



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
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DA 98-572  
March 26, 1998

## *LMDS Auction Closes*

### **WINNING BIDDERS IN THE AUCTION OF 986 LOCAL MULTIPOINT DISTRIBUTION SERVICE (LMDS) LICENSES**

*Down Payments Due April 9, 1998  
FCC Form 601s<sup>1</sup> Due April 9, 1998*

#### **Report No. AUC-17-I (Auction No. 17)**

On March 25, 1998, the Federal Communications Commission completed the auction of 986 licenses for the Local Multipoint Distribution Service (LMDS), raising (in net high bids) a total of \$578,663,029 for the U.S. Treasury. Each of the 104 winning bidders who won a total of 864 licenses is listed in Attachment A.

This public notice provides detailed information concerning winning bidders, down payments, bid withdrawal payments or deposits, FCC Form 601 filing requirements, requests for rule waivers, and licensing matters. Key information appears in the following attachments:

- Attachment A:** Lists the winning bidders, the licenses won by each winning bidder, and both the gross and net high winning bid amounts.
- Attachment B:** Lists the down payments and any withdrawn bid payments owed by winning bidders.
- Attachment C:** Lists withdrawn bid payments or deposits owed by all bidders.

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<sup>1</sup> FCC Form 601 (OMB Approval Number 3060-0798) replaces Form 600 as part of the Commission's implementation of the new universal licensing system for electronic filing of wireless license applications. *See infra* for details on electronic filing of the form or obtaining copies for manual filing.

- Attachment D:** Provides detailed information about how winning bidders should complete their required FCC Form 601 for LMDS license applications.
- Attachment E:** Provides instructions for registering and filing the FCC Form 601 electronically.
- Attachment F:** Provides instructions for accessing the FCC Network using Windows 95.
- Attachment G:** Provides instructions for accessing the FCC Network using Windows 3.1 or 3.11.

Copies of this public notice will be mailed via overnight mail to each winning bidder. Bidders should note that this auction involves rules and procedures different in some respects from those used in previous Commission auctions. **Some Part 1 and 101 rules relevant to this bidding process, have been recently revised.<sup>2</sup> For example, Section 1.2112 includes revised ownership disclosure requirements which are applicable to long-form applications filed for LMDS licenses won in this auction.**

**Down payments.** The Commission's rules require that within ten business days after the release of this Public Notice, in this case, by **6:00 p.m. ET on Thursday, April 9, 1998**, winning bidders in the LMDS auction must have on deposit with Mellon Bank in Pittsburgh, Pennsylvania, enough funds to cover all required: (1) down payments on winning bids and (2) payments for withdrawn bids. If a bidder's upfront payment is not sufficient to meet both of these requirements, the bidder must deposit additional funds.<sup>3</sup> See 47 C.F.R. § 1.2107(b).

The amount now due from each winning bidder, if any, is set out in the last column of Attachment B. *Note that only if a winning bidder's upfront payment covers the required total of*

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<sup>2</sup> Appendix A to Attachment D, *infra*, reproduces the most relevant rules from Part 1 ("Practice and Procedure") and Part 101 ("Fixed Microwave Services"), Subpart M ("Competitive Bidding Procedures for LMDS") that will help filers provide the requisite information. Bidders should read this entire public notice carefully and familiarize themselves with these rules, orders and other pertinent FCC requirements. See Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to redesignate the 27.5 - 29.5 GHz Frequency Band, To Reallocate the 29.5-30.0 GHz Frequency Band, To Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, and Petitions for Reconsideration of the Denial of Applications for Waiver of the Commission's Common Carrier Point-to-Point Microwave Radio Service Rules, and Suite 12 Group Petition for Pioneer Preference, *Second Report and Order, Order On Reconsideration, and Fifth Notice of Proposed Rule Making*, FCC 97-82, 62 Fed.Reg. 23148 (1997). The *Second Report and Order, Order On Reconsideration, and Fifth Notice of Proposed Rule Making* in this proceeding is posted on the FCC Wireless Telecommunications Bureau's website at <<<http://www.fcc.gov/wtb/auctions>>>.

<sup>3</sup> In the event a bidder has withdrawn a bid(s) and is subject to a bid withdrawal payment(s), the bidder's upfront payment will be first applied to satisfy the withdrawal payment(s) before being applied toward its down payment.

*down payments and withdrawn bid payments (as reflected in Attachment B) is no payment or FCC Form 159 necessary at this time. Each winning bidder's down payment must be a total of twenty (20) percent of its net winning bid(s) plus any withdrawal payments.*

**Final payments.** After the termination of the licensing pleading cycle (*see* 47 U.S.C. 309(d)), the Commission will issue a public notice announcing that it is prepared to conditionally award the licenses. Within ten business days after the date of that public notice, winning bidders will be required to make full payment of the balance of their winning bids. *See* 47 C.F.R. §§ 1.2109 (as amended by the *Third Order on Reconsideration*), 1.2107(b) and 101.1105(b). The license will be subsequently issued only after final payment.

**Method of payment.** All payments must be in U.S. dollars and made in the form of a wire transfer. No personal checks, credit card payments, or other forms of payment will be accepted. **All payments must be accompanied by a completed FCC Remittance Advice Form (FCC Form 159).**<sup>4</sup> A partially completed copy of the FCC Form 159 will be sent to each winning bidder by March 30, 1998 to facilitate submission of the correct down payment. Winning bidders who have not received the partially completed FCC Form 159 by that date should contact Gail Glasser at 202-418-1995. **However, winning bidders are ultimately responsible for the verification and submission of the correct down payment.**

**Wire transfer payments must be received by Mellon Bank by 6:00 p.m. Eastern Time, on Thursday, April 9, 1998.** Bidders should coordinate with their bankers ahead of time regarding their wire transfers, and allow sufficient time for the wire transfer to be **initiated and completed prior to the deadline.** 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"  
TAXPAYER IDENTIFICATION NO. (same as FCC Form 159, Block 26)  
PAYMENT TYPE CODE (same as FCC Form 159, Block 20A: "AWLD")  
FCC CODE 1 (same as FCC Form 159, Block 23A: "17")  
PAYOR NAME (same as FCC Form 159, Block 2)  
LOCKBOX NO. 358850

Bidders must fax a completed FCC Form 159 to Mellon Bank at 412-236-5702 at least one hour before placing the order for the wire transfer (but on the same business day).

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<sup>4</sup> Copies of the FCC Form 159 may be obtained by calling the Commission's Forms Distribution Center at 1-800-418-3676 (outside Washington, D.C.) or 202-418-3676 (in the Washington area). Copies of the FCC Form 159 can also be obtained via the Internet <<<http://www.fcc.gov/formpage.html>>> or by Fax-On-Demand (202-418-2830).

Proper completion of the **FCC Form 159** is critical to ensuring correct credit of bidder deposits. **Bidders must use the same Taxpayer Identification Number used on their FCC Form 175 (as amended).** Questions concerning the calculation and submission of down payments should be directed to Gail Glasser at 202-418-1995.

**Withdrawn bid payments.** As a general rule the bid withdrawal payment is either: (1) the difference between the gross withdrawn bid and the subsequent gross winning bid, or (2) the difference between the net withdrawn bid and the subsequent net winning bid for that license, whichever is less. In those cases where the amount of the withdrawal payment cannot yet be determined because there was no winning bid, the withdrawing bidder is required to make a three percent deposit of the net amount bid on the licenses(s). *See* Implementation of Section 309(j) of the Communications Act -- Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5563 at n. 51 (1994); *see also* C.H. PCS, Inc., DA 96-1825 (rel. Nov. 4, 1996) (requiring a three percent deposit). When it becomes possible to calculate and assess the payment, we will notify these bidders. *See* 47 C.F.R. § 1.2104(g)(2). As discussed above, a bidder's upfront payment will be applied toward its withdrawn bid payment.

**Refund of excess upfront payments (for winning bidders).** Upfront monies on deposit which are in excess of the required down payment, withdrawal and default payment amounts will be refunded to the payor of record promptly. Bidders who prefer refunds to be sent by wire transfer must fax the necessary wire transfer instructions to Linwood Jenkins or Gail Glasser at 202-418-2843. Any questions concerning refunds should be referred to Linwood Jenkins or Gail Glasser at 202-418-1995.

**Refund of excess upfront payments (for non-winning bidders).** Non-winning bidders who prefer to have their refunds sent by wire transfer must fax the necessary wire transfer instructions to Linwood Jenkins or Gail Glasser at 202-418-2843. Any questions concerning refunds for non-winning bidders should be referred to Linwood Jenkins or Gail Glasser at 202-418-1995.

## **FCC FORM 601**

By **5:30 p.m. Eastern Time on Thursday, April 9, 1998**, winning bidders must submit completed long-form license application(s) covering each license for which they were the winning high bidder. Applications may be filed either electronically or manually, though we encourage electronic filing. Attachment D sets out instructions for completing the FCC Form 601. This form replaces FCC Form 600 in conjunction with our development of the new universal licensing system for filing and processing of applications in wireless services.

**Electronic filing.** Detailed instructions for registering and filing the Form 601 electronically are set out in Attachment E.

**Manual filing.** Manual filers must complete the FCC Form 601 Main Form and Schedule B and attach any exhibits. Manual filers are requested to submit a "clean" (*i.e.*, without lines, markings, footnotes, tables, charts, etc.) original application which does not contain any

information in spreadsheet format. Manual filers must mail or deliver the original application to:  
FCC Form 601 Filing, Auction No. 17  
Federal Communications Commission  
Information Technology Division  
Attention: Kathy Fowler  
1270 Fairfield Road  
Gettysburg, Pennsylvania 17325-7245

Copies of FCC Form 601 can be obtained by calling the Commission's Forms Distribution Center at 1-800-418-3676 (outside Washington, D.C.) or 202-418-3676 (in the Washington area). Copies of FCC Form 601 can also be obtained via the Internet (go to <<<http://www.fcc.gov/formpage.html>>>) or by Fax-On-Demand (202-418-2830).

All manually filed FCC Form 601s shall be submitted on one original paper copy and with a 3.5-inch floppy disk containing all attachments, and any other supporting documentation. Manual filers should review each exhibit file to ensure that the information contained in the exhibit is complete.

**Failure to sign a manually-filed FCC Form 601 will result in dismissal of the application. Only original signatures will be accepted for manually-filed applications.**

**Applications for multiple licenses.** Electronic or manual filers applying for multiple licenses are not required to submit a separate combined Form 601 application for each market if **all** filing requirements associated with the application (name and address information, all ownership and eligibility attachments, and waiver requests) are identical **except** for the market designator, channel block and market name. Under these circumstances, applicants may submit *one* FCC Form 601 Main Form and Schedule B.

Electronic or manual filers whose name and address, ownership, eligibility, and waiver requests are identical for some licenses but different for others may utilize this streamlined filing procedure only for those licenses that have identical filing information. For those licenses with unique information, a separate application must be submitted.

**Application processing and grant.** Within thirty (30) days after the Commission gives public notice that the FCC Form 601s are acceptable for filing, petitions to deny may be filed. 47 C.F.R. § 1.2108(b). An applicant may file an opposition to any petitions to deny within ten days after the original pleading is filed. See 47 C.F.R. §§ 1.4, 1.45(a), 1.2108(c). A reply to the opposition may be filed within five days after the time for filing opposition has expired. 47 C.F.R. § 1.4, 1.45(b). After the FCC reviews an applicant's FCC Form 601 and any associated filings, a determination will be made as to whether there are any reasons why the license should not be granted. If there are none, the Commission will issue a public notice announcing that it is prepared to grant the license, conditioned on an applicant's timely payment of the remaining balance(s) of its winning bids within ten business days of the issuance of the Commission's public notice. See 47 C.F.R. §§ 1.2108(d)(1), 1.2109(a), and 101.1105.

**Bidder default.** If a winning bidder fails to submit the remaining balance by the payment deadline, the bidder will be deemed to have defaulted, its application will be dismissed, and it will be subject to the default payment specified in 47 C.F.R. § 1.2104(g)(2). *See also Public Notice, "Wireless Telecommunications Bureau Will Strictly Enforce Default Payment Rules," DA 96-481, 11 FCC Rcd 10853 (1996).* Should the winning bidder default, the Commission will deduct any amount overdue from any upfront payments or down payments that the winning bidder currently has on deposit with the Commission. Specifically, the defaulting bidder will be required to reimburse the Commission 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. If the default occurs within ten business days after the bidding has closed, the Commission retains the discretion to offer the license to the second highest bidder, or if that bidder declines the offer, to offer the license to other bidders (in descending order of their bid amounts) at the final bid levels. *See 47 C.F.R. § 1.2104(g)(2).*

**Anti-collusion rules.** To ensure the integrity of its auctions, the Commission's anti-collusion rules generally prohibit bidders for the same Basic Trading Areas (BTAs) from discussing bids or bidding strategies during the course of the auction. The prohibition begins when short-form applications to participate in the auction are filed; it ends when the winning bidders submit their down payments. *See 47 C.F.R. § 1.2105(c).*

**Post-Auction forum.** To continually enhance the Commission's auctions process, the Wireless Telecommunications Bureau will sponsor a post-auction forum for bidders who participated in the recently completed LMDS auction. The purpose of this forum is to receive feedback from bidders on the auctions process and their experience. In addition, bidders are encouraged to use this forum to present specific recommendations for improving the operational components of the auctions process. Among the general topics to be discussed are information dissemination, application processing and payment, and the overall conduct of the auction. Key FCC staff will be available to answer questions.

**The post-auction forum will be held on Wednesday, April 29, 1998 at 2:00 p.m. Eastern Time in the Commission Meeting Room at the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. Space may be limited. Interested parties are encouraged to call the Auctions & Industry Analysis Division of the Wireless Telecommunications Bureau at (888) 225-5322 (press option #2 at the prompt) to register.**

For further information, contact:

News Media:	Meribeth McCarrick at 202-418-0654
Technical Support Hotline:	Technical Support Personnel at 202-414-1250
Office of the Managing Director (payment, FCC Form 159 and refund questions):	Regina Dorsey, Gail Glasser or Linwood Jenkins at 202-418-1995
Wireless Telecommunications Bureau, Public Safety and Private Wireless Division (FCC Form 601 questions):	Bob James, Susan Magnotti or James Moskowitz at 202-418-0680
Wireless Telecommunications Bureau, Auctions and Industry Analysis Division (auction-related questions):	Mark Bollinger or Christina Clearwater at 202-418-0660

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