



Federal Communications Commission
Washington, D.C. 20554

DA 04-585

March 1, 2004

Via Certified Mail, Return Receipt Requested

Scott P. Alderman
Western PCS BTA I Corporation
2001 NW Sammamish Road, No. 100
Issaquah, WA 98027

Doane F. Kiechel
Guman, Blask & Freedman
1400 Sixteenth Street, N.W.
Suite 500
Washington, D.C. 20036

Re: Final Bid Withdrawal Payment For Auction No. 11

Dear Mssrs. Alderman and Baumbaugh:

Western PCS BTA I Corporation ("Western"), a participant in Auction No. 11,¹ withdrew high bids on licenses BTA 166E, BTA 199E and BTA 301E in that auction.² Auction No. 22, the subsequent auction for the licenses on which Western withdrew high bids in Auction No. 11, has closed.³ Therefore, in accordance with the Commission's rules, we are now able to calculate Western's final bid withdrawal payment obligations for these bid withdrawals.

Under the Commission's rules, a bidder that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.⁴ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to

¹ "D, E, and F Block Auction Closes," *Public Notice*, DA 97-81 (rel. January 15, 1997) ("*Auction No. 11 Winning Bidders Public Notice*").

² Licenses BTA 166E, 199E, and 301E are in the Grand Forks, ND, Huron, SD, and Mitchell, SD markets, respectively. Additionally, Western withdrew net high bids on nine other licenses in Auction No. 11 (BTAs 001E, 037E, 231D, 257D, 329D, 375E, 381E, 411E, 460D). Because those 9 other licenses were sold during Auction No. 11, the Commission assessed final bid withdrawal payments against Western at the conclusion of that auction and those final bid withdrawal payment amounts were deducted from Western's upfront payment. *Auction No. 11 Winning Bidders Public Notice*, attachment B.

³ C, D, E, and F Block Broadband PCS License Auction Closes, Report No. AUC-22-K (Auction No. 22), *Public Notice*, 14 FCC Rcd. 6688 (1999) ("*Auction No. 22 Winning Bidders Public Notice*").

⁴ 47 C.F.R. §§ 1.2104(g)(1), 24.704(a)(1) (1997); *Auction No. 11 Winning Bidders Public Notice*, at 3.

make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁵ This payment amount is deducted from any up-front payments or down payments deposited for this bidder's account with the Commission.⁶ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and, upon appropriate request, the Commission will refund the interim three percent (3%) payment.⁷ If in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn amount, then the bidder will be required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.⁸

With respect to Western's bid withdrawals during Auction No. 11 on Licenses BTA 166E, BTA 199E, and BTA 301E, because these three licenses were sold at Auction No. 22 the Commission is now able to assess the full amount of the final bid withdrawal payment for each license. As shown in Attachment A, in Auction No. 22 the winning bid of \$43,000 for license BTA 166E was less than Western's withdrawn bid of \$374,381, the winning bid of \$6,144 for license BTA 199E was less than Western's withdrawn bid of \$60,500, and the winning bid of \$17,000 for license BTA 301E was less than Western's withdrawn bid of \$96,000.⁹ In accordance with Section 1.2104(g)(1) of the Commission's rules, Western is assessed a final bid withdrawal payment of \$331,381 in connection with license BTA 166E, a final bid withdrawal payment of \$54,356 in connection with license BEA 199E, and a final bid withdrawal payment of \$79,000 in connection with license BEA 301E.¹⁰ Because these three licenses were unsold at the close of Auction No. 11, interim bid withdrawal payments equal to three percent of the withdrawn bids were deducted from any upfront payments or down payments deposited for Western's account with the Commission. The cumulative sum of these interim bid withdrawal payments is \$15,926. Therefore, in accordance with Section 1.2104(g)(1) of the Commission's rules, after applying the interim bid withdrawal payments totaling \$15,926 to its final bid withdrawal payment obligation of \$464,737, Western owes an outstanding balance of \$448,811 in connection with these three licenses, on which Western withdrew high bids during Auction No. 11.

⁵ *Auction No. 11 Winning Bidders PN*, DA 97-81, at 3 (citing Implementation of Section 309(j) of the Communications Act—Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5563 at n. 51 (1994); C.H. PCS, Inc., *Order*, 11 FCC Rcd 22430 (1996) (requiring a three percent deposit).

⁶ 47 C.F.R. § 1.2106(d) and (e); *Auction No. 11 Winning Bidders Public Notice*, at 3.

⁷ 47 C.F.R. § 1.2104(g)(1); *Auction No. 11 Winning Bidders Public Notice*, at 3.

⁸ 47 C.F.R. § 1.2104(g)(1); *Auction No. 11 Winning Bidders Public Notice*, at 3.

⁹ See Attachment A to this letter, which calculates the final bid withdrawal payments; *Auction No. 22 Winning Bidders Public Notice*, 14 FCC Rcd 6688.

¹⁰ 47 C.F.R. § 1.2104(g)(1).

Western is in debt to the United States in the amount of \$448,811, payable in full, immediately, and without further demand. As permitted under 31 U.S.C. § 3717, the debt is subject to interest, penalties, and administrative costs, and interest accrues from the date of this letter, which is also its mailing date. Western, the debtor, may avoid payment of the interest if it tenders to the Commission full payment within 30 days of the date of the letter. Moreover, the debt is subject to an additional charge to cover the cost of processing and handling of delinquent debts, and a penalty charge in the amount permitted by law. The penalty charge for delinquent debt payments permitted by 31 U.S.C. § 3717 currently is 6 percent per year for the failure to pay any part of the debt more than 90 days past due.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.2104(g) of the Commission's Rules, 47 C.F.R. § 1.2104(g), Western PCS BTA I Corporation is ASSESSED a final bid withdrawal payment of \$331,381 on license BTA 166E, a final bid withdrawal payment of \$54,356 on license BTA 199E, and a final bid withdrawal payment of \$79,000 on license BTA 301E as computed in Attachment A.

IT IS FURTHER ORDERED, that, pursuant to Sections 1.2104 and 1.2106 of the Commission's Rules, 47 C.F.R. §§ 1.2104 and 1.2106, Western PCS BTA I Corporation's interim bid withdrawal payments of \$15,926, will be applied towards the sum of the final bid withdrawal payment, of \$464,737, leaving Western PCS BTA I Corporation with a debt to the Commission of \$448,811.

It is FURTHER ORDERED that Western PCS BTA I Corporation's debt of \$448,811 be paid immediately, in accordance with the payment instructions in Attachment B within 30 days of the date of this letter, and if it is unpaid 30 days of the date of this letter, interest will accrue from the date of this letter along with penalties and administrative costs permitted by 31 U.S.C. § 3717.

It is FURTHER ORDERED that this letter shall be sent to the applicant and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Gary Michaels, Deputy Chief
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

cc: Andrew S. Miano
Guman, Blask & Freedman
1400 Sixteenth Street, N.W., Suite 500
Washington, D.C. 20036

ATTACHMENT A

**Broadband PCS Service, Blocks D, E, and F
 Spectrum License Auction
 Multi-Auction Bid Withdrawal Payment Report**

License Number Frequency block	AUCTION No. 11 Western's Withdrawn Bid	AUCTION No. 22 High Bid	Final Bid Withdrawal Payment (Difference between Auction No. 11 and Auction No. 22 Net Bids)	Western's Interim Withdrawal Payment (3% of withdrawn net bid)
BTA 166E	\$374,381	\$43,000	\$331,381	\$11,231
BTA 199E	\$60,500	\$6,144	\$54,356	\$1,815
BTA 301E	\$96,000	\$17,000	\$79,000	\$2,880
Total			\$464,737	\$15,926

Total Final Bid Withdrawal Payments	\$464,737
Less Sum of Interim Withdrawal Payments	\$15,926
Total Amount Due	\$448,811

ATTACHMENT B

The following information is being provided to assist you in making your payment.

PAYMENT INSTRUCTIONS

All payments must be made in U.S. currency in the form of a wire transfer. No personal checks, cashier's checks or other forms of payment will be accepted. Wire transfer payments must be received by Mellon Bank by 6:00 PM Eastern Time, no later than thirty days from the date of the ORDER; however, if the 30th day falls on a non-business day, e.g., Saturday, Sunday or holiday, it is due the next business day. Applicants must allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. To submit funds by wire, applicants will need the following information to properly effect the transmittal:

ABA Routing Number: 043000261

Receiving Bank: Mellon Pittsburgh

BNF: FCC/Account #911-6106

OBI Field: (Skip one space between each information item)

“AUCTIONPAY”

FCC REGISTRATION NO. (FRN) (same as FCC Form 159, Block 11 and/or 21)

PAYMENT TYPE CODE (enter “APEN”) same as FCC Form 159, Block 24A FCC CODE 1 (same as FCC Form 159, Block 28A: (“11”))

PAYOR NAME (same as FCC Form 159, Block 2)

LOCKBOX No.: 358850

A completed FCC Remittance Advice Form (FCC Form 159, Version 2/00) must accompany payments. On the same business day that the applicant submits payment to Mellon Bank, the applicant must submit a completed FCC Form 159 via facsimile at (412) 209-6045, at least one-hour prior to placing the order for the wire transfer. The specified debt is due and payable to the United States immediately and without demand, and it is subject to interest, penalties, and additional administrative costs. Interest accrues from the date of the ORDER; however, to avoid the payment of charges (i.e., interest, penalties, and administrative costs) and enforced collection, full payment must be made and received within 30 days from the date of the ORDER. Debtor's failure to make complete timely payment will result in assessment of such charges permitted by 31 U.S.C. § 3717.

For questions regarding the submission of payment, and the FCC Form 159, contact Gail Glasser, Office of the Managing Director, Financial Operations Center, Auctions Accounting Group, at (202) 418-0578.