased from the Commission's duplicating contractor, Qualex International, Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554, DC 20036, telephone (202) 863-2393; facsimile (202) 863-2898, or via e-mail [qualexint@aol.com](mailto:qualexint@aol.com). For further information regarding the public reference file for the Report contact Maria Ringold, Chief, Wireless Branch, RIC, (202) 418-1355.

1. On January 30, 2002, the U.S. Department of Commerce, National Telecommunications and Information Administration (NTIA) released a Report entitled "Current and Future Spectrum Use by the Energy, Water, and Railroad Industries" (NTIA Report). This report was mandated by Public Law Number (PL No.) 106-533. Under this legislation, NTIA was directed to submit to the U.S. Congress a study of current and future spectrum use by providers of energy, water, and railroad services to protect and maintain the nation's critical infrastructure. The statute also requires the Federal Communications Commission (FCC) to submit a subsequent report to Congress addressing any needs identified in NTIA's study.

2. The NTIA Report contains a compilation of the responses received to its "Request for Comments" from members of the utilities industry and various trade organizations. In its "Request for Comments," NTIA sought information on any issue of fact, law or policy that might inform the agency about spectrum requirements of the industry taking into account growth, new technology, and future applications. NTIA also received information from federal governmental departments and agencies that exercise oversight of energy, water and railroad industries, as well as from industry certified frequency coordinators. The Report also reflects the information received from members of the Interdepartment Radio Advisory Committee (IRAC). Information also was