

hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building.

- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.

- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

Pursuant to § 1.1206 of the Commission's rules, 47 CFR 1.1206, this proceeding will be conducted as a permit-but-disclose proceeding in which *ex parte* communications are subject to disclosure.

The full text of document DA 06-387 and copies of any subsequently filed documents relating to this matter will be 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. This document and copies of subsequently filed documents in this matter may also be purchased from the Commission's contractor at Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC 20554. Customers may contact the Commission's contractor at their Web site <http://www.bcpweb.com> or by calling 1-800-378-3160. A copy of the Petition for Rulemaking may also be found by searching ECFS at <http://www.fcc.gov/cgb/ecfs> (insert CG Docket No. 03-123 into the proceeding block).

To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to [fcc504@fcc.gov](mailto:fcc504@fcc.gov) or call the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice) or (202) 418-0432 (TTY). Document DA 06-387 can also be downloaded in Word and Portable Document Format (PDF) at <http://www.fcc.gov/cgb.dro>.

### Synopsis

On July 19, 2005, the Commission concluded that non-shared language Spanish translation VRS—*i.e.*, relay service in which the communication assistant (CA) translates what is signed in ASL into spoken Spanish, and *vice versa*—is a form of TRS compensable from the Fund. Also, on July 19, 2005, the Commission concluded that, effective January 1, 2006, providers seeking compensation from the Fund for offering VRS must offer the service 24 hours a day, 7 days a week.

The public notice seeks comment on whether ASL-to-Spanish VRS, if provided, must be offered 24 hours a

day, 7 days a week to be eligible for compensation from the Fund.

Federal Communications Commission.

**Jay Keithley,**

*Deputy Bureau Chief, Consumer & Governmental Affairs Bureau.*

[FR Doc. 06-2085 Filed 3-7-06; 8:45 am]

BILLING CODE 6712-01-P

## FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC-06-65-B (Auction No. 65); DA 06-299]

### Auction of 800 MHz Air-Ground Radiotelephone Service Licenses Scheduled for May 10, 2006; Notice of Filing Requirements, Minimum Opening Bids, Upfront Payments and Other Procedures for Auction No. 65

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** This document announces the procedures and minimum opening bids for the upcoming auction of new nationwide commercial Air-Ground Radiotelephone Service licenses in the 800 MHz band. This document is intended to familiarize prospective bidders with the procedures and minimum opening bids for this auction.

**DATES:** Auction No. 65 is scheduled to begin on May 10, 2006.

**FOR FURTHER INFORMATION CONTACT:** For legal questions: Brian Carter at (202) 418-0660.

For general auction questions: Jeff Crooks at (202) 418-0660.

For service rules questions: Erin McGrath or Richard Arsenault (legal); or Jay Jackson or Moslem Sawez (technical) at (202) 418-0620.

**SUPPLEMENTARY INFORMATION:** This is a summary of the *Auction No. 65 Procedures Public Notice* released on February 21, 2006. The complete text of the *Auction No. 65 Procedures Public Notice*, including attachments and related Commission documents is available for public inspection and copying from 8 a.m. to 4:30 p.m. Monday through Thursday or from 8 a.m. to 11:30 a.m. on Friday at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY-A257, Washington, DC 20554. The *Auction No. 65 Procedures Public Notice* and related Commission documents may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Room CY-B402, Washington, DC, 20554, telephone 202-488-5300, facsimile 202-488-5563, or

you may contact BCPI at its Web site: <http://www.BCPWEB.com>. When ordering documents from BCPI please provide the appropriate FCC document number, for example, DA 06-299. The *Auction No. 65 Procedures Public Notice* and related documents are also available on the Internet at the Commission's Web site: <http://wireless.fcc.gov/auctions/65/>.

### I. General Information

#### A. Introduction

1. The Wireless Telecommunications Bureau announces the procedures and minimum opening bid amounts for the upcoming auction of new nationwide commercial Air-Ground Radiotelephone Service licenses in the 800 MHz band scheduled for May 10, 2006 (Auction No. 65). On January 10, 2006, in accordance with section 309(j)(3) of the Communications Act of 1934, as amended, the Bureau released a public notice seeking comment on a reserve price and minimum opening bid amounts and the procedures to be used in Auction No. 65. The Bureau received one comment in response to the *Auction No. 65 Comment Public Notice*, 71 FR 3513, January 23, 2006.

#### i. Background of Proceeding

2. On February 22, 2005, the Commission released the *Air-Ground Order*, 70 FR 19377, April 13, 2005, in which it adopted a flexible regulatory approach to determine the future band configuration of the four megahertz of dedicated spectrum in the 800 MHz commercial Air-Ground Radiotelephone Service. Based on the band configuration proposals submitted by interested parties in the proceeding, the Commission decided to assign nationwide air-ground licenses under one of three alternative band configurations, implementing the band plan receiving the highest gross aggregate bid in an auction. The Commission also requested comment on competitive bidding rules for the 800 MHz commercial Air-Ground Radiotelephone Service.

3. On December 9, 2005, the Commission released the *Air-Ground Reconsideration Order and R&O*, 70 FR 76414, December 27, 2005, in which it resolved petitions for reconsideration of the *Air-Ground Order* and adopted competitive bidding rules for the 800 MHz commercial Air-Ground Radiotelephone Service.

4. Licensees in the 800 MHz Air-Ground Radiotelephone Service will be permitted to provide any type of air-ground service (*i.e.*, voice telephony, broadband Internet, data, etc.) to aircraft

of any type, and serve any or all aviation markets (commercial, government, and general). A licensee must provide service to aircraft and may not provide ancillary land mobile or fixed services in the 800 MHz air-ground spectrum.

#### ii. Licenses To Be Auctioned

5. Auction No. 65 will offer nationwide commercial licenses in the 800 MHz band in three alternative band configurations: (1) Band Plan 1, comprised of two overlapping, shared, cross-polarized 3 MHz licenses (Licenses A and B, respectively), (2) Band Plan 2, comprised of an exclusive 3 MHz license and an exclusive 1 MHz license (Licenses C and D, respectively), and (3) Band Plan 3, comprised of an exclusive 1 MHz license and an exclusive 3 MHz license (Licenses E and F, respectively), with the blocks at opposite ends of the band from Band Plan 2. Licenses in only one of these mutually incompatible band configurations will be awarded. The band plan that receives the highest aggregate gross bid in the auction will be implemented, and licenses composing that configuration will be awarded to winning bidders subject to review of their long-form license applications. Because the three band configurations are mutually incompatible, applications for licenses in different band plans will be mutually exclusive.

6. No party may obtain a controlling interest, either at auction or by a post-auction transaction, in new licenses for more than three megahertz of spectrum (either shared or exclusive) in the band. No single party, therefore, may win or hold more than one license in any of the available band configurations.

7. A complete list of the licenses available in Auction No. 65 and their descriptions is also included in Attachment A of the *Auction No. 65 Procedures Public Notice*.

#### B. Rules and Disclaimers

##### i. Relevant Authority

8. Prospective applicants must familiarize themselves thoroughly with the Commission's general competitive bidding rules set forth in Title 47, part 1, of the Code of Federal Regulations, including recent amendments and clarifications; rules relating to the 800 MHz Air-Ground Radiotelephone Service contained in Title 47, part 22, of the Code of Federal Regulations; and rules relating to applications, practice and procedure contained in Title 47, part 1, of the Code of Federal Regulations. Prospective applicants must also be thoroughly familiar with

the procedures, terms and conditions (collectively, terms) contained in this public notice and the Commission's decisions in proceedings regarding competitive bidding procedures, application requirements, and obligations of Commission licensees.

9. The terms contained in the Commission's rules, relevant orders, and public notices are not negotiable. The Commission may amend or supplement the information contained in our public notices at any time, and will issue public notices to convey any new or supplemental information to applicants. It is the responsibility of all applicants to remain current with all Commission rules and with all public notices pertaining to this auction. Copies of most auctions-related Commission documents, including public notices, can be retrieved from the FCC Auctions Internet site at <http://wireless.fcc.gov/auctions>.

##### ii. Prohibition of Collusion

10. To ensure the competitiveness of the auction process, 47 CFR 1.2105(c) of the Commission's rules prohibits applicants for licenses in any of the same geographic license areas from communicating with each other about bids, bidding strategies, or settlements unless such applicants have identified each other on their short-form applications (FCC Forms 175) as parties with whom they have entered into agreements under 47 CFR 1.2105(a)(2)(viii). Because all of the licenses available in Auction No. 65 have the same service area, i.e., they are nationwide, this prohibition will apply to all applicants. Thus, all applicants (unless they have identified each other on their FCC Form 175 applications as parties with whom they have entered into agreements under 47 CFR 1.2105(a)(2)(viii)) must affirmatively avoid all communications with or disclosures to each other that affect or have the potential to affect bids or bidding strategy, which may include communications regarding the post-auction market structure. This prohibition begins at the short-form application filing deadline and ends at the down payment deadline after the auction. This prohibition applies to all applicants regardless of whether such applicants become qualified bidders or actually bid.

11. For purposes of this prohibition, 47 CFR 1.2105(c)(7)(i) defines applicant as including all officers and directors of the entity submitting a short-form application to participate in the auction, all controlling interests of that entity, as well as all holders of partnership and other ownership interests and any stock

interest amounting to 10 percent or more of the entity, or outstanding stock, or outstanding voting stock of the entity submitting a short-form application.

12. Applicants for licenses for any of the same geographic license areas must not communicate directly or indirectly about bids or bidding strategy. Because all of the licenses available in Auction No. 65 have the same service area, all applicants are encouraged not to use the same individual as an authorized bidder. A violation of the anti-collusion rule could occur if an individual acts as the authorized bidder for two or more applicants, and conveys information concerning the substance of bids or bidding strategies between such applicants. Also, if the authorized bidders are different individuals employed by the same organization (e.g., law firm, engineering firm, or consulting firm), a violation similarly could occur. In such a case, at a minimum, applicants should certify on their applications that precautionary steps have been taken to prevent communication between authorized bidders and that applicants and their bidding agents will comply with the anti-collusion rule. A violation of the anti-collusion rule could occur in other contexts, such as an individual serving as an officer of two or more applicants.

13. The Commission's rules do not prohibit applicants from entering into otherwise lawful bidding agreements before filing their short-form applications, as long as they disclose the existence of the agreement(s) in their short-form applications. If parties agree in principle on all material terms prior to the short-form filing deadline, each party to the agreement must identify the other party or parties to the agreement on its short-form application under 47 CFR 1.2105(c), even if the agreement has not been reduced to writing. If the parties have not agreed in principle by the short-form filing deadline, they should not include the names of parties to discussions on their applications, and they may not continue negotiations, discussions or communications with any other applicants after the short-form filing deadline.

14. By electronically submitting its short-form application, each applicant certifies its compliance with 47 CFR 1.2105(c). However, the Bureau cautions that merely filing a certifying statement as part of an application will not outweigh specific evidence that collusive behavior has occurred, nor will it preclude the initiation of an investigation when warranted.

15. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of

information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that application. Thus, 47 CFR 1.65 requires an auction applicant to notify the Commission of any substantial change to the information or certifications included in its pending short-form application. Applicants are therefore required by 47 CFR 1.65 to report to the Commission any communications they have made to or received from another applicant after the short-form filing deadline that affect or have the potential to affect bids or bidding strategy unless such communications are made to or received from parties to agreements identified under 47 CFR

1.2105(a)(2)(viii). In addition, 47 CFR 1.2105(c)(6) provides that any applicant that makes or receives a communication prohibited by 47 CFR 1.2105(c) must report such communication to the Commission in writing immediately, and in no case later than five business days after the communication occurs.

16. Applicants that are winning bidders will be required to disclose in their long-form applications the specific terms, conditions, and parties involved in all bidding consortia, joint ventures, partnerships, and other arrangements entered into relating to the competitive bidding process.

17. Any applicant found to have violated the anti-collusion rule may be subject to sanctions. Applicants are also reminded that, regardless of compliance with the Commission's rules, they are subject to the antitrust laws, which are designed to prevent anticompetitive behavior in the marketplace. Compliance with the disclosure requirements of the Commission's anti-collusion rule will not necessarily insulate a party from enforcement of the antitrust laws. If an applicant is found to have violated the antitrust laws or the Commission's rules in connection with its participation in the competitive bidding process, it may be subject to forfeiture of its upfront payment, down payment, or full bid amount and may be prohibited from participating in future auctions.

18. A summary listing of documents issued by the Commission and the Bureau addressing the application of the anti-collusion rule may be found in Attachment E of the *Auction No. 65 Procedures Public Notice*. These documents are available on the Commission's auction anti-collusion Web page.

### iii. Incumbent Licensee

19. In the *Air-Ground Order*, the Commission granted Verizon Airfone Inc., (Verizon Airfone or Airfone) the only incumbent service provider in the 800 MHz air-ground band, a nonrenewable license to operate in the band for five years. This license will expire on May 13, 2010. Verizon Airfone must remove its incumbent narrowband operations from three megahertz of spectrum in the band within two years of the initial grant date of a new license in the band, but may continue to operate in the remaining one megahertz of the band until the expiration of its nonrenewable license. The Commission has directed the Bureau to adopt reporting requirements so that Airfone's transition of its base stations and its subscribers' aircraft to operations in one megahertz of the 800 MHz air-ground band may be monitored. Accordingly, the Bureau issued a public notice enumerating such requirements on February 6, 2006. Airfone must file its initial transition status report with the Commission six months from the date of the grant of any new license in the band and at each of the three six-month intervals thereafter.

20. In addition, if Airfone, or an affiliate of Airfone, wins an exclusive 3 MHz license at auction, the Bureau will issue a public notice within 60 days of the grant of such a license that will require the company (1) to include in each status report information regarding the transition of its existing subscribers from its narrowband system to a broadband system and (2) to file additional status reports at six-month intervals from the conclusion of the two-year transition period until the expiration of its five-year nonrenewable license.

### iv. Interference Protection

21. Ground stations in the Air-Ground Radiotelephone Service that operate in the 849–851 MHz range will be subject to the same interference abatement obligation rules adopted for cellular services in the 800 MHz Order.

### a. International Coordination

22. To promote interoperable communications and to manage interference, some of the ground station locations in North America and channel block assignments of the 800 MHz air-ground band have been predetermined consistent with bilateral agreements with Mexico and with Canada. These agreements, which provide for coordinated use of the 800 MHz air-ground frequencies over North American airspace, are based on a

narrow bandwidth channel scheme, and therefore may need to be renegotiated to provide for more flexible use of this spectrum based on the band plan configuration that is implemented as a result of the auction.

### b. Quiet Zone

23. Stations in the 800 MHz Air-Ground Radiotelephone Service must protect the radio quiet zones set forth in the Commission's rules. Licensees are cautioned that they must receive the appropriate approvals directly from the relevant quiet zone entity prior to operating within the areas described in the Commission's rules.

### v. Spectrum Sharing Plan

24. If Band Plan 1, which is comprised of two overlapping 3 MHz licenses, is implemented, the new licensees will be required to jointly file a spectrum sharing and site selection plan with the Bureau within six months of the initial grant of their spectrum licenses, and they will be required to notify the Bureau of any changes to the plan. The Bureau will issue a public notice prior to the commencement of Auction No. 65 in which it will specify the filing requirements for such a plan. This approach will provide parties with overlapping spectrum licenses flexibility to configure their systems without having to adhere to minimum spacing requirements or site locations predetermined by the Commission.

### vi. Due Diligence

25. Potential bidders are reminded that they are solely responsible for investigating and evaluating all technical and marketplace factors that may have a bearing on the value of the 800 MHz Air-Ground Radiotelephone Service licenses in this auction. The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that an FCC auction represents an opportunity to become an FCC licensee in the 800 MHz Air-Ground Radiotelephone Service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular service, technology, or product, nor does an FCC license constitute a guarantee of business success. Applicants should perform their individual due diligence before proceeding as they would with any new business venture.

26. Potential bidders are strongly encouraged to conduct their own research prior to the beginning of bidding in Auction No. 65 in order to determine the existence of any pending

administrative or judicial proceedings that might affect their decision regarding participation in the auction. Participants in Auction No. 65 are strongly encouraged to continue such research throughout the auction. In addition, potential bidders should perform technical analyses sufficient to assure themselves that, should they prevail in competitive bidding for a specific license, they will be able to build and operate facilities that will fully comply with the Commission's technical and legal requirements.

27. Applicants should also be aware that certain pending and future applications (including those for modification), petitions for rulemaking, requests for special temporary authority, waiver requests, petitions to deny, petitions for reconsideration, informal oppositions, and applications for review before the Commission may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 65. In addition, pending and future judicial proceedings may relate to particular applicants or incumbent licensees or the licenses available in Auction No. 65. Prospective bidders are responsible for assessing the likelihood of the various possible outcomes, and considering their potential impact on spectrum licenses available in this auction.

28. Applicants should perform due diligence to identify and consider all proceedings that may affect the spectrum licenses being auctioned and that could have an impact on the availability of spectrum for Auction No. 65. In addition, although the Commission may continue to act on various pending applications, informal objections, petitions, and other requests for Commission relief, some of these matters may not be resolved by the time of the auction.

29. Applicants are solely responsible for identifying associated risks and for investigating and evaluating the degree to which such matters may affect their ability to bid on, otherwise acquire, or make use of licenses available in Auction No. 65.

30. The Commission makes no representations or guarantees regarding the accuracy or completeness of information in its databases or any third party databases.

31. Potential applicants are strongly encouraged to physically inspect any prospective ground station sites and also to familiarize themselves with the environmental assessment obligations.

#### vii. Bidder Alerts

32. As is the case with many business investment opportunities, some

unscrupulous entrepreneurs may attempt to use Auction No. 65 to deceive and defraud unsuspecting investors.

33. Information about deceptive telemarketing investment schemes is available from the FTC at (202) 326-2222 and from the SEC at (202) 942-7040. Complaints about specific deceptive telemarketing investment schemes should be directed to the FTC, the SEC, or the National Fraud Information Center.

#### viii. National Environmental Policy Act Requirements

34. Licensees must comply with the Commission's rules regarding implementation of the National Environmental Policy Act (NEPA). The construction of a wireless antenna facility is a federal action and the licensee must comply with the Commission's NEPA rules for each such facility. The Commission's NEPA rules require, among other things, that the licensee consult with expert agencies having NEPA responsibilities, including the U.S. Fish and Wildlife Service, the State Historic Preservation Office, the Army Corps of Engineers and the Federal Emergency Management Agency.

#### C. Auction Specifics

##### i. Auction Date

35. Bidding in Auction No. 65 will begin on Wednesday, May 10, 2006, as announced in the *Auction No. 65 Comment Public Notice*. The initial schedule for bidding will be announced by public notice at least one week before the start of the auction. Unless otherwise announced, bidding on all licenses will be conducted on each business day until bidding has stopped on all licenses.

##### ii. Auction Title

36. Auction No. 65—800 MHz Air-Ground Radiotelephone.

##### iii. Bidding Methodology

37. The bidding methodology for Auction No. 65 will be simultaneous multiple round bidding. The Commission will conduct this auction over the Internet using the FCC's Integrated Spectrum Auction System (ISAS or FCC Auction System), and telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically via the Internet or by telephone.

##### iv. Pre-Auction Dates and Deadlines

###### 38. Dates and Deadlines.

Auction Seminar—March 14, 2006

Short-Form Application (FCC Form 175)  
Filing Window Opens—March 14, 2006; 12 p.m. ET

Short-Form Application (FCC Form 175)  
Filing Deadline—March 24, 2006; 6 p.m. ET

Upfront Payment (via wire transfer)  
Deadline—April 17, 2006; 6 p.m. ET  
Mock Auction—May 8, 2006  
Auction Begins—May 10, 2006

##### v. Requirements for Participation

39. Those wishing to participate in the auction must: submit a short-form application (FCC Form 175) electronically prior to 6 p.m. Eastern Time (ET), March 24, 2006, following the electronic filing procedures set forth in Attachment C to the *Auction No. 65 Procedures Public Notice*; submit a sufficient upfront payment and an FCC Remittance Advice Form (FCC Form 159) before 6 p.m. ET, April 17, 2006; comply with all provisions outlined in this Public Notice and applicable Commission rules.

##### vi. General Contact Information

40. See *Auction No. 65 Procedures Public Notice* for the General Contact Information Table.

#### II. Short-Form Application (FCC Form 175) Requirements

41. An application to participate in an FCC auction, referred to as a short-form application or FCC Form 175, provides information used in determining whether the applicant is legally, technically, and financially qualified to participate in Commission auctions for licenses or permits. The short-form application is the first part of the Commission's two-phased auction application process. In the first phase of this process, parties desiring to participate in the auction file streamlined, short-form applications in which they certify under penalty of perjury as to their qualifications. Eligibility to participate in bidding is based on the applicant's short-form application and certifications as well as its upfront payment. In the second phase of the process, winning bidders file a more comprehensive long-form application.

42. Entities seeking licenses available in Auction No. 65 must file a short-form application electronically via the FCC Auction System before 6 p.m. ET on March 24, 2006, following the procedures prescribed in Attachment C of the *Auction No. 65 Procedures Public Notice*. If an applicant claims eligibility for a bidding credit, the information provided in its FCC Form 175 will be used in determining whether the applicant is eligible for the claimed

bidding credit. Applicants bear full responsibility for submitting accurate, complete and timely short-form applications. All applicants must certify on their short-form applications under penalty of perjury that they are legally, technically, financially and otherwise qualified to hold a license. Applicants should read the instructions set forth in Attachment C of the *Auction No. 65 Procedures Public Notice* carefully and should consult the Commission's rules to ensure that, in addition to the materials all the information that is required under the Commission's rules is included with their short-form applications.

43. An entity may not submit more than one short-form application for a single auction. In the event that a party submits multiple short-form applications, only one application will be accepted for filing.

44. Applicants also should note that submission of a short-form application constitutes a representation by the certifying official that he or she is an authorized representative of the applicant, that he or she has read the form's instructions and certifications, and that the contents of the application, its certifications, and any attachments are true and correct. Submission of a false certification to the Commission may result in penalties, including monetary forfeitures, license forfeitures, ineligibility to participate in future auctions, and/or criminal prosecution.

#### A. Preferences for Small Businesses

##### i. Bidding Credits

45. A bidding credit represents the amount by which a bidder's winning bid will be discounted. For Auction No. 65 bidding credits will be available to small businesses and very small businesses, and consortia thereof, as follows: a bidder with attributed average annual gross revenues that exceed \$15 million and do not exceed \$40 million for the preceding three years (small business) will receive a 15 percent discount on its winning bid; and a bidder with attributed average annual gross revenues that do not exceed \$15 million for the preceding three years (very small business) will receive a 25 percent discount on its winning bid.

46. Bidding credits are not cumulative; a qualifying applicant receives either the 15 percent or 25 percent bidding credit on its winning bid, but not both.

47. Every applicant that claims eligibility for a bidding credit as either a small business or a very small business, or a consortium of small businesses or very small businesses,

will be required to provide information regarding revenues attributable to the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests on its FCC Form 175 short-form application to establish that it satisfies the applicable eligibility requirement. Applicants considering claiming eligibility as a designated entity in Auction No. 65 should review carefully the recently released *CSEA/Part 1 Designated Entity FNPRM*, 71 FR 6992, February 10, 2006. In the *CSEA/Part 1 Designated Entity FNPRM*, the Commission tentatively concluded that it should "restrict the award of designated entity benefits to an otherwise qualified designated entity where it has a material relationship with a large in-region incumbent wireless service provider," and sought comment on how to define the elements of such a restriction. The Commission also sought comment on whether to restrict the award of designated entity benefits where an otherwise qualified designated entity has a material relationship with a large entity that has a significant interest in communications services. The Commission further proposed that in the event that any designated entity applicants have filed an application to participate in an auction prior to the effective date of any designated entity rule changes adopted pursuant to the *CSEA/Part 1 Designated Entity FNPRM*, such applicants be required to amend their applications on or after the effective date of the rule changes with a statement declaring, under penalty of perjury, that the applicant is qualified as a designated entity pursuant to 47 CFR 1.2110 of the Commission's rules effective as of the date of the statement. Finally, the Commission noted that under this proposal the Bureau will establish any detailed procedures necessary for making required amendments and announce such procedures by public notice. Accordingly, applicants considering claiming eligibility as a designated entity in Auction No. 65 should monitor further proceedings pursuant to the *CSEA/Part 1 Designated Entity FNPRM* to assure their ability to comply with any changes to the designated entity rules that the Commission may adopt that are applicable to applicants in Auction No. 65.

##### ii. Tribal Land Bidding Credits

48. Tribal land bidding credits will not be available in Auction No. 65. The Commission's tribal land bidding credits are intended to provide incentives for wireless telecommunications carriers to serve individuals living on tribal lands. More

specifically, tribal land bidding credits are intended for winning bidders that use licenses to deploy facilities and provide service to federally recognized tribal areas that are either unserved by any telecommunications carrier or that have a wireline telephone subscription or penetration rate of 85 percent or less. Commercial Air-Ground Radiotelephone Service licenses, however, must be used to provide service to aircraft and may not be used to provide ancillary land mobile or fixed services. Because 800 MHz air-ground licenses may not be used to provide terrestrial telephone service, tribal land bidding credits will not be available to winning bidders in Auction No. 65 under 47 CFR 1.2110(f)(3).

##### iii. Installment Payments

49. Installment payment plans will not be available in Auction No. 65.

#### B. License Selection

50. In Auction No. 65, applicants must select the licenses on which they want to bid from the *Eligible Licenses* list. The applicant may select all the licenses in the list or select individual licenses from the list. There will be no opportunity to change license selection after the short-form filing deadline. It is critically important that an applicant confirm its license selection before submitting its short-form application because the FCC Auction System will not accept bids on licenses that an applicant has not selected on its FCC Form 175.

#### C. Consortia and Joint Bidding Arrangements

51. Applicants will be required to identify in their short-form applications all parties with whom they have entered into any consortium arrangements, joint ventures, partnerships or other agreements or understandings that relate in any way to the licenses being auctioned, including any agreements relating to post-auction market structure. Applicants also will be required to certify under penalty of perjury in their short-form applications that they have not entered and will not enter into any explicit or implicit agreements, arrangements or understandings of any kind with any parties, other than those identified in the application, regarding the amount of their bids, bidding strategies, or the particular licenses on which they will or will not bid. If an applicant has had discussions, but has not reached a joint bidding agreement by the short-form application filing deadline, it would not include the names of parties to the discussions on its application and may

not continue such discussions with any applicants after the deadline.

52. After the filing of short-form applications, a party holding a non-controlling, attributable interest in one applicant will be permitted to acquire an ownership interest in, form a consortium with, or enter into a joint bidding arrangement with other applicants provided that (i) the attributable interest holder certifies that it has not and will not communicate with any party concerning the bids or bidding strategies of more than one of the applicants in which it holds an attributable interest, or with which it has formed a consortium or entered into a joint bidding arrangement; and (ii) the arrangements do not result in a change in control of any of the applicants. While the anti-collusion rules do not prohibit non-auction-related business negotiations among auction applicants, applicants are reminded that certain discussions or exchanges could touch upon impermissible subject matters because they may convey pricing information and bidding strategies.

#### D. Ownership Disclosure Requirements

53. All applicants must comply with the uniform Part 1 ownership disclosure standards and provide information required by 47 CFR 1.2105 and 1.2112 of the Commission's rules. Specifically, in completing the short-form application, applicants will be required to fully disclose information on the real party or parties in interest and ownership structure of the applicant.

54. An applicant's most current ownership information on file with the Commission, if in an electronic format compatible with the short-form application (FCC Form 175), will automatically be entered into the applicant's short-form application. Applicants are responsible for ensuring that the information submitted in their FCC Form 175 is complete and accurate. Accordingly, applicants should carefully review any information automatically entered to confirm that it is complete and accurate as of the deadline for filing the short-form application. Applicants can update any information that needs to be changed directly in the short-form application.

#### E. Bidding Credit Revenue Disclosures

55. To determine which applicants qualify for bidding credits as small businesses or very small businesses, the Commission considers the gross revenues of the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests. Therefore, entities applying to bid as small businesses or very small

businesses (or consortia of small businesses or very small businesses) will be required to disclose on their FCC Form 175 short-form applications the gross revenues of each of the following for the preceding three years: (1) The applicant, (2) its affiliates, (3) its controlling interests, and (4) the affiliates of its controlling interests. Certification that the average annual gross revenues of such entities and individuals for the preceding three years do not exceed the applicable limit is not sufficient. In order to comply with the Commission's disclosure requirements for bidding credit eligibility, an applicant must provide separately for itself, its affiliates, its controlling interests, and the affiliates of its controlling interests, the gross revenues for each of the preceding three years. If the applicant is applying as a consortium of small businesses or very small businesses, this information must be provided for each consortium member.

56. Controlling interests include individuals and entities with either *de facto* or *de jure* control of the applicant. Typically, ownership of at least 50.1 percent of an entity's voting stock evidences *de jure* control. *De facto* control is determined on a case-by-case basis. The following are some common indicia of *de facto* control: The entity constitutes or appoints more than 50 percent of the board of directors or management committee; the entity has authority to appoint, promote, demote, and fire senior executives that control the day-to-day activities of the licensee; the entity plays an integral role in management decisions. Officers and directors of an applicant are also considered to have a controlling interest in the applicant. The Commission does not impose specific equity requirements on controlling interest holders. Once the principals or entities with a controlling interest are determined, only the revenues of those principals or entities, the affiliates of those principals or entities, and the applicant and its affiliates will be counted in determining small business eligibility.

57. In recent years the Commission has made modifications to its rules governing the attribution of gross revenues for purposes of determining small business eligibility. These changes include exempting the gross revenues of the affiliates of a rural telephone cooperative's officers and directors from attribution to the applicant if certain specified conditions are met. The Commission has also clarified that, in calculating an applicant's gross revenues under the controlling interest standard, it will not attribute the

personal net worth, including personal income, of its officers and directors to the applicant.

58. Each member of a consortium of small or very small businesses that applies to participate in Auction No. 65 must individually meet the definition of small business or very small business adopted by the Commission for the 800 MHz Air-Ground Radiotelephone Service. Each consortium member must disclose its gross revenues along with those of its affiliates, its controlling interests, and the affiliates of its controlling interests. Although the gross revenues of the consortium members will not be aggregated for purposes of determining the consortium's eligibility as a small business or very small business, this information must be provided to ensure that each individual consortium member qualifies for any bidding credit awarded to the consortium.

#### F. Provisions Regarding Former and Current Defaulters

59. Each applicant must state under penalty of perjury on its short-form application whether or not the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by 47 CFR 1.2110, have ever been in default on any Commission licenses or have ever been delinquent on any non-tax debt owed to any Federal agency. In addition, each applicant must certify under penalty of perjury on its short-form application that, as of the short-form filing deadline, the applicant, its affiliates, its controlling interests, and the affiliates of its controlling interests, as defined by 47 CFR 1.2110, are not in default on any payment for Commission licenses (including down payments) and that they are not delinquent on any non-tax debt owed to any Federal agency. Prospective applicants are reminded that submission of a false certification to the Commission is a serious matter that may result in severe penalties, including monetary forfeitures, license revocations, exclusion from participation in future auctions, and/or criminal prosecution.

60. Former defaulters, i.e., applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that in the past have defaulted on any Commission licenses or been delinquent on any non-tax debt owed to any Federal agency, but that have since remedied all such defaults and cured all of their outstanding non-tax delinquencies—are eligible to bid in Auction No. 65, provided that they are otherwise qualified. However, former

defaulters are required to pay upfront payments that are 50 percent more than the normal upfront payment amounts.

61. Current defaulters, i.e., applicants, including any of their affiliates, any of their controlling interests, or any of the affiliates of their controlling interests, that are in default on any payment for any Commission licenses (including down payments) or are delinquent on any non-tax debt owed to any Federal agency as of the filing deadline for applications to participate in this auction—are not eligible to bid in Auction No. 65.

62. Applicants are encouraged to review the Bureau's previous guidance on default and delinquency disclosure requirements in the context of the short-form application process. The Commission considers outstanding debts owed to the United States Government, in any amount, to be a serious matter. The Commission adopted rules, including a provision referred to as the red light rule, that implement the Commission's obligations under the Debt Collection Improvement Act of 1996, which governs the collection of claims owed to the United States. Under the red light rule, the Commission will not process applications and other requests for benefits filed by parties that have outstanding debts owed to the Commission. In the same rulemaking order, the Commission explicitly declared, however, that the Commission's competitive bidding rules are not affected by the red light rule. As a consequence, the Commission's adoption of the red light rule does not alter the applicability of any of the Commission's competitive bidding rules, including the provisions and certifications of 47 CFR 1.2105 and 1.2106, with regard to current and former defaults or delinquencies. Applicants are reminded, however, that the Commission's Red Light Display System, which provides information regarding debts owed to the Commission, may not be determinative of an auction applicant's ability to comply with the default and delinquency disclosure requirements of 47 CFR 1.2105. Thus, while the red light rule may ultimately prevent the processing of long-form applications by auction winners, an auction applicant's red light status is not necessarily determinative of its eligibility to participate in this auction or to its upfront payment obligation.

63. Prospective applicants for Auction No. 65 should note that all long-form applications filed after the close of competitive bidding will be reviewed for compliance with the Commission's

red light rule, and such review may result in the dismissal of a winning bidder's long-form application.

#### *G. Other Information*

64. Applicants owned by members of minority groups and/or women, as defined in 47 CFR 1.2110(c)(3), may identify themselves in filling out their short-form applications regarding this status. This applicant status information is collected for statistical purposes only and assists the Commission in monitoring the participation of designated entities in its auctions.

#### *H. Minor Modifications to Short-Form Applications (FCC Form 175)*

65. After the deadline for filing short-form applications (FCC Forms 175) at 6 p.m. ET on March 24, 2006, applicants are permitted to make only minor changes to their applications. Applicants are not permitted to make major modifications to their applications.

66. Any application amendment and related statements of fact must be certified by: (1) The applicant, if the applicant is an individual, (2) one of the partners, if the applicant is a partnership, (3) an officer, director, or duly authorized employee, if the applicant is a corporation, (4) a member who is an officer, if the applicant is an unincorporated association, (5) the trustee, if the applicant is an amateur radio service club, or (6) a duly elected or appointed official who is authorized to make such certifications under the laws of the applicable jurisdiction, if the applicant is a governmental entity.

67. An applicant must make permissible minor changes to its short-form application, as such changes are defined by 47 CFR 1.2105(b), on-line. Applicants must click on the SUBMIT button in the FCC Auction System for the changes to be submitted and considered by the Commission.

68. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: *auction65@fcc.gov*.

#### *I. Maintaining Current Information in Short-Form Applications (FCC Form 175)*

69. Section 1.65 of the Commission's rules requires an applicant to maintain the accuracy and completeness of information furnished in its pending application and to notify the Commission within 30 days of any substantial change that may be of decisional significance to that

application. Changes that cause a loss of or reduction in eligibility for a bidding credit must be reported immediately. If an amendment reporting substantial changes is a "major amendment" as defined by 47 CFR 1.2105, the major amendment will not be accepted and may result in the dismissal of the short-form application.

### **III. Pre-Auction Procedures**

#### *A. Auction Seminar—March 14, 2006*

70. On Tuesday, March 14, 2006, the FCC will conduct a seminar for parties interested in participating in Auction No. 65 at the Federal Communications Commission headquarters, located at 445 12th Street, SW., Washington, DC. The seminar will provide attendees with information about pre-auction procedures, completing FCC Form 175, auction conduct, the FCC Auction System, auction rules, and the 800 MHz Air-Ground Radiotelephone Service rules.

71. To register, complete the registration form, Attachment B of the *Auction No. 65 Procedures Public Notice* and submit it by Monday, March 13, 2006. Registrations are accepted on a first-come, first-served basis.

#### *B. Short-Form Application (FCC Form 175)—Due Before 6 p.m. ET on March 24, 2006*

72. In order to be eligible to bid in this auction, applicants must first submit an FCC Form 175 application electronically via the FCC Auction System. This application must be received at the Commission prior to 6 p.m. ET on March 24, 2006. Late applications will not be accepted. There is no application fee associated with filing an FCC Form 175. However, to be eligible to bid, an applicant must submit an upfront payment.

73. Applications may generally be filed at any time beginning at noon ET on March 14, 2006, until 6 p.m. ET on March 24, 2006. Applicants are strongly encouraged to file early and are responsible for allowing adequate time for filing their applications. Applicants may update or amend their applications multiple times until the filing deadline on March 24, 2006.

#### *C. Application Processing and Minor Corrections*

74. After the deadline for filing FCC Form 175 applications has passed, the FCC will process all timely submitted applications to determine which are acceptable for filing, and subsequently will issue a public notice identifying: (1) Those applications accepted for filing; (2) those applications rejected; and (3)

those applications that have minor defects that may be corrected, and the deadline for resubmitting such corrected applications.

75. As described more fully in the Commission's rules, after the March 24, 2006, short-form filing deadline, applicants may make only minor corrections to their FCC Form 175 applications. Applicants will not be permitted to make major modifications to their applications (e.g., change their license selections, change control of the applicant, or claim eligibility for a higher bidding credit).

*D. Upfront Payments—Due April 17, 2006*

76. In order to be eligible to bid in the auction, applicants must submit an upfront payment accompanied by an FCC Remittance Advice Form (FCC Form 159). After completing the FCC Form 175, filers will have access to an electronic version of the FCC Form 159 that can be printed and sent by facsimile to Mellon Bank in Pittsburgh, PA. All upfront payments must be received in the proper account at Mellon Bank before 6 p.m. ET on April 17, 2006.

*i. Making Auction Payments by Wire Transfer*

77. Wire transfer payments must be received before 6 p.m. ET on April 17, 2006. To avoid untimely payments, applicants should discuss arrangements (including bank closing schedules) with their banker several days before they plan to make the wire transfer, and allow sufficient time for the transfer to be initiated and completed before the deadline.

78. At least one hour before placing the order for the wire transfer (but on the same business day), applicants must send by facsimile a completed FCC Form 159 (Revised 2/03) to Mellon Bank at (412) 209-6045. On the cover sheet of the facsimile, write "Wire Transfer—Auction Payment for Auction No. 65." In order to meet the Commission's upfront payment deadline, an applicant's payment must be credited to the Commission's account before the deadline. Applicants are responsible for obtaining confirmation from their financial institution that Mellon Bank has timely received their upfront payment and deposited it in the proper account.

79. Please note that: all payments must be made in U.S. dollars; all payments must be made by wire transfer; upfront payments for Auction No. 65 go to a lockbox number different from the lockboxes used in previous FCC auctions, and different from the lockbox number to be used for post-

auction payments; failure to deliver the upfront payment by the April 17, 2006, deadline will result in dismissal of the application and disqualification from participation in the auction.

*ii. FCC Form 159*

80. A completed FCC Remittance Advice Form (FCC Form 159, Revised 2/03) must be faxed to Mellon Bank to accompany each upfront payment. Proper completion of FCC Form 159 (Revised 2/03) is critical to ensuring correct crediting of upfront payments. Detailed instructions for completion of FCC Form 159 are included in Attachment D of the *Auction No. 65 Procedures Public Notice*. An electronic pre-filled version of the FCC Form 159 is available after submitting the FCC Form 175. Payors using a pre-filled FCC Form 159 are responsible for ensuring that all of the information on the form, including payment amounts, is accurate. The FCC Form 159 can be completed electronically, but must be filed with Mellon Bank via facsimile.

*iii. Upfront Payments and Bidding Eligibility*

81. In the *Part 1 Order*, 62 FR 13540, March 21, 1997, the Commission delegated to the Bureau the authority and discretion to determine appropriate upfront payment(s) for each auction. In addition, in the *Part 1 Fifth Report and Order*, 65 FR 522323, August 29, 2000, the Commission ordered that former defaulters be required to pay upfront payments 50 percent greater than non-former defaulters. For purposes of this calculation, the applicant includes the applicant itself, its affiliates, its controlling interests, and affiliates of its controlling interests, as defined by 47 CFR 1.2110 of the Commission's rules.

82. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed an upfront payment amount of \$100,000 per license. The Bureau further proposed that the amount of the upfront payment would determine a bidder's bidding eligibility in bidding units. For Auction No. 65, the Bureau proposed to assign 100,000 bidding units per license. The number of bidding units for a given license is fixed and does not change during the auction as prices change.

83. Because the mutually incompatible band configurations and the three megahertz eligibility restriction limit a bidder to winning only a single license, the Bureau proposed to permit a bidder with 100,000 bidding units of eligibility to bid or be active simultaneously on any or all of the licenses it selected on its FCC Form 175, rather than being limited

to activity on a single license with 100,000 bidding units as our usual activity and eligibility rules would require. Under our proposal, an upfront payment of \$100,000, or \$150,000 if the applicant is a former defaulter, would give a bidder 100,000 bidding units of eligibility, which in turn would permit the bidder to be active on any or all of the licenses it selected on its FCC Form 175. Under this proposal, it would be unnecessary to acquire more than 100,000 bidding units of bidding eligibility. The Bureau received no comments concerning our proposals regarding the amount of upfront payments and the number of bidding units for each license available in Auction No. 65.

84. The Bureau adopts the above proposals. In order to bid on a license, qualified bidders that applied for any or all licenses on FCC Form 175 must have eligibility of 100,000 bidding units. Therefore, an applicant that is not a former defaulter must submit a total upfront payment of at least \$100,000 in order to have 100,000 bidding units, or else the applicant will not be eligible to participate in the auction. An applicant that is a former defaulter must submit an upfront payment of at least \$150,000 in order to have 100,000 bidding units. If a former defaulter fails to submit an upfront payment of at least \$150,000, the applicant will not be eligible to participate in the auction. If an applicant fails to submit the upfront payment required to establish eligibility to bid in the auction by the upfront payment deadline, it will not be permitted to establish such eligibility after the upfront payment deadline.

85. With 100,000 bidding units a bidder may be active on any or all licenses selected on its FCC Form 175, although it may win only one license. Eligibility cannot be increased during the auction; it can only remain the same or decrease. Thus, in calculating its upfront payment amount, an applicant must purchase 100,000 bidding units. The total upfront payment does not affect the total dollar amount a bidder may bid on any given license.

86. The upfront payments and bidding units for each license are set forth in Attachment A of the *Auction No. 65 Procedures Public Notice*.

*iv. Applicants' Wire Transfer Information for Purposes of Refunds of Upfront Payments*

87. The Commission will use wire transfers for all Auction No. 65 refunds. To ensure that refunds of upfront payments are processed in an expeditious manner, the Commission is requesting that all pertinent information

be supplied to the FCC. Applicants can provide the information electronically during the initial short-form filing window after the form has been submitted. Applicants are reminded that information submitted as part of their FCC Form 175 will be available to the public. Accordingly, the pertinent information for wire transfers should not be included in the FCC Form 175. Wire Transfer Instructions can also be manually sent by facsimile to the FCC, Financial Operations Center, Auctions Accounting Group, ATTN: Gail Glasser, at (202) 418-2843. All refunds will be returned to the payer of record as identified on the FCC Form 159 unless the payer submits written authorization instructing otherwise. For additional information, please call Gail Glasser at (202) 418-0578.

#### *E. Auction Registration*

88. Approximately ten days before the auction, the FCC will issue a public notice announcing all qualified bidders for the auction. Qualified bidders are those applicants whose FCC Form 175 applications have been accepted for filing and who have timely submitted upfront payments sufficient to make them eligible to bid.

89. All qualified bidders are automatically registered for the auction. Registration materials will be distributed prior to the auction by overnight mail. The mailing will be sent only to the contact person at the contact address listed in the FCC Form 175 and will include the SecurID cards that will be required to place bids, the Integrated Spectrum Auction System (ISAS) Bidder's Guide, and the Auction Bidder Line phone number.

90. Qualified bidders that do not receive this registration mailing will not be able to submit bids. Therefore, any qualified bidder that has not received this mailing by noon on Thursday, May 4, 2006, should call (717) 338-2888. Receipt of this registration mailing is critical to participating in the auction, and each applicant is responsible for ensuring it has received all of the registration material.

91. In the event that SecurID cards are lost or damaged, only a person who has been designated as an authorized bidder, the contact person, or the certifying official on the applicant's short-form application may request replacement registration material. Qualified bidders requiring the replacement of these items must call Technical Support.

#### *F. Remote Electronic Bidding*

92. The Commission will conduct this auction over the Internet, and

telephonic bidding will be available as well. Qualified bidders are permitted to bid electronically and telephonically. Each applicant should indicate its bidding preference—electronic or telephonic—on the FCC Form 175. In either case, each authorized bidder must have its own SecurID card, which the FCC will provide at no charge. Each applicant with one authorized bidder will be issued two SecurID cards, while applicants with two or three authorized bidders will be issued three cards. For security purposes, the SecurID cards, the telephonic bidding phone number, and the Integrated Spectrum Auction System (ISAS) Bidder's Guide are only mailed to the contact person at the contact address listed on the FCC Form 175. Please note that each SecurID card is tailored to a specific auction; therefore, SecurID cards issued for other auctions or obtained from a source other than the FCC will not work for Auction No. 65.

93. Please note that the SecurID cards can be recycled and the Bureau encourages bidders to return the cards to the FCC. The Bureau will provide pre-addressed envelopes that bidders may use to return the cards once the auction is over.

#### *G. Mock Auction—May 8, 2006*

94. All qualified bidders will be eligible to participate in a mock auction on Monday, May 8, 2006. The mock auction will enable applicants to become familiar with the FCC Auction System prior to the auction. Participation by all bidders is strongly recommended. Details will be announced by public notice.

### **IV. Auction Event**

95. The first round of bidding for Auction No. 65 will begin on Wednesday, May 10, 2006. The initial bidding schedule will be announced in a public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

#### *A. Auction Structure*

##### *i. Simultaneous Multiple Round Auction*

96. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to award all licenses in Auction No. 65 in a simultaneous multiple round auction. The Bureau received no comments on this proposal. Licenses will be offered in three mutually incompatible band configurations, and the band plan that receives the highest gross bids in the auction will be implemented. The Bureau believes the simultaneous

multiple-round auction is an appropriate auction design given these circumstances, and the Bureau adopts its proposal. In a simultaneous multiple round auction, all licenses are available during the entire auction, and bids are accepted on any license until the auction concludes. Unless otherwise announced, bids will be accepted on all licenses in each round of the auction until bidding stops on every license.

#### *ii. Activity Rule*

97. The procedures the Bureau establish in the *Auction No. 65 Procedures Public Notice* for upfront payments and bidding eligibility, the amount of the upfront payment submitted by a bidder determines the bidder's bidding eligibility in terms of bidding units. A bidder must have 100,000 bidding units of eligibility to participate in Auction No. 65—i.e., to bid on at least one license—and may hold a maximum of 100,000 bidding units of eligibility. Any reduction in a bidder's eligibility will effectively preclude the bidder from further bidding in the auction.

98. In order to ensure that an auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until late in the auction before participating. For Auction No. 65, the Bureau proposed 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 (place a bid or hold the provisionally winning bid) on at least one license. Under this proposal, failure to maintain the required activity level has the effect of eliminating the bidder from further bidding in the auction unless an activity rule waiver is used. The Bureau received no comments on this proposal.

99. The Bureau adopts this proposal for Auction No. 65 because the Bureau believes it is an appropriate procedure for ensuring that the auction will proceed at a reasonable pace. Thus, in Auction No. 65, in each round of the auction, a bidder desiring to maintain its eligibility to participate in the auction is required to be active on at least one license. A bidder is considered active on a license in the current round if it is either the provisionally winning bidder at the end of the previous bidding round or if it submits a bid in the current round. If a bidder fails to be active on at least one license in a round, it must use one of the limited number of activity rule waivers allotted to it in order to maintain its eligibility to continue bidding in the auction. If the bidder has no activity rule waivers

remaining, its eligibility will be reduced and it will no longer be permitted to place bids in the auction.

### iii. Activity Rule Waivers

100. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed that each bidder in the auction be provided with three activity rule waivers. The Bureau received no comments on this issue. The Bureau adopts its proposal that each bidder be provided with three activity rule waivers. The Bureau are satisfied that providing three waivers over the course of the auction will give bidders a sufficient number of waivers and flexibility, while also safeguarding the integrity of the auction.

101. Bidders may use an activity rule waiver in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's failure to be active on at least one license in the current round. An activity rule waiver applies to an entire round of bidding and not to a particular license. Activity rule waivers can be either applied proactively by the bidder (a proactive waiver) or applied automatically by the FCC Auction System (an automatic waiver) and are principally a mechanism for auction participants to avoid the loss of bidding eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

102. The FCC Auction System assumes that bidders with insufficient activity would prefer to apply an activity rule waiver (if available) rather than lose bidding eligibility, which in this auction would have the effect of precluding the bidder from further bidding in the auction. Therefore, the system will automatically apply a waiver at the end of any bidding round in which a bidder fails to be active (place a bid or hold the provisionally winning bid) on at least one license unless the bidder has no activity rule waivers available. If a bidder has no waivers remaining and does not satisfy the required activity requirement, it will no longer be permitted to place bids in the auction.

103. Finally, a bidder may apply an activity rule waiver proactively as a means to keep the auction open without placing a bid. If a bidder proactively applies an activity waiver (using the apply waiver function in the FCC Auction System) during a bidding round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver applied by the FCC Auction System in a round in which there are no new bids will not

keep the auction open. A bidder cannot submit a proactive waiver after submitting a bid in a round, and submitting a proactive waiver will preclude a bidder from placing any bids in that round.

**Note:** Applying a waiver is irreversible; once a proactive waiver is submitted that waiver cannot be unsubmitted, even if the round has not yet closed.

### iv. Auction Stopping Rules

104. For Auction No. 65, the Bureau proposed to employ a simultaneous stopping rule approach. The Bureau also sought comment on a modified version of the simultaneous stopping rule. The modified version of the stopping rule would close the auction for all licenses after the first round in which no bidder applies a waiver or submits any new bids on any license on which it is not the provisionally winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisionally winning bidder would not keep the auction open under this modified stopping rule.

105. The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted. In this event, the effect will be the same as if a bidder had applied a waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

106. In addition, the Bureau proposed that the Bureau reserve the right to 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) and the auction will close.

107. The Bureau proposed to exercise these options only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity, or where it appears likely that the auction will not close within a reasonable period of time. The Bureau noted that 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.

108. The Bureau received no comments concerning the auction stopping rules. The Bureau believes that the proposed stopping rules are appropriate for Auction No. 65, because of its experience in prior auctions

demonstrates that these stopping rules balance the interests of administrative efficiency and maximum bidder participation. Therefore, the Bureau adopts the above proposals. Auction No. 65 will begin under the simultaneous stopping rule approach, and the Bureau will retain the discretion to employ the other versions of the stopping rule.

### v. Auction Delay, Suspension, or Cancellation

109. Because the Bureau approach to notification of delay during an auction has proven effective in resolving exigent circumstances in previous auctions, the Bureau adopts its proposed auction cancellation rules. 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. The Bureau 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.

## B. Bidding Procedures

### i. Round Structure

110. The initial schedule of bidding rounds will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction. Each bidding round is followed by the release of round results. Multiple bidding rounds may be conducted in a given day. Details regarding round results formats and locations will also be included in the qualified bidders public notice.

111. The FCC 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.

ii. Reserve Price or Minimum Opening Bid

112. Section 309(j) of the Communications Act of 1934, as amended, calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when applications for FCC licenses are subject to auction (*i.e.*, because they are mutually exclusive), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission 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. Among other factors, the Bureau must consider the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the extent of interference with other spectrum bands, and any other relevant factors that could have an impact on the spectrum licenses being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

113. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to establish minimum opening bids and an aggregate reserve price for Auction No. 65, and to retain the discretion to lower the minimum opening bids. Specifically, for Auction No. 65, the Bureau proposed to set minimum opening bids for each license and to establish a published aggregate reserve price for the entire band. Under the proposal for an aggregate reserve price, if the sum of the provisionally winning gross bids at the close of bidding did not meet or exceed the aggregate reserve price, the Commission would cancel the auction and no licenses would be awarded.

114. More specifically, for Auction No. 65, the Bureau proposed to set minimum opening bids on a license-by-license basis as follows:

Licenses	Bandwidth	Minimum opening bid
A and B .....	3 MHz (2 MHz shared).	\$1,500,000
C and F .....	3 MHz .....	2,800,000
D and E .....	1 MHz .....	200,000

115. The Bureau also proposed to establish a published reserve price of \$5,000,000 for the entire band.

116. In the alternative, the Bureau sought comment on whether, consistent with section 309(j), the public interest would be served by having no minimum opening bid or reserve price.

117. Verizon Airfone filed comments supporting the Bureau's proposed minimum opening bids but opposing the use of a reserve price in Auction No. 65. According to Verizon Airfone, the Bureau has no historical data on which to base its proposed reserve price, and it should let the marketplace decide the value of the licenses being auctioned. Verizon Airfone further argues that if the Bureau deems a reserve price to be necessary, it should set reserve prices for each individual license rather than an aggregate reserve price for the band because one license is likely to be valued more highly than the other and a bidder for the more highly valued license could be responsible for a disproportionate amount of any aggregate reserve price.

118. The Bureau adopts its proposed minimum opening bids. The minimum opening bid amounts the Bureau adopts for Auction No. 65 are reducible at the discretion of the Bureau. The Bureau emphasize, however, that such discretion will be exercised, if at all, sparingly and early in the auction, *i.e.*, before bidders have used all of their activity waivers. During the course of the auction, the Bureau will not entertain requests to reduce the minimum opening bid amount on specific licenses.

119. The Bureau does not adopt its proposal for an aggregate reserve price. The Bureau recognizes that, although a reserve price might be useful in meeting our obligation under section 309(j)(3)(C) of the Communications Act to attempt to recover for the public a portion of the value of the spectrum, there are insufficient data to use to determine an appropriate reserve price for licenses to provide air-ground services. The Bureau therefore concludes that it should not establish a reserve price for this auction.

120. The minimum opening bid amounts for each license available in Auction No. 65 are set forth in Attachment A of the *Auction No. 65 Procedures Public Notice*.

iii. Minimum Acceptable Bid Amounts and Bid Increment Amounts

121. The minimum acceptable bid amount for a license will be equal to its minimum opening bid amount until the bids placed enable the FCC Auction System to calculate a higher price for the license. If such a price can be calculated, the minimum acceptable bid amount for the license will be determined in a two-step process: (a) The FCC Auction System designates a price for each license. For licenses with provisionally winning bids, this price will be equal to the amount of the provisionally winning bid. For non-

provisionally winning licenses, the price will be equal to the amount of the highest bid placed on the license by any non-provisionally winning bidder. (b) The price is increased using the minimum acceptable bid percentage to determine the minimum acceptable bid.

122. Specifically, the minimum acceptable bid amount will be calculated by multiplying the license price times one plus the minimum acceptable bid percentage.

123. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to use a minimum acceptable bid percentage of 5 percent. The Bureau received no comment on this issue. The Bureau believes that a minimum acceptable bid percentage of 5 percent will permit bidders to express their values while allowing the auction to proceed at an appropriate pace. The Bureau therefore adopt our proposal, and the Bureau will begin the auction with a minimum acceptable bid percentage of 5 percent. The Bureau will round the result using our standard rounding procedures.

124. In each round, each eligible bidder will be able to place a bid on a particular license for which it applied in any of nine different amounts. The FCC Auction System will list the nine acceptable bid amounts for each license. These nine acceptable bid amounts consist of the minimum acceptable bid amount for the license and additional amounts calculated using the minimum acceptable bid amount and the bid increment percentage. The first additional acceptable bid amount equals the minimum acceptable bid amount times one plus the bid increment percentage, rounded.

125. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to use a bid increment percentage of 5 percent. The Bureau received no comment on this issue. The Bureau believes that a bid increment percentage of 5 percent will give bidders the flexibility to speed up the pace of the auction, if appropriate. The Bureau therefore adopts its proposal, and the Bureau will begin the auction using a bid increment percentage of 5 percent. The Bureau will round the results using our standard rounding procedures.

126. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to retain the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the bid increment percentage, and the number of acceptable bid amounts if the Bureau determine that circumstances so dictate. No comments were received on this issue. The Bureau adopts this proposal. Therefore, the Bureau retains

the discretion to change the minimum acceptable bid amounts, the minimum acceptable bid percentage, the bid increment percentage, and the number of acceptable bid amounts if it determines that circumstances so dictate. The Bureau will do so by announcement in the FCC Auction System during the auction. The Bureau may also use its discretion to adjust the minimum bid increment amount without prior notice if circumstances warrant.

#### iv. Provisionally Winning Bids

127. At the end of each bidding round, the FCC Auction System will determine the provisionally winning bids by considering all of the bids that have been placed in the auction. Subject to the restriction that a single bidder cannot have more than one provisionally winning bid, the system will determine which combinations of licenses, and hence, which band plan option, has the highest aggregate gross bid amount. The only licenses that can have provisionally winning bids are those of the band plan option with the highest gross bid; the licenses of the other band plan options will not have provisionally winning bids.

128. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed to use a random number generator to select a single bid from among the tied gross bids, if a provisionally winning bid must be selected from among identical bids amounts submitted on a license in a given round (i.e., tied bids). No comments were received on this proposal. Therefore, the Bureau adopts its proposal. A pseudo-random number generator based on the L'Ecuyer algorithms will be used to assign a random number to each bid. The tied gross bid with the highest random number wins the tiebreaker. The remaining bidders, as well as the provisionally winning bidder, can submit higher bids in subsequent rounds. However, if the auction were to end with no other bids being placed, the winning bidder would be the one that placed the selected provisionally winning bid.

129. Similarly, in the event of identical aggregate high gross bid amounts on more than one band plan (i.e., tied band plans), the tie between band plans will be broken based on the random numbers of the corresponding bids. The tied band plan with the highest sum of random numbers will become the band plan for which there are provisionally winning bids.

130. A consequence of the mutually incompatible band configurations and the three megahertz eligibility

restriction is that a bid that does not become a provisionally winning bid at the conclusion of the round in which it was placed may become a provisionally winning bid at the conclusion of a subsequent round.

131. Bidders are reminded that provisionally winning bids count toward activity for purposes of the activity rule.

#### v. Bidding

132. During a round, a bidder may submit bids for as many licenses as it wishes (providing that it is eligible to bid) or remove bids placed in the current bidding round. Bidders also have the option of submitting and removing multiple bids during a round. If a bidder submits multiple bids for a single license in the same round, the system takes the last bid entered as that bidder's bid for the round.

133. All bidding will take place remotely either through the FCC Auction System or by telephonic bidding. There will be no on-site bidding during Auction No. 65. Please note that telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round. Normally, five to ten minutes are necessary to complete a telephonic bid submission.

134. A bidder's ability to bid on specific licenses is determined by two factors: (1) The licenses applied for on the bidder's FCC Form 175 and (2) the bidder's eligibility. The bid submission screens will allow bidders to submit bids on only those licenses for which the bidder applied on its FCC Form 175.

135. In order to access the bidding function of the FCC Auction System, bidders must be logged in during the bidding round using the passcode generated by the SecurID card and a personal identification number (PIN) created by the bidder. Bidders are strongly encouraged to print a round summary for each round after they have completed all of their activity for that round.

136. In each round, eligible bidders will be able to place bids on a given license in any of nine different amounts. For each license, the FCC Auction System will list the nine acceptable bid amounts in a drop-down box. Bidders use the drop-down box to select from among the acceptable bid amounts. The FCC Auction System also includes an upload function that allows bidders to upload text files containing bid information.

137. Until a bid has been placed on a license, the minimum acceptable bid amount for that license will be equal to its minimum opening bid amount. Once there are bids on a license, minimum acceptable bids for a license will be determined.

138. Finally, bidders are cautioned to select their bid amounts carefully because, as explained below, although bids can be removed before the round ends, no withdrawals will be allowed in Auction No. 65, even if a bid was mistakenly or erroneously made.

#### vi. Bid Removal and Bid Withdrawal

139. In the *Auction No. 65 Comment Public Notice*, the Bureau proposed bid removal and bid withdrawal procedures. With respect to bid withdrawals, the Bureau proposed that bidders not be permitted, in any round, to withdraw bids made in previous rounds. The Bureau received no comments on this issue.

140. The Commission has recognized that bid withdrawals may be an important tool to help bidders avoid incomplete aggregations of licenses and pursue efficient backup strategies as information becomes available during the course of an auction. In Auction No. 65, however, bidders may win only one license and therefore will not face risks of being unable to secure desired aggregations of licenses. In addition, the Bureau believes that given the small number of licenses in the auction and the nature of the licenses being offered, bidders will not need to use bid withdrawals to pursue backup strategies in the same way bidders may need to do in some auctions. Moreover, in previous auctions, the Bureau has observed instances in which bid withdrawals arguably may have been used for strategic, anticompetitive purposes. While the Bureau continues to recognize that bid withdrawals may play an important role in an auction, the Bureau notes that bid withdrawals have not been available in several auctions. Therefore, the Bureau adopts its proposal.

141. With respect to bid removals during the course of a bidding round, the Bureau proposed that bidders have the option of removing any bid placed in a particular round before the close of that round. The Bureau believes that providing this option will enhance bidder flexibility during the auction, without creating the opportunities for anticompetitive behavior that can be associated with withdrawals of bids placed in previous rounds, and therefore the Bureau adopts the proposed procedures for Auction No. 65. Thus, before the close of a bidding round, a bidder has the option of

removing any bids placed in that round. By using the remove bids function in the FCC Auction 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 withdrawal payments. A bid that is removed does not count toward meeting the bidding activity rule. After a round closes, a bidder may no longer remove a bid.

#### vii. Round Results

142. Bids placed during a round will not be made public until the conclusion of that round. After a round closes, the Bureau will compile reports of all bids placed, current provisionally winning bids, new minimum acceptable bid amounts, and bidder eligibility status (bidding eligibility and activity rule waivers) and will post the reports for public access. Reports reflecting bidders' identities for Auction No. 65 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

#### viii. Auction Announcements

143. The FCC will use auction announcements to announce items such as schedule changes. All FCC auction announcements will be available by clicking a link in the FCC Auction System.

#### ix. Maintaining the Accuracy of FCC Form 175 Information

144. As noted in the *Auction No. 65 Procedures Public Notice*, after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. Applicants must click on the SUBMIT button in the FCC Auction System for the changes to be submitted and considered by the Commission. In addition, applicants should submit a letter, briefly summarizing the changes, by electronic mail to the attention of Margaret Wiener, Chief, Auctions and Spectrum Access Division, at the following address: *auction65@fcc.gov*.

### V. Post-Auction Procedures

#### A. Down Payments

145. After bidding has ended, the Commission will issue a public notice declaring the auction closed and identifying winning bidders as well as down payments and final payments due.

146. Within ten business days after release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total

amount of money on deposit with the Commission for Auction No. 65 to 20 percent of the net amount of its winning bid (gross bid less any applicable small business or very small business bidding credit).

#### B. Final Payments

147. Each winning bidder will be required to submit the balance of the net amount of its winning bid within 10 business days after the deadline for submitting down payments.

#### C. Long-Form Application (FCC Form 601)

148. Within ten business days after release of the auction closing notice, each winning bidder must electronically submit a properly completed long-form application (FCC Form 601) for the license it won through Auction No. 65. Winning bidders that are small businesses or very small businesses must demonstrate their eligibility for a small business or very small business bidding credit. Further filing instructions will be provided to auction winners at the close of the auction.

#### D. Ownership Disclosure Information Report (FCC Form 602)

149. At the time it submits its long-form application (FCC Form 601), each winning bidder also must comply with the ownership reporting requirements as set forth in 47 CFR 1.913, 1.919, and 1.2112. An ownership disclosure record is automatically created in the Universal Licensing System (ULS) for any applicant that submits an FCC Form 175. However, winning bidders will be required to review and confirm that this information is complete and accurate as of the date of filing FCC Form 601. Further instructions will be provided to winning bidders at the close of the auction.

#### E. Default and Disqualification

150. Any high bidder that defaults or is disqualified after the close of the auction (i.e., fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In the *CSEA/Part 1 Report and Order*, adopted January 24, 2006, 71 FR 6214, February 7, 2006, the Commission modified its rules to provide that it will, as part of its determination of competitive bidding procedures in advance of each auction, establish the appropriate level, from 3 percent up to a maximum of 20 percent, for the additional payment component of default payments, which the previous

rule fixed at 3 percent. The Commission adopted this rule modification after the release of the *Auction No. 65 Comment Public Notice*. The Bureau released a separate public notice seeking comment on the appropriate level of the additional payment component of default payments for Auction No. 65.

151. In the event of a default, the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at its final bid amount. In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant.

#### F. Refund of Remaining Upfront Payment Balance

152. All applicants that submit upfront payments but that after the close of the auction are not winning bidders for a license in Auction No. 65 may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. All refunds will be returned to the payer of record, as identified on the FCC Form 159, unless the payer submits written authorization instructing otherwise.

153. Bidders that drop out of the auction completely may be eligible for a refund of their upfront payments before the close of the auction. A bid that does not become a provisionally winning bid at the conclusion of the round in which it was placed may become a provisionally winning bid at the conclusion of a subsequent round. Consequently, any applicant that places a bid may become a provisionally winning bidder before the close of the auction, even if the bidder is no longer eligible to place new bids. Only bidders that have placed no bids during the course of the auction and have lost all eligibility may be considered to have dropped out of the auction completely. Such bidders seeking a refund must submit a written refund request. If the applicant has completed the refund instructions electronically, then only a written request for the refund is necessary. If not, the request must also include wire transfer instructions, Taxpayer Identification Number (TIN) and FCC Registration Number (FRN). Send refund requests to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Gail Glasser, 445 12th Street, SW., Room 1-C864, Washington, DC 20554.

Federal Communications Commission.

**Gary Michaels,**

Deputy Chief, Auctions and Spectrum Access Division, WTB.

[FR Doc. E6-3287 Filed 3-7-06; 8:45 am]

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## FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2761]

### Petitions for Reconsideration of Action in Rulemaking Proceeding

February 16, 2006.

Petitions for Reconsideration have been filed in the Commission's Rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents is available for viewing and copying in Room CY-B402, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI) (1-800-378-3160). Oppositions to these petitions must be filed by March 23, 2006. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

#### Subject:

In the Matter of Review of Improving Public Safety Communications in the 800 MHz Band (WT Docket No. 02-55).

In the Matter of Consolidating the 800 and 900 MHz Industrial/Land Transportation and Business Pool Channels (WT Docket No. 02-55).

In the Matter of Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems (ET Docket No. 00-258).

In the Matter of Amendment of Section 2.106 for the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite Service (ET Docket No. 95-18).

Number of Petitions Filed: 12.

**Marlene H. Dortch,**

Secretary.

[FR Doc. E6-3288 Filed 3-7-06; 8:45 am]

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## FEDERAL MARITIME COMMISSION

### Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within ten days of the date this notice appears in the **Federal Register**. Copies of agreements are available through the Commission's Office of Agreements (202-523-5793 or [tradeanalysis@fmc.gov](mailto:tradeanalysis@fmc.gov)).

*Agreement No.: 011722-002.*

*Title: New World Alliance/Maersk Line Slot Exchange Agreement.*

*Parties:* A.P. Moller-Maersk A/S ("Maersk"); APL Co. Pte. Ltd./American President Lines, Ltd.; Hyundai Merchant Marine Co., Ltd.; and Mitsui O.S.K. Lines, Ltd.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

*Synopsis:* The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

*Agreement No.: 011728-003.*

*Title: Maersk Line/APL Mediterranean Slot Charter Agreement.*

*Parties:* A.P. Moller-Maersk A/S ("Maersk") and American President Lines, Ltd./APL Co. Pte. Ltd. ("APL").

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

*Synopsis:* The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

*Agreement No.: 011745-007.*

*Title: Evergreen/Italia Marittima/Hatsu Marine Alliance Agreement.*

*Parties:* Evergreen Marine Corp. (Taiwan) Ltd.; Italia Marittima S.p.A.; and Hatsu Marine Ltd.

*Filing Party:* Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006-2802.

*Synopsis:* The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

*Agreement No.: 011796-002.*

*Title: CMA CGM/Italia Marittima S.P.A. Slot Exchange, Sailing and Cooperative Working Agreement.*

*Parties:* CMA CGM, S.A. and Italia Marittima S.p.A.

*Filing Party:* Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006-2802.

*Synopsis:* The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

*Agreement No.: 011843-002.*

*Title: ITS/ZIM Cross Space Charter and Sailing Agreement.*

*Parties:* Italia Marittima S.p.A. and Zim Integrated Shipping Services, Ltd.

*Filing Party:* Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006-2802.

*Synopsis:* The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

*Agreement No.: 011895-001.*

*Title: Crowley/Maersk Line Trinidad Space Charter Agreement.*

*Parties:* A.P. Moller-Maersk A/S ("Maersk") and Crowley Liner Service, Inc.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

*Synopsis:* The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

*Agreement No.: 011913-001.*

*Title: King Ocean/Maersk Line Space Charter Agreement.*

*Parties:* A.P. Moller-Maersk A/S ("Maersk") and King Ocean Services Limited.

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

*Synopsis:* The amendment changes Maersk's trade name and restates the agreement to show this change throughout.

*Agreement No.: 011927-001.*

*Title: ITS/Hatsu MUS Slot Charter Agreement.*

*Parties:* Italia Marittima S.p.A. and Hatsu Marine Ltd.

*Filing Party:* Paul M. Keane, Esq.; Cichanowicz, Callan, Keane, Vengrow & Textor, LLP; 61 Broadway; Suite 3000; New York, NY 10006-2802.

*Synopsis:* The amendment changes Lloyd Triestino's name to Italia Marittima S.p.A. and renames and restates the agreement.

*Agreement No.: 011947.*

*Title: Grimaldi/Sallaum Space Charter Agreement.*

*Parties:* Grimaldi Compagnia di Navigazione ("Grimaldi") and Sallaum Lines SAL ("Sallaum").

*Filing Party:* Wayne R. Rohde, Esq.; Sher & Blackwell LLP; 1850 M Street, NW., Suite 900; Washington, DC 20036.

*Synopsis:* The agreement authorizes Grimaldi to charter space to Sallaum for the carriage of motor vehicles and other