



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

News media information (202) 418-0500. Fax-On-Demand (202) 418-2830
Internet: <http://www.fcc.gov>

DA 97-153
January 22, 1997

CELLULAR UNSERVED AREAS AUCTION CLOSES

WINNING BIDDERS IN THE AUCTION OF 14 LICENSES TO PROVIDE CELLULAR SERVICE IN UNSERVED AREAS

Report No. AUC-97-12-F (Auction No. 12)

On January 21, 1997, the Federal Communications Commission completed its auction of 14 licenses to provide cellular service over unserved areas, raising a total of \$1,842,533 for the U.S. Treasury. There were 10 winning bidders. The winning bidders and the licenses associated with each winning bidder are listed in Attachment A. The down payments owed by the winning bidders are listed in Attachment B. This Public Notice provides winning bidders detailed information concerning down payments, FCC Form 600 filing requirements, requests for waiver, and licensing matters.

SUMMARY OF IMPORTANT DATES FOR WINNING BIDDERS

- **Down Payments** Each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring the total amount of money on deposit with the government to 20 percent of its winning bid. The down payment is due on or before *January 29, 1997*.
- **FCC Form 600 (“long-form application”)**
 - Phase I winning bidders are required to file manually a long-form application (FCC Form 600) and required exhibits for each license upon which it is a high bidder.
 - All applications are due on or before *5:30 p.m. (ET) on February 5, 1997*.
 - Phase II winning bidders are not required to file a long-form application, since one is already on file.

DOWN PAYMENTS. Each winning bidder must submit to Mellon Bank in Pittsburgh, Pennsylvania, sufficient funds to bring its total deposits with the government to **twenty percent (20%)** of the sum of its winning bids by **January 29, 1997**.

The amount now due from each bidder, if any, is set out in the last column of Attachment B. Note that if a bidder's upfront payment covers the required total down payments (as reflected in Attachment B), no payment or FCC Form 159 is necessary at this time.

All payments must be made in U.S. dollars, must be in the form of a wire transfer or cashier's check, and must be made payable to the "Federal Communications Commission" or "FCC." No personal checks or other forms of payment will be accepted. Down payments must be accompanied by a completed FCC Remittance Advice Form (FCC Form 159). ON THE FCC FORM 159, BIDDERS MUST USE THE SAME FCC ACCOUNT NUMBER ASSOCIATED WITH THEIR FCC FORM 175.

Wire transfer payments must be received by 6:00 p.m. Eastern Time, **January 29, 1997**. Bidders making payments by wire transfer should allow sufficient time for the wire transfer to be initiated and for the transmission to be completed prior to the deadline. Bidders making payments by wire transfer must fax a completed FCC Form 159 to Mellon Bank at (412) 236-5702 at least one hour prior to placing the order for the wire transfer (but on the same business day). To submit funds by wire transfer, bidders will need the following information:

ABA Routing Number: 043000261
Receiving Bank: Mellon Pittsburgh
BNF: FCC/AC-9116106
OBI Field: (Skip one space between each information item)
"AUCTIONPAY"
FCC ACCOUNT NO. (SAME AS FCC FORM 159, BLOCK 1)
PAYMENT TYPE CODE (enter "ACCD")

FCC CODE 1 (enter "12")
PAYOR NAME (SAME AS FCC FORM 159, BLOCK 3)
LOCKBOX NO. 358850

Cashier's checks must be drawn on a financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Payments by cashier's check must be received by **11:59 p.m. (ET), January 29, 1997**. Cashier's checks should be addressed to:

Mellon Bank
Attention: Auction No. 12
P.O. Box 358850

Pittsburgh, PA 15251-5850

If delivering an auction payment in person or by courier, the cashier's check and FCC Form 159 must be delivered to:

Mellon Bank

Attention: Wholesale Lockbox Shift Supervisor

27th Floor (153-2713)

3 Mellon Bank Center

525 William Penn Way

Pittsburgh, PA 15259-0001

(Note: Please indicate on the inside envelope "Lockbox No. 358850")

Proper completion of **FCC Form 159** is critical to ensuring correct credit of bidder deposits. Bidders must use the same FCC account number used during the auction (this number is shown on Attachments A and B). Additional instructions for making auction payments are contained in Attachment C to the *Public Notice*, "FCC Issues Procedures, Terms and Conditions for January 13, 1997 Auction of Cellular Unserved Phase I and II Service Areas," DA 96-1850. To supplement those instructions, please note these specific instructions for the submission of down payments:

- Line 14 Payment Type Code - Enter "ACCD"
- Line 18 FCC Code 2 - Enter the "License No." designation (e.g., "CDR530A") for each license won as a separate item (use continuation sheet FCC 159-C if necessary); the license numbers are listed in Attachment A to the *Public Notice*, "FCC Issues Procedures, Terms and Conditions for January 13, 1997 Auction of Cellular Unserved Phase I and II Service Areas," DA 96-1850.

Questions concerning the calculation and submission of down payments should be directed to Andy Cox at (202) 418-1995.

BIDDER DEFAULT. If a winning bidder fails to submit the required down payment(s) by **January 29, 1997**, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be subject to the default payment specified in Sections 1.2104(g)(2) of the Commission's rules. *See* 47 C.F.R. §§ 1.2104(g)(2); *Public Notice*, "Wireless Telecommunications Bureau Will Strictly Enforce Default Payment Rules," DA 96-481 (rel. April 4, 1996). Specifically, the defaulting bidder will be required to reimburse the Commission in the amount of the difference between its winning bid and the amount of the winning bid the next time the license is offered, if the subsequent winning bid is lower. In addition, defaulting winning bidders will be subject to a default payment of three percent of the subsequent winning bid or three percent of the defaulting bid, whichever is less.

REFUNDS OF EXCESS UPFRONT PAYMENTS. Upfront monies on deposit which are in excess of the required remaining down payment will be refunded to the payor of record. Refunds will be

processed promptly and automatically after the close of the auction. There is no action required on the payor's part to obtain a refund. However, bidders who prefer to receive refunds by wire transfer must fax the necessary wire instructions to the Billings and Collections Branch, Federal Communications Commission, ATTN: Andy Cox. The fax number is (202) 418-2843.

REFUNDS OF UPFRONT PAYMENTS (for bidders who did not win any licenses).

All applicants that submitted upfront payments but were not winning bidders for any licenses and did not withdraw are entitled to a refund of their upfront payments after the close of the auction. Written requests for wire transfer refunds should be transmitted by facsimile to the Billings and Collections Branch, Federal Communications Commission, ATTN: Andy Cox. The fax number is (202) 418-2843. Written requests should include the following information: Taxpayer Identification Number, FCC Account Number, wire transfer information, and the amount of the upfront payment to be refunded.

FCC FORM 600. Phase I applicants who submitted winning bids are required to file a long-form application by *5:30 p.m. (ET) on February 5, 1997* for each license upon which it was a high bidder. The winning bidders and licenses associated with each winning bidder are listed in Attachment A. **This Public Notice constitutes official notification to winning bidders under Section 1.207 of the Commission's Rules for purposes of triggering the 10 business day filing period for the FCC Form 600.** Phase II winning bidders are not required to file a long-form application, since one is already on file.

Any Phase I applicant who fails to submit the required long-form application by **February 5, 1997**, and fails to establish good cause for any late-filed submissions, shall be deemed to have defaulted and will be subject to the penalties set forth in Section 1.2104 of the Commission's Rules.

Only Manual Filing Permitted. Applicants from the cellular unserved auction can only file their FCC Form 600s manually. Copies of the FCC Form 600 can be obtained by calling the Commission's Forms Distribution Center at 1-800-418-3676 (outside Washington, D.C.) or (202) 418-3676 (inside Washington, D.C.). Copies of the FCC Form 600 can also be obtained via the Internet and by Fax-On-Demand. If applicants have any questions concerning availability of the FCC Form 600, they should call the FCC Records Management Branch at 202-418-0210. Filers must mail or deliver the original application to:

**Office of the Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554
Attention: Wireless Telecommunications Bureau
Broadband Branch**

Microfiche copies of the FCC Form 600 are required for all submissions in accordance with 47 C.F.R. § 22.105. All filers should review each exhibit file to ensure that the information contained in the exhibit is complete.

Filers must submit a separate FCC Form 600 Main Form, Schedules and required exhibit information for each market on which they are the high bidder. Failure to sign an FCC Form 600 or failure to submit the required exhibit information will result in dismissal of the application. Only original signatures will be accepted.

Previously Filed FCC Form 401. Phase I applicants who previously filed an FCC Form 401 for licenses in which they are filing an FCC Form 600 should include a paper copy of the FCC Form 401 in addition to the replacement FCC Form 600. *See* Implementation of Section 309 of the Communications Act - Competitive Bidding, *Ninth Report and Order*, PP Docket No. 93-253, 11 FCC Rcd 14,769 at ¶ 34 (1996).

General Instructions. Applicants bear full responsibility for submission of timely and complete long-form applications. Applicants should read the instructions on the FCC Form 600 carefully and should consult the rules to ensure that, aside from the materials described below, all of the information that is required under our regulations is included with their FCC Form 600. **Incomplete or defective applications may be returned.** *See* 47 C.F.R. § 22.120. Each applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application. *See* 47 C.F.R. § 1.65. Amendments to applications must be mailed or delivered to:

**Office of the Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554
Attention: Wireless Telecommunications Bureau
Broadband Branch**

Applicants should be aware that all information required by the Commission's Rules in connection with applications to participate in spectrum auctions is necessary to determine the applicants' qualifications and, as such, will be available for public inspection. Required proprietary information may be redacted, or confidentiality can be sought pursuant to Section 0.459 of the Commission's Rules, 47 C.F.R. § 0.459. Applicants requesting confidential treatment for any information required as a condition to participate in the auction must follow the procedures set out in Section 0.459 of the Commission's Rules (47 C.F.R. § 0.459). Because the required information bears on the applicant's qualifications, the Commission envisions that confidentiality requests will not be routinely granted. An applicant's request for confidentiality must include a demonstration that it would suffer substantial competitive harm from the public disclosure of the confidential information.

Frivolous Pleadings. Pursuant to 47 C.F.R. § 1.52, the Commission reminds parties to our proceedings and their attorneys that the Commission intends to fully utilize its authority to discourage and deter the filing of frivolous pleadings, including petitions to deny. *See Public Notice, "Commission Taking Tough Measures Against Frivolous Pleadings,"* FCC 96-42 (rel. February 9, 1996).

Organization of Application and Exhibits

Main Form and Schedule Exhibits. The FCC Form 600 Main Form should be completed in its entirety. Filers also should complete Schedules A, C and F. However, filers only need to complete items A1, A2, A3 and A5 of Schedule A. On Schedule A, applicants should complete item A1 ("Purpose of Filing") by entering "A", if requesting an initial authorization for a new system or station. Item A2 ("Market Designator") should be completed with the MSA or RSA number of the market. Item A3 ("Channel Block") should be completed with the letter "A" or "B" depending on the frequency block. Finally, item A5 ("Market Name") should be the market name. **EXAMPLE:** an applicant for the Montana 8, A Block RSA would insert "R530" into item A2, "A" into item A3 and "Beaverhead, MT" into item A5. Applicants should ignore items A4 ("Sub-Market Designator") and A6 through A12 ("Control Points" information).

Any exhibits to be attached to an application in response to a question on the FCC Form 600 Main Form or on a Schedule should be identified as specified in the instructions to the FCC Form 600. Please attach those exhibits immediately behind the FCC Form 600 and the Schedules.

Rule-related Exhibits. Any additional exhibits to be attached to an application as a result of our rule requirements should follow any FCC Form 600 Main Form or Schedule related exhibits. Also, as specified in the instructions to the FCC Form 600, each page of each exhibit must be identified with the number or letter of the exhibit, the number of the page of the exhibit, and the total number of pages of the exhibit. Specific rule related exhibits (with suggested identification labels) include:

I. Applicant Identity and Ownership Information. Section 22.108 of the Commission's rules requires each applicant to make full and complete disclosure with regard to the real party- or parties-in-interest to the application.

a. Ownership Exhibit. First, attach and label as "**Exhibit A: Ownership**", a document or series of documents that identifies the applicant's real party- or parties-in-interest as defined in Section 22.108. For each party listed, applicants should provide the following information:

Item (1) Name and address: Identify the name and address of the interest holder in the applicant. If the interest holder is an individual, provide the name and address of that person, and indicate whether the interest holder is a partner, officer, director, or key manager (*e.g.*, CEO, General Manager) of the applicant. If the interest holder is a corporation, provide the name and address of the corporate office and the name and title of an officer, director or authorized contact. If the interest holder is a

partnership, provide the name and address of all partners, or the name, title and address of an authorized contact for the partnership.

Item (2) Principal Business: Describe the interest holder's principal business. In particular, indicate whether its principal business gives rise to attributable interests in cellular, PCS or Specialized Mobile Radio licenses.

Item (3) Relationship to Other Interest Holder: Indicate whether the interest holder is related to any other five percent interest holder by blood or marriage, and provide the name of the related interest holder.

Item (4) Percentage Held: Specify the percentage interest held in the applicant based on any combined holdings.

Item (5) Amount Held: Specify the amount held (e.g., number of shares of stock) for each type of interest specified.

Item (6) Type of Interest Held: Indicate whether the interest held is in the form of stocks, bonds, warrants, partnership, etc. If interests are held in stock, specify the class of stock and any voting rights associated with the stock. If the interests are held in a partnership, indicate whether the interests are limited or general partnership interests.

Item (7) Held on Behalf of: If an interest is held in trust, or on behalf of another person or entity, identify the party for whom the interest is held.

Item (8) Outside Interests: List any *outside* business interests of five percent or more held by the interest holder if such interests are held in land mobile service providers (i.e., CMRS or PMRS providers). For any CMRS or PMRS businesses listed, describe their business relationship, if any, to the applicant. Institutional investors holding *direct* interests of 10 percent or more in the applicant must report outside interests of five percent or more in land mobile service providers.

Item (9) Citizenship: Indicate whether the interest holder is a U.S citizen or U.S. corporation. If the interest holder is a partnership, indicate whether each partner is a U.S. citizen. Applicants should list all foreign partners regardless of whether they are general or limited partners, except that applicants need not list a limited partner: (1) whose level of ownership in the licensee does not exceed the level allowed by Section 310(b); and (2) who is "insulated" from the management and control of the partnership. See *Wilner and Scheiner*, 103 FCC 2d 511 (1985), *recon. granted in part*, 1 FCC Rcd 12 (1986); *First Report and Order* in GN Docket No. 93-252, 9 FCC Rcd 1056 at ¶ 9 and n. 13 (1994). See also *Memorandum Opinion and Order*, GN Docket No. 90-314, 10 FCC Rcd 7893 at ¶ 11 (1995). Also, if an interest holder is an alien, check your response to Items 29-33 on the main FCC Form 600. The level of alien ownership in an applicant can trigger the need to attach a separate exhibit explaining the nature and extent of alien or foreign ownership. See 47 U.S.C. § 310(b)(3)-(4). If such an exhibit

is needed, attach as part of the FCC Form 600 Main Form exhibits, and as indicated in the instructions to the FCC Form 600.

b. Partnership Exhibit. If the applicant is a partnership, attach and label as "**Exhibit B: Ownership**" a signed and dated copy of the partnership agreement. *See* 47 C.F.R. § 22.108(d). Proprietary information may be redacted, or confidentiality can be sought pursuant to Section 0.459 of the Commission's Rules, 47 C.F.R. § 0.459 (see discussion of confidentiality requests under the "**General Instructions**" section, above). Ancillary agreements to the partnership agreement need not be disclosed unless such disclosure is required elsewhere in our rules. Partnership agreements should be current and complete as of the application filing date.

II. Joint Venture Agreements/Bidding Consortia. Attach and label as "**Exhibit C: Agreements**" a detailed explanation of the terms and conditions and parties involved in any bidding consortia, joint venture, partnership or other agreement or arrangement into which the applicant has entered relating to the competitive bidding process prior to the time the bidding was completed. *See* 47 C.F.R. § 1.2107. To comply with this requirement, applicants can either submit the agreements themselves, or can submit a detailed description of those agreements with proprietary information excluded. If applicants choose to submit the agreements, they can redact proprietary information or can seek confidentiality for those documents pursuant to Section 0.459 of the Commission's Rules (see discussion of confidentiality requests under the "**General Instructions**" section, above).

III. Confidentiality Requests. Applicants should attach and label as "**Exhibit D: Confidentiality Requests**" a statement which discloses whether the applicant has sought confidential treatment of any information pursuant to Section 0.459 of the Commission's Rules (see discussion of confidentiality requests under the "**General Instructions**" section, above).

IV. Waivers. In the event a winning bidder wishes to file a request for waiver, all such requests should be filed with the associated application. Filers should attach a copy of any waiver requests at the end of their FCC Form 600. Waiver requests filed after the submission of the FCC Form 600 may result in a delay of the processing of the application. If a request for waiver is not filed with the FCC Form 600, such request must reference the associated application.

For further information, contact:

Wireless Telecommunications Bureau,

Commercial Wireless Division: Chris White or Michael Kleeb at (202) 418-0620

Auctions Division: Thomas Horan or Lisa Minard at (202) 418-0660

- FCC -

FCC Cellular Unserved Auction
Submission Round Results, High Bids Before Withdrawal
Auction ID:12

D970153A

Attachment A

Market	Freq. Block	License Description	Rd of High Bid	FCC Acc. Number	Name	Date/Time of Bid	Net Bid Amount	Gross Bid Amount
Phase I								
R319	B	ARIZONA 2 - COCONINO	1	0911222427	Coconino Arizona RSA Limited F	01/13/97 09:30:59	\$1,000	\$1,000
R341	B	CALIFORNIA 6 - MONO	2	9419565656	Constance L. Pollard/ETA Trust	01/13/97 13:04:31	\$7,100	\$7,100
R352	A	COLORADO 5 - ELBERT	24	0841161886	N.E. Colorado Cellular, Inc.	01/17/97 12:19:23	\$242,000	\$242,000
R386	A	HAWAII 2 - MAUI	1	0275402046	TED M. PETERS/EPSILON TRU	01/13/97 09:11:33	\$10	\$10
R530	A	MONTANA 8 - BEAVERHE/	34	0222900883	METACOMM CELLULAR PART	01/21/97 15:02:38	\$388,011	\$388,011
R534	A	NEBRASKA 2 - CHERRY	26	0911686827	Western Wireless Corporation	01/17/97 16:02:14	\$195,000	\$195,000
R540	A	NEBRASKA 8 - CHASE	35	0911686827	Western Wireless Corporation	01/21/97 16:02:59	\$295,000	\$295,000
R546	A	NEVADA 4 - MINERAL	1	0911686827	Western Wireless Corporation	01/13/97 09:22:53	\$100	\$100
R553	B	NEW MEXICO 1 - SAN JUA	1	0195443971	Christel Anderson/CHI Trust Par	01/13/97 09:07:55	\$5,301	\$5,301
R554	A	NEW MEXICO 2 - COLFAX	9	0943167064	Triad Cellular L.P.	01/14/97 17:33:43	\$30,000	\$30,000
R608	B	OREGON 3 - UMATILLA	12	0391680703	Oregon RSA #3 Limited Partners	01/15/97 12:21:07	\$37,000	\$37,000
R718	A	WYOMING 1- PARK	30	0222900883	METACOMM CELLULAR PART	01/21/97 11:03:24	\$625,011	\$625,011
R720	A	WYOMING 3 - LINCOLN	2	0911686827	Western Wireless Corporation	01/13/97 12:39:04	\$6,000	\$6,000
Subtotal							\$1,831,533	\$1,831,533
Phase II								
M269	A	MARYLAND MSA - CUMBE	3	0232516399	Cumberland Cellular Partnership	01/13/97 15:26:27	\$11,000	\$11,000
Subtotal							\$11,000	\$11,000
Grand Total							\$1,842,533	\$1,842,533

**FCC Cellular Unserved Auction
 Winning Payment Report
 Auction ID:12**

D97153B

Attachment B

Applicant Name	FCC Account Number	Upfront Pmt Amt	Total Withdrawal Pmt Amt	Upfront Pmt Amt Counted	Total Net High Bid	Initial Down Pmt	Amt Upfront Applied	Balance Down Pmt
Christel Anderson/CHI Trust Pa	0195443971	\$5,000.00	\$0	\$5,000.00	\$5,301.00	\$1,060.20	\$1,060.20	(\$3,939.80)
METACOMM CELLULAR PARTNERS	0222900883	\$10,000.00	\$0	\$10,000.00	\$1,013,022.00	\$202,604.40	\$10,000.00	\$192,604.40
Cumberland Cellular Partnershi	0232516399	\$5,000.00	\$0	\$5,000.00	\$11,000.00	\$2,200.00	\$2,200.00	(\$2,800.00)
TED M. PETERS/EPSILON TRUST PA	0275402046	\$5,000.00	\$0	\$5,000.00	\$10.00	\$2.00	\$2.00	(\$4,998.00)
Oregon RSA #3 Limited Partners	0391680703	\$5,000.00	\$0	\$5,000.00	\$37,000.00	\$7,400.00	\$5,000.00	\$2,400.00
N.E. Colorado Cellular, Inc.	0841161886	\$15,000.00	\$0	\$15,000.00	\$242,000.00	\$48,400.00	\$15,000.00	\$33,400.00
Coconino Arizona RSA Limited P	0911222427	\$5,000.00	\$0	\$5,000.00	\$1,000.00	\$200.00	\$200.00	(\$4,800.00)
Western Wireless Corporation	0911686827	\$50,000.00	\$0	\$50,000.00	\$496,100.00	\$99,220.00	\$50,000.00	\$49,220.00
Triad Cellular L.P.	0943167064	\$5,000.00	\$0	\$5,000.00	\$30,000.00	\$6,000.00	\$5,000.00	\$1,000.00
Constance L. Pollard/ETA Trust	9419565656	\$5,000.00	\$0	\$5,000.00	\$7,100.00	\$1,420.00	\$1,420.00	(\$3,580.00)