



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

November 9, 1999

The Honorable Tom Bliley  
Chairman  
Committee on Commerce  
United States House of Representatives  
2125 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman Bliley:

I am pleased to submit the enclosed report, as required by Section 8124 (b)(1) of the Department of Defense Appropriations Act for FY 2000, Public Law 106-79 (October 25, 1999).

The report outlines the steps that the Federal Communications Commission (FCC) will take in conducting an auction and provides a timeline for the accelerated auction of 36 megahertz (MHz) of spectrum in the 746-764 and 776-794 MHz bands, as required by P.L. 106-79. This spectrum was reallocated for commercial use pursuant to Section 337 of the Communications Act, as amended. The report also details the timelines for all previous auctions conducted by the Commission since the program's inception in 1994.

I would like to take this opportunity to highlight some of the accomplishments of our spectrum auctions program over the past five years. Since the first spectrum auction was held in July of 1994, the FCC has completed 24 auctions with participation by over 1,800 qualified bidders. The Commission has auctioned over 8,000 licenses and collected over \$13.6 billion for the U.S. Treasury.

Auctions encourage strong market competitors by awarding spectrum to those who value it the most. Auctions have dramatically changed the way licenses are distributed, aggregated, and valued, while accelerating the deployment of new technologies into the market place. While comparative hearings took an average of 720 days to complete and lotteries took an average of 412 days, auctions average 233 days.

The changes brought about by the auction program have fostered the entry of new companies into the market and encouraged the development of innovative wireless technologies. Consumers are benefiting from more choice, greater innovation and lower prices. Indications of these benefits include the following:

- Markets including over three-quarters of the U.S. population have at least five competing mobile phone operators.

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- Over the past five years, the average mobile phone subscriber bill has dropped from \$61 per month in 1993 to \$39 per month in 1998. The average price per minute has dropped by 35% between 1994 and 1998, and is predicted to drop an additional 40% by 2003.
- Wireless subscriptions grew from 16 million in 1993 to over 69 million in 1998, and are projected to increase to 149 million by 2003. This translates into a penetration rate that has grown from less than 10% in 1993 to a projected 60% in 2003.

The tremendous success of the auctions program would not have been possible without the support of Congress. I look forward to sharing the continued success of this program as we enter the new millennium. If you have additional questions regarding the auction program, please do not hesitate to contact me.

Sincerely,



William E. Kennard  
Chairman

Enclosure

cc: Honorable John D. Dingell  
(with enclosure)

**REPORT TO CONGRESSIONAL COMMITTEES,  
PURSUANT TO DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2000,  
ON COMPETITIVE BIDDING FOR SPECTRUM BETWEEN  
746-764 MHZ AND 776-794 MHZ**

**INTRODUCTION**

This report is in response to Section 8124(b)(1) of the Department of Defense Appropriations Act, 2000, Public Law 106-79 (October 25, 1999) ("DOD Appropriations Act").<sup>1</sup> Section I provides the information required by Sections 8124(b)(1)(A), (B), and (C). Section II provides the information required by Sections 8124(b)(1)(D) and (E).

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That section provides as follows:

(b)(1) Not later than 15 days after the date of the enactment of this Act, the Director of the Office of Management and Budget and the Federal Communications Commission shall each submit to the appropriate congressional committees a report which shall--

(A) set forth the anticipated schedule (including specific dates) for--

- (i) preparing and conducting the competitive bidding process required by subsection (a); and
- (ii) depositing the receipts of the competitive bidding process;

(B) set forth each significant milestone in the rulemaking process with respect to the competitive bidding process;

(C) include an explanation of the effect of each requirement in subsection (a) on the schedule for the competitive bidding process and any post-bidding activities (including the deposit of receipts) when compared with the schedule for the competitive bidding and any post-bidding activities (including the deposit of receipts) that would otherwise have occurred under section 337(b)(2) of the Communications Act of 1934 (47 U.S.C. 337(b)(2)) if not for the enactment of subsection (a);

(D) set forth for each spectrum auction held by the Federal Communications Commission since 1993 information on--

- (i) the time required for each stage of preparation for the auction;
- (ii) the date of the commencement and of the completion of the auction;
- (iii) the time which elapsed between the date of the completion of the auction and the date of the first deposit of receipts from the auction in the Treasury; and
- (iv) the dates of all subsequent deposits of receipts from the auction in the Treasury; and

(E) include an assessment of how the stages of the competitive bidding process required by subsection (a), including preparation, commencement and completion, and deposit of receipts, will differ from similar stages in the auctions referred to in subparagraph (D).

## I. Overview

An outline of the auction process employed by the Commission in graphic form is attached as Attachment A. The following detailed chronological summary sets forth significant milestones related to the compressed<sup>2</sup> rulemaking, competitive bidding, and licensing process for the assignment by competitive bidding of 36 megahertz of spectrum in the 746-764 MHz and 776-794 MHz bands for commercial use. The approximate dates for these milestones represent targets for accomplishing, in the short time frame available, the multiple steps required to complete the auction process.

### A. Phase I --- Rule Making.

1. Milestone: Adoption and Release of the *Report and Order*, WT Docket No. 99-168

Date: Approximate time frame, December 1999

Summary: In accordance with Section 8124(a) of the DOD Appropriations Act, by release of the *Notice of Proposed Rule Making* in WT Docket No. 99-168 on June 3, 1999, the Commission *initiated* the competitive bidding process for the 36 megahertz of spectrum designated for commercial use in the 746-764 MHz and 776-794 MHz bands. In order to achieve a successful auction and rapid deployment of service using licenses assigned by competitive bidding, the industry and the Commission must have adequate time to consider and comment on the rules proposed for the service, and sufficient time to consider the impact of the final rules established for that service on their business plans, financing options, and bidding strategies. The *Report and Order* will resolve questions raised in the *Notice of Proposed Rule Making* and prescribe specific service and auction rules for the spectrum to be assigned. In establishing final rules, the Commission considers comments (which were due on July 19, 1999), and reply comments (which were due on August 13, 1999) submitted by the public in response to the *Notice of Proposed Rule Making*. Additionally, during the rule making process the Commission typically meets with industry representatives *ex parte* and/or receives written *ex parte* submissions from interested parties that wish to express views on proposed rules under consideration by the Commission. In this rule making proceeding to date, Commission staff members have attended *ex parte* meetings with and/or reviewed *ex parte* written submissions from more than 68 interested entities. This *ex parte* traffic indicates that there are a substantial number of issues under consideration that are important to these parties.

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<sup>2</sup> The normal period between the start of the rule making process through completion of an auction (*i.e.*, the period between the initial notice of proposed rule making and the deposit of receipts from competitive bidding) is approximately one and a half years to two years. This period has been reduced to just over one year for the rule making and auction process in the case of the 746-764 MHz and 776-794 MHz bands.

Release of the *Report and Order* gives potential bidders certainty about the service and licensing rules that apply to the spectrum to be offered at auction, and permits them to begin to make business plans, pursue financing options, and formulate bidding strategies. Potential bidders must have sufficient time to develop their business plans and seek financing to ensure their success in the auction and viability in the marketplace. In addition, at a minimum, the rules must become effective, pursuant to the Administrative Procedure Act, before the due date for potential bidders to submit applications to participate in the auction. Completion of a rule making proceeding well before the start of an auction is, therefore, a prerequisite to a successful auction.

Under the Communications Act and the Commission rules, any interested person may file a petition for reconsideration of the *Report and Order* within 30 days of the date of its publication in the Federal Register.<sup>3</sup> Oppositions to petitions for reconsideration may be filed within 10 days of notice, by publication in the Federal Register, of the filing of a petition for reconsideration; replies to oppositions may be filed within 10 days after expiration of the time for filing oppositions. After the record on reconsideration is closed, the Commission may determine whether to grant or partially grant any of the petitions for reconsideration and release an order explaining its decision. Thus, the rule making process, under normal circumstances, may extend for two or more months after release of the initial *Report and Order* establishing service and auction rules. The deadline established by Section 8124(a) of the DOD Appropriations Act for deposit of the receipts of competitive bidding by September 30, 2000, may not permit the Commission to consider petitions for reconsideration of the *Report and Order* prior to the auction for this spectrum.

The provisions of Section 8124(a) exempting rule making proceedings relating to the 746-764 MHz and 776-794 MHz bands from various statutory requirements will speed the rule making process and eliminate some uncertainties for bidders. For example, without exemption from the requirements of the Contract with America Advancement Act,<sup>4</sup> the final rules cannot go into effect until at least sixty days after submission to Congress.<sup>5</sup> Moreover, under the CWAAA, Congress may, during that 60-day period pass a joint resolution of disapproval, which could further delay the effective date of the rules or invalidate them.<sup>6</sup> Similarly, if no exception applies to the Paperwork Reduction Act,<sup>7</sup> a 60-day notice and comment period is required and an

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<sup>3</sup> 47 C.F.R. § 1.429.

<sup>4</sup> Contract With America Advancement Act of 1996, Pub. L. No. 104-121, 110 Stat. 847 (1996) ("CWAAA"), 5 U.S.C. §§ 801(a)(3), 804(2), and 806(a).

<sup>5</sup> The CWAAA establishes procedures by which Congress can review and consider, with limited exceptions, overriding all final rules.

<sup>6</sup> 5 U.S.C. § 801.

additional 150 days for Office of Management and Budget ("OMB") approval would be necessary before the final licensing and auction rules would become effective.<sup>8</sup> Accordingly, exemption from the requirements of the CWAAA and the PRA permits the final rules to become effective earlier, thus providing potential bidders with earlier, more certain information about the terms under which the licenses will be subject to competitive bidding.

In addition, under 15 U.S.C. § 632(a)(2), the Commission normally must obtain approval of the Small Business Administrator to prescribe a size standard to categorize a business concern as a small business concern for purposes of providing bidding credits or other auction-related assistance to such entities. Indeed, by letter dated May 13, 1999, the Auctions and Industry Analysis Division of the Commission's Wireless Telecommunications Bureau initiated the approval process by notifying the SBA of the draft size standards proposed for inclusion in the *Notice of Proposed Rule Making*. Historically, the length of time required for the Commission to obtain Small Business Administration approval of small business standards has ranged from four to nineteen months. Therefore, by making this section inapplicable to the rules and competitive bidding procedures governing this spectrum, Section 8124(a) eliminates the possibility that delay in obtaining SBA approval will delay the *Report and Order* or the auction. Finally, under the Regulatory Flexibility Act of 1980, as amended, a Regulatory Flexibility Analysis (or, alternatively, a certification that no such analysis is warranted) is normally required for every federal rule making that requires public notice and comment.<sup>9</sup> Without the exemption provided by Section 8124(a), a Regulatory Flexibility Analysis, or certification that no such analysis is warranted, would be required for the *Report and Order* in WT Docket No. 99-168. Thus, exemption from the RFA allows the Commission to prepare the *Report and Order* in WT Docket No. 99-168 more expeditiously.

**B. Phase II --- Competitive Bidding Process.**

1. Milestone: Release of the *Public Notice Seeking Comment*  
Approximate Date: December 1999 (simultaneous with release of *Report and Order*)

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<sup>7</sup> Paperwork Reduction Act of 1995, Pub. L. 104-13, 109 Stat. 163 (1995) ("PRA"), 44 U.S.C. §§ 3507 and 3512.

<sup>8</sup> Under the PRA, before the Commission collects information from the public, it must obtain approval from OMB. Based on previous rule makings, the OMB approval process averages a period of 150 days. The public may raise the issue of a PRA violation at any time throughout an administrative or judicial proceeding.

<sup>9</sup> Title II of the CWAAA is the Small Business Regulatory Enforcement Fairness Act of 1996 ("SBREFA"). SBREFA amended the 1980 Regulatory Flexibility Act ("RFA"), codified as amended at Chapter 6 of the Administrative Procedure Act, 5 U.S.C. §§ 601-612, to require that the Commission's Regulatory Flexibility Analyses and certifications be more elaborate and precise. The amended RFA requires agencies to review regulations to ensure that they do not unduly inhibit the ability of small entities to compete. The RFA, as amended, allows judicial review of the Commission's compliance with the law.

Summary: The Bureau normally releases a Public Notice announcing the date of the upcoming auction and seeking comment on the auction activity rules, upfront payment amounts, minimum opening bids and/or reserve prices, and other specific terms and conditions for the auction. This procedure is consistent with the Balanced Budget Act of 1997,<sup>10</sup> which, among other things, amended the Commission's auction authority, to require

that, in scheduling of any competitive bidding under this subsection, an adequate period is allowed---

- (i) before issuance of bidding rules, to permit notice and comment on proposed auction procedures; and
- (ii) after issuance of bidding rules, to ensure that interested parties have a sufficient time to develop business plans, assess market conditions, and evaluate the availability of equipment for the relevant services.<sup>11</sup>

For a successful auction, the industry, including potential bidders, needs adequate time to raise capital, assess market conditions, and evaluate the availability of equipment. The goal of this milestone is to provide as much information as possible, as early as possible, concerning the timing and operation of the auction.

2. Milestone: Release of the *Public Notice Announcing the Terms and Conditions of the Auction*  
Approximate Date: January 24, 2000

Summary: After analyzing comments received, the Bureau releases a Public Notice providing potential auction applicants with the specific procedures, terms and conditions for the auction event, including upfront payments, minimum opening bids, and application filing dates, etc.

3. Milestone: Distribution of the *Bidder Information Package*  
Approximate Date: February 22, 2000

Summary: The Bureau compiles the *Bidder Information Package*, which is a bound volume of comprehensive information related to the auction. The *Bidder Information*

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<sup>10</sup> Pub. L. No. 105-33, Title III, 111 Stat. 251 (1997) ("Balanced Budget Act of 1997"). The Balanced Budget Act of 1997, revised the Commission's auction authority amending 47 U.S.C. § 309 (j)

<sup>11</sup> 47 U.S.C. § 309(j) (3)(E).

*Package* is provided as a courtesy to potential auction applicants. The *Bidder Information Package* includes information related to licenses to be auctioned, due diligence, pre- and post-auction procedures, the auction event, forms, selected rules, and a partial bibliography of relevant orders, all of which is also available from previously released Commission orders and public notices.

4. Milestone: Auction Seminar  
Approximate Date: March 10, 2000

Summary: The Bureau sponsors a free, pre-auction seminar in Washington, DC, for potential auction participants. The seminar provides an overview of the auction process and procedures for potential participants. In addition, the seminar provides an opportunity for potential auction participants to informally discuss with Commission staff other related issues before the filing deadlines.

5. Milestone: Short-form Application Filing Deadline  
Approximate Date: March 24, 2000

Summary: This is the first key deadline for potential auction participants. Applicants are required to electronically file short-form applications. The short-form application (FCC Form 175) captures basic information regarding the applicant's ownership structure and identifies the markets on which the applicant intends to bid during the auction. After this deadline, applicants may not make major amendments to their short-form applications.

6. Milestone: Release of *Status Public Notice*  
Approximate Date: March 31, 2000

Summary: The Bureau reviews all timely-filed short-form applications and determines, based on information contained in each filing, whether applications are accepted, incomplete or rejected. The status of the applications is communicated through the release of the *Status Public Notice*. Upon release of the *Status Public Notice*, an overnight package containing the *Status Public Notice* is sent to all applicants. For applicants whose filings are deemed incomplete, a letter is included that explains the reason for the incomplete designation and includes the name of a Division staff person to contact for further explanation.

7. Milestone: Resubmission Deadline  
Approximate Date: April 10, 2000

Summary: Short-form applications that are deemed "incomplete" must be corrected and resubmitted by this deadline.

8. Milestone: Upfront Payment Deadline



Approximate Date: April 10, 2000

Summary: To discourage frivolous and insincere bidding, the Commission requires bidders to submit an upfront payment prior to the start of the auction that is equal to the total of the upfront payments established for all of the licenses on which the bidder may wish to bid in any one round in the auction. Potential bidders are required to wire transfer their upfront payments to a designated Commission lockbox. The amount of the upfront payments submitted determines the level of an applicant's eligibility to bid on particular markets in the auction. An applicant complying with the short-form filing and upfront payment requirements then becomes a *qualified bidder*. Failure to make an upfront payment makes an applicant ineligible to bid.

9. Milestone: Release *Qualified Bidders Public Notice*  
Approximate Date: April 14, 2000

Summary: The *Qualified Bidders Public Notice* lists the bidders qualified to participate in the auction, their eligibility level based on the amount of their upfront payment, and the markets selected on their short-form applications. In addition, the *Qualified Bidders Public Notice* contains information regarding the mock auction, the number and length of the bidding rounds for the first two days of the auction, and any other auction-specific information that must be communicated prior to auction commencement.

The registration process follows the release of the *Qualified Bidders Public Notice*. Two overnight mailings are sent to the contact person identified on the short-form application. These mailings include confidential bidding access codes, the Automated Auction System Software, the *Qualified Bidders Public Notice*, bidding schedule, mock auction information, and any other information necessary to participate in the auction. Timing for registration is critical. If the *Qualified Bidders Public Notice* is delayed, registration is delayed, and the ability to ensure that all bidders have the necessary information to participate is compromised.

10. Milestone: Mock Auction  
Approximate Date: April 21, 2000

Summary: The Commission sponsors a mock auction to allow qualified bidders to work with the Automated Auction System Software and become comfortable with the auction format. In particular, the mock auction permits bidders to become familiar with the specific rules pertaining to required activity and closing the auction.

11. Milestone: Auction Commences for 746-764 MHz and 776-794 MHz bands  
Approximate Date: April 25, 2000

Summary: Based on our ability to regulate the pace of the auction and the

duration of other spectrum auctions (*see* Section II below) we presume an auction duration of six weeks.

12. Milestone: Release *Auction Closing Public Notice*  
Approximate Date: June 7, 2000

Summary: The *Auction Closing Public Notice* provides detailed information concerning licenses won by winning bidders, required down payments, bid withdrawal payments, deposits, long-form license applications (FCC Form 601) filing requirements, requests for rule waivers, and licensing matters. A copy of the *Auction Closing Public Notice* is sent via overnight mail to each winning bidder.

**C. Phase III — Licensing.**

1. Milestone: Long-form Application and Down Payment Deadline  
Approximate Date: June 21, 2000

Summary: The Commission's rules require that within ten business days after the release of the *Auction Closing Public Notice*, winning bidders must have on deposit with the Commission 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>12</sup> Each bidder's down payment must be a total of twenty (20) percent of its net winning bid(s) plus any withdrawal payments. Winning bidders must submit completed long-form applications (FCC Form 601) covering each license for which they were the winning high bidder. Applications must be filed electronically.

2. Milestone: Release *Accepted for Filing Public Notice*  
Approximate Date: July 3, 2000

Summary: The *Accepted for Filing Public Notice* lists long-form applications that are found, upon initial review, to be accepted for filing and establishes the pleading cycle for petitions to deny, oppositions to petitions to deny, and replies to oppositions. The minimum statutory period for filing petitions to deny is five days after the *Accepted for Filing Public Notice*, with oppositions due not less than five days later and replies due not less than five days after the deadline for oppositions.<sup>13</sup> The approximate dates listed below are based on the statutory minimum for these filing periods.

3. Milestone: Release *Ready to Grant Public Notice* (unopposed licenses)

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<sup>12</sup> See 47 C.F.R. § 1.2107(b).

<sup>13</sup> See Balanced Budget Act of 1997, § 3008; DOD Appropriations Act, § 8124(a); *see also* 47 C.F.R. §§ 1.939 and 1.2108.

Approximate Date: July 19, 2000

Summary: After the period for filing petitions to deny (*see* Phase III, item 2, *supra*), the Bureau will release a *Ready to Grant Public Notice* announcing that it is prepared to grant the unopposed licenses. Within ten (10) business days after the date of the *Ready to Grant Public Notice*, winning bidders will be required to make full payment of the balance of their winning bids.

4. Milestone: Final Payment Deadline (unopposed licenses)

Approximate Date: August 2, 2000

Summary: Final payments are due. Licenses will be granted only after full and timely payment of the winning bids and any applicable late fees.

5. Milestone: Deposit of Receipts into the U.S. Treasury (unopposed licenses / timely payors)

Approximate Date: August 2, 2000

Summary: Payors making timely payment will make their payment to the Commission's designated bank lockbox for receipt by the U.S. Treasury.

6. Milestone: Release *Grant Public Notice* (unopposed licenses / timely payors)

Approximate Date: August 8, 2000

Summary: The *Grant Public Notice* announces the grant of unopposed licenses to timely payors.

7. Milestone: Late Payment Deadline (unopposed licenses)

Approximate Date: August 16, 2000

Summary: If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline, then it will be allowed to make payment within ten (10) business days after the final payment deadline, provided that it also pays a late fee equal to five (5) percent of the amount due.

When a winning bidder fails to pay the balance of its winning bid plus late fee by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. The default payment is equal to the difference between the amount of the defaulted bid and the amount of the winning bid on that license in a subsequent auction (unless the subsequent winning bid is equal to or more than the defaulted bid), plus an additional payment equal to three percent of the subsequent winning bid or three percent of the defaulted

bid, whichever is less.

8. Milestone: Deposit of Receipts into the U.S. Treasury (unopposed licenses / late payors)  
Approximate Date: August 16, 2000

Summary: Payors making late payment will make their payment to the Commission's designated bank lockbox for receipt by the U.S. Treasury.

9. Milestone: Release *Grant Public Notice* (unopposed licenses / late payors)  
Approximate Date: August 22, 2000

Summary: The *Grant Public Notice* announces the grant of unopposed licenses for which full payment plus the late fee is paid.

10. Milestone: Release *Order Disposing of Petitions to Deny / Ready to Grant Public Notice* (petitioned licenses)  
Approximate Date: August 31, 2000

Summary: After the licensing pleading cycle, including petitions to deny, oppositions, and replies (*see* Phase III, item 2, *supra*), the Bureau will assess the merits of the pleadings and release a *Ready to Grant Public Notice* announcing that it is prepared to grant petitioned licenses.

11. Milestone: Final Payment Deadline (for petitioned licenses)  
Approximate Date: September 15, 2000

Summary: Final payments are due. Licenses will be granted only after full and timely payment of the winning bids and any applicable late fees.

12. Milestone: Deposit of Receipts into the U.S. Treasury (petitioned licenses / timely payors)  
Approximate Date: September 15, 2000

Summary: Payors making timely payment will make their payment to the Commission's designated bank lockbox for receipt by the U.S. Treasury.

13. Milestone: Release *Grant Public Notice* (petitioned licenses / timely payors)  
Approximate Date: September 21, 2000

Summary: The *Grant Public Notice* announces the grants of petitioned licenses to timely payors.

14. Milestone: Late Payment Deadline (petitioned licenses)  
Approximate Date: September 29, 2000

Summary: If a winning bidder fails to pay the balance of its winning bids in a lump sum by the applicable deadline, then it will be allowed to make payment within ten (10) business days after the final payment deadline, provided that it also pays a late fee equal to five (5) percent of the amount due.

When a winning bidder fails to pay the balance of its winning bid plus late fee by the late payment deadline, it is considered to be in default on its license(s) and subject to the applicable default payments. The default payment is equal to the difference between the amount of the defaulted bid and the amount of the winning bid on that license in a subsequent auction (unless the subsequent winning bid is equal to or more than the defaulted bid), plus an additional payment equal to three percent of the subsequent winning bid or three percent of the defaulted bid, whichever is less.

15. Milestone: Deposit of Receipts into the U.S. Treasury (petitioned licenses / late payors)  
Approximate Date: September 29, 2000

Summary: Payors making late payment will make their payment to the Commission's designated bank lockbox for receipt by the U.S. Treasury.

16. Milestone: Release *Grant Public Notice* (petitioned licenses / late payors)  
Approximate Date: October 4, 2000

Summary: The *Grant Public Notice* announces the grant of petitioned licenses for which full payment plus the late fee is paid.

## II. Overview

The chart attached as Attachment B lists the key dates for each of the spectrum auctions conducted by the Commission to date. Each column corresponds to a milestone described in Section I above.

The proposed schedule for the competitive bidding process for the spectrum in the 746-764 MHz and 776-794 MHz bands allows 132 days between the release of the Public Notice seeking

comment and the commencement of the auction, which is consistent with previous auctions.<sup>14</sup> Similarly, the draft schedule calls for 92 days between the release of the Public Notice Announcing the Terms and Conditions of the Auction and the commencement of the auction, which is consistent with previous auctions.

The chart attached as Attachment C sets forth the dates of completion of past auctions; first deposits of receipts into the U.S. Treasury General Fund; and all subsequent deposits of receipts from each auction into the U.S. Treasury General Fund.<sup>15</sup>

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<sup>14</sup> In certain prior auctions, where the period between release of the Public Notice seeking comment and commencement of the auction was longer than average, there were issues that arose during the pre-auction process that had to be resolved, including petitions for reconsideration of the rules and disclosure by NTIA of information regarding incumbency. Note that the Local Mutipoint Distribution Service (“LMDS”) auction (Auction No. 17) was the first auction, for which the Balanced Budget Act required the Bureau to seek comment on auction procedures.

<sup>15</sup> Funds related to payments on installment payment plans (excluding Auction 3 pioneer preference licenses) are scored as revenue to the U.S. Treasury as of the date of the license issuance. Therefore, the actual installment payments made to the Commission are not reflected on the chart.

**ATTACHMENT A: COMPETITIVE BIDDING PROCESS for  
746-764 MHz and 776-794 MHz**

**Step 1: Rulemaking**

Shading indicates actions which are normally part of the competitive bidding process, but which are being omitted to meet statutory deadlines.

|  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>▪ Notice of Proposed Rulemaking issued.</li> <li>▪ Ex Parte dialogue with industry.</li> <li>▪ Public comments filed.</li> <li>▪ Report and Order issued prescribing final rules.</li> </ul>        |   | <i>Small Business Regulatory Enforcement Fairness Act (SBREFA)</i>  |
| <ul style="list-style-type: none"> <li>▪ 30 days: Petitions for Reconsideration accepted.</li> <li>10 days: Oppositions accepted.</li> <li>▪ 10 days: Replies to Oppositions accepted.</li> <li>▪ Reconsideration Order issued.</li> </ul> |   | Requires SBA approval of small business definitions.<br>Takes 4-19 month (avg)                                |
| <i>Contract with America Advancement Act</i><br><br>Delays effective date of rules 60 days during which time Congress can pass a joint resolution to disapprove  | <i>Paperwork Reduction Act (PRA)</i><br><br>Requires 60 day notice and comment period.<br>150 days (avg) for OMB approval | <i>Regulatory Flexibility Act (RegFlex)</i><br><br>Requires analysis of regulatory impact on small businesses |
| Final Rules Effective  |   |   |

**Step 2: Auction**

- Public Notice issued seeking comment on auctions terms and conditions (required by Balanced Budget Act).
- Public Notice issued announcing terms and conditions of the auction.
- Distribution of Bidder Information Package.
- Auction Seminar.
- Short-Form Application Deadline.
- Release of Status Public Notice.
- Resubmission deadline.
- Upfront payment deadline.
- Release Qualified Bidders Public Notice.
- Mock Auction.
- Auction Commences.
- Auction Closes.
- Release Auction Closing Public Notice.

**Step 3: Licensing**

- Winning bidders must make payment sufficient to cover down payments and payments for withdrawn bids within ten business days after release of auction closing public notice.
- Public Notice released listing long-form applications accepted for filing and establishes pleading cycle for petitions to deny process. Statutory minimum is 15 days for pleadings.
- Public Notice announcing intent to grant unopposed licenses.
- Winning bidders make full payment into U.S. Treasury.
- Grant of unopposed licenses.
- Grant of opposed applications occurs after resolution of petitions to deny and full payment.

# Attachment B. Auction Schedules for Calendar Years 1994-99

| Auction                 | Last Order Adopted/ Released | Fed. Reg. Publication | P.N. - Seeking Comment | P.N. - Procedures | Seminar Held | Short Forms Due | P.N. - Status | Resubmission Deadline | Upfront Payment Due | P.N. - Qualified Bidders | Mock Auction Held | Auction Commencement | Auction Closes | Down Payment Deadline |
|-------------------------|------------------------------|-----------------------|------------------------|-------------------|--------------|-----------------|---------------|-----------------------|---------------------|--------------------------|-------------------|----------------------|----------------|-----------------------|
| Nat. NarrowBd Auct #1   | 10-May-94                    | 24-May-94             | na                     | 23-May-94         | 28-Jul-94    | 01-Jul-94       | 05-Jul-94     | na                    | 11-Jul-94           | 14-Jul-94                | 24-Jul-94         | 25-Jul-94            | 29-Jul-94      | 05-Aug-94             |
| IVDS Auct.#2            | 10-May-94                    | 13-May-94             | na                     | 23-May-94         | 06-Jun-94    | 27-Jun-94       | 21-Jul-94     | 12-Jul-94             | 27-Jul-94           | na                       | na                | 28-Jul-94            | 29-Jul-94      | 08-Aug-94             |
| Reg. NarrowBd Auct #3   | 10-May-94                    | 24-May-94             | na                     | 17-Aug-94         | 06-Jun-94    | 26-Sep-94       | 28-Sep-94     | 05-Oct-94             | 05-Oct-94           | 20-Oct-94                | 10-Oct-94         | 26-Oct-94            | 08-Nov-94      | 18-Nov-94             |
| A & B Block Auct #4     | 15-Jul-94                    | 22-Jul-94             | na                     | 19-Sep-94         | 22-Aug-95    | 28-Oct-94       | 01-Nov-94     | 08-Nov-94             | 18-Nov-94           | 28-Nov-94                | Dec-94            | 05-Dec-94            | 13-Mar-95      | 20-Mar-95             |
| C Block Auct #5         | 18-Jul-95                    | 21-Jul-95             | na                     | 06-Oct-95         | 29-Nov-95    | 06-Nov-95       | 20-Nov-95     | 01-Dec-95             | 01-Dec-95           | 08-Dec-95                | Dec-95            | 18-Dec-95            | 06-May-96      | 15-May-96             |
| MDS Auct.#6             | 30-Jun-95                    | 17-Jul-95             | na                     | 05-Sep-95         | 24-Oct-95    | 10-Oct-95       | 16-Oct-95     | 31-Oct-95             | 30-Oct-95           | 06-Nov-95                | 31-Oct-95         | 13-Nov-95            | 28-Mar-96      | 05-Apr-96             |
| SMR Auct.#7             | 14-Sep-95                    | 21-Sep-95             | na                     | 15-Sep-95         | 09-Nov-95    | 26-Oct-95       | 31-Oct-95     | 13-Nov-95             | 13-Nov-95           | 27-Nov-95                | 31-Oct-95         | 05-Dec-95            | 15-Apr-96      | 22-Apr-96             |
| DBS Auct #8             | 15-Dec-95                    | 20-Dec-95             | na                     | 21-Dec-95         | na           | 19-Jan-96       | 22-Jan-96     | na                    | 19-Jan-96           | 22-Jan-96                | 23-Jan-96         | 24-Jan-96            | 25-Jan-96      | 10-Feb-96             |
| DBS Auct #9             | 15-Dec-95                    | 20-Dec-95             | na                     | 21-Dec-95         | na           | 19-Jan-96       | 22-Jan-96     | na                    | 19-Jan-96           | 22-Jan-96                | 23-Jan-96         | 24-Jan-96            | 25-Jan-96      | 10-Feb-96             |
| C Blok Reauct #10       | 18-Jul-95                    | 21-Jul-95             | na                     | 03-Jun-96         | na           | 14-Jun-96       | na            | na                    | 14-Jun-96           | 19-Jun-96                | na                | 03-Jul-96            | 16-Jul-96      | 24-Jul-96             |
| D, E, & F Auct. #11     | 24-Jul-96                    | 01-Jul-96             | na                     | 25-Jun-96         | 08-Aug-96    | 01-Aug-96       | 06-Aug-96     | 12-Aug-96             | 12-Aug-96           | 20-Aug-96                | 20-Aug-96         | 26-Aug-96            | 14-Jan-97      | 23-Jan-97             |
| Cell. Unsvd Auct. #12   | 07-Nov-96                    | 14-Nov-96             | na                     | 08-Nov-96         | na           | 16-Dec-96       | 20-Dec-96     | 03-Jan-97             | 16-Dec-96           | 05-Jan-97                | 09-Jan-97         | 13-Jan-97            | 21-Jan-97      | 29-Jan-97             |
| WCS Auct #14            | 19-Feb-97                    | 03-Mar-97             | na                     | 21-Feb-97         | 28-Feb-97    | 25-Mar-97       | 27-Mar-97     | 04-Apr-97             | 04-Apr-97           | 08-Apr-97                | 10-Apr-97         | 15-Apr-97            | 25-Apr-97      | 12-May-97             |
| DARS Auct.#15           | 03-Mar-97                    | 11-Mar-97             | na                     | 06-Mar-97         | na           | 18-Mar-97       | 20-Mar-97     | na                    | 28-Mar-97           | 20-Mar-97                | 31-Mar-97         | 01-Apr-97            | 02-Apr-97      | 16-Apr-97             |
| 800 MHz SMR Auct.#16    | 30-May-97                    | 09-Jun-97             | na                     | 06-Aug-97         | 17-Sep-97    | 29-Sep-97       | 03-Oct-97     | 14-Oct-97             | 14-Oct-97           | 17-Oct-97                | 23-Oct-97         | 28-Oct-97            | 08-Dec-97      | 23-Dec-97             |
| LMDS Auct. #17          | 12-Sep-97                    | 17-Sep-97             | 17-Oct-97              | 25-Sep-97         | 30-Oct-97    | 20-Jan-98       | 27-Jan-98     | 02-Feb-98             | 02-Feb-98           | 06-Feb-98                | 13-Feb-98         | 18-Feb-98            | 25-Mar-98      | 09-Apr-98             |
| 220 MHz Auct. #18       | 21-May-98                    | 12-Jun-98             | 13-Jan-98              | 29-May-98         | 06-Aug-98    | 17-Aug-98       | 24-Aug-98     | 01-Sep-98             | 31-Aug-98           | 04-Sep-98                | 11-Sep-98         | 15-Sep-98            | 22-Oct-98      | 06-Nov-98             |
| Public Coast Auct. #20  | 01-Jul-98                    | 06-Jul-98             | 23-Jul-98              | 04-Sep-98         | 20-Oct-98    | 02-Nov-98       | 06-Nov-98     | 16-Nov-98             | 16-Nov-98           | 20-Nov-98                | 01-Dec-98         | 03-Dec-98            | 14-Dec-98      | 31-Dec-98             |
| LMS Auct. #21           | 14-Jul-98                    | 30-Jul-98             | 13-Aug-98              | 23-Sep-98         | 30-Oct-98    | 25-Jan-99       | 28-Jan-99     | 08-Feb-99             | 08-Feb-99           | 11-Feb-99                | 19-Feb-99         | 23-Feb-99            | 05-Mar-99      | 22-Mar-99             |
| C-D-E-F Auct #22        | 19-Aug-98                    | 23-Sep-98             | 12-Nov-98              | 23-Dec-98         | 03-Feb-99    | 12-Feb-99       | 24-Feb-99     | 03-Mar-99             | 01-Mar-99           | 10-Mar-99                | 18-Mar-99         | 23-Mar-99            | 15-Apr-99      | 05-May-99             |
| LMDS Auct. #23          | 12-Sep-97                    | 17-Sep-97             | 06-Nov-98              | 29-Jan-99         | 10-Mar-99    | 29-Mar-99       | 05-Apr-99     | 12-Apr-99             | 12-Apr-99           | 16-Apr-99                | 22-Apr-99         | 27-Apr-99            | 12-May-99      | 28-May-99             |
| 220 MHz Auct. #24       | 21-May-98                    | 12-Jun-98             | 24-Nov-98              | 08-Mar-99         | 21-Apr-99    | 10-May-99       | 13-May-99     | 24-May-99             | 24-May-99           | 27-May-99                | 04-Jun-99         | 08-Jun-99            | 30-Jun-99      | 18-Jul-99             |
| Clst Broadcast Auct.#25 | 28-Aug-98                    | 11-Sep-98             | 17-May-99              | 09-Jul-99         | 03-Aug-99    | 20-Aug-99       | 03-Sep-99     | 14-Sep-99             | 13-Sep-99           | 17-Sep-99                | 24-Sep-99         | 28-Sep-99            | 08-Oct-99      | 26-Oct-99             |
| Broadcast Auct.#27      | 28-Aug-98                    | 11-Sep-98             | 17-May-99              | 09-Jul-99         | 03-Aug-99    | 20-Aug-99       | 03-Sep-99     | 14-Sep-99             | 13-Sep-99           | 17-Sep-99                | 24-Sep-99         | 28-Sep-99            | 08-Oct-99      | 26-Oct-99             |



# Attachment C. Auction Deposits

| Auction                 | Auction Commencement | Days Elapsed | Auction Completion | Days Elapsed | Date of 1st Deposit Treasury | Additional Deposits |
|-------------------------|----------------------|--------------|--------------------|--------------|------------------------------|---------------------|
| Nat. NarrowBd Auct.#1   | 25-Jul-94            | 4            | 29-Jul-94          | 275          | 30-Apr-95                    |                     |
| IVDS Auct.#2            | 28-Jul-94            | 1            | 28-Jul-94          | 1,889        | 30-Sep-99                    |                     |
| Resp. NarrowBd Auct.#3  | 26-Oct-94            | 13           | 08-Nov-94          | 692          | 30-Sep-96                    | 30-Sep-99           |
| A & B Block Auct.#4     | 05-Dec-94            | 88           | 13-Mar-95          | 140          | 31-Jul-95                    | 04-Nov-97           |
| C Block Auct.#5         | 18-Dec-95            | 140          | 06-Mar-96          | 464          | 13-Aug-97                    | 05-Dec-97           |
| MDS Auct.#6             | 13-Nov-95            | 136          | 28-Mar-96          | 431          | 02-Jun-97                    | 29-May-98           |
| SMR Auct.#7             | 05-Dec-95            | 132          | 15-Apr-96          | 413          | 02-Jun-97                    | 03-Mar-98           |
| DBS Auct.#8             | 24-Jan-96            | 1            | 25-Jan-96          | 341          | 31-Dec-96                    | 02-Jan-99           |
| DBS Auct.#9             | 24-Jan-96            | 1            | 25-Jan-96          | 1,154        | 24-Mar-99                    | 04-Jan-99           |
| C. Bk Reauct.#10        | 03-Jul-96            | 13           | 16-Jul-96          | 981          | 24-Mar-99                    |                     |
| D, E, & F Auct.#11      | 25-Aug-96            | 141          | 14-Jan-97          | 139          | 02-Jun-97                    | 29-May-98           |
| Cell. Unsvd Auct.#12    | 13-Jan-97            | 8            | 21-Jan-97          | 792          | 24-Mar-99                    |                     |
| WCS Auct.#14            | 15-Apr-97            | 10           | 25-Apr-97          | 312          | 03-Mar-98                    |                     |
| DARS Auct.#15           | 01-Apr-97            | 1            | 02-Apr-97          | 247          | 05-Dec-97                    | 03-Mar-98           |
| 800 MHz SMR Auct.#16    | 28-Oct-97            | 41           | 08-Dec-97          | 296          | 30-Sep-98                    | 24-Mar-99           |
| LMDS Auct.#17           | 18-Feb-98            | 35           | 25-Mar-98          | 161          | 02-Sep-98                    | 04-Jan-99           |
| 220 MHz Auct.#18        | 15-Sep-98            | 37           | 22-Oct-98          |              | 24-Mar-99                    | 02-Jun-99           |
| Public Coast Auct.#20   | 03-Dec-98            | 11           | 14-Dec-98          |              |                              |                     |
| LMS Auct.#21            | 23-Feb-99            | 10           | 05-Mar-99          |              |                              |                     |
| C-D-E-F Auct.#22        | 23-Mar-99            | 23           | 15-Apr-99          |              |                              |                     |
| LMDS Auct.#23           | 27-Apr-99            | 15           | 12-May-99          |              |                              |                     |
| 220 MHz Auct.#24        | 08-Jun-99            | 23           | 01-Jul-99          |              |                              |                     |
| Cisd Broadcast Auct.#25 | 28-Sep-98            | 10           | 08-Oct-99          |              |                              |                     |
| Broadcast Auct.#27      | 06-Oct-99            | 2            | 08-Oct-99          |              |                              |                     |

\* Date the funds were transferred to the US Treasury's General Fund Receipt Account.



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

November 9, 1999

The Honorable John Kasich  
Chairman  
Committee on Budget  
United States House of Representatives  
309 Cannon House Office Building  
Washington, D.C. 20515

Dear Chairman Kasich:

I am pleased to submit the enclosed report, as required by Section 8124 (b)(1) of the Department of Defense Appropriations Act for FY 2000, Public Law 106-79 (October 25, 1999).

The report outlines the steps that the Federal Communications Commission (FCC) will take in conducting an auction and provides a timeline for the accelerated auction of 36 megahertz (MHz) of spectrum in the 746-764 and 776-794 MHz bands, as required by P.L. 106-79. This spectrum was reallocated for commercial use pursuant to Section 337 of the Communications Act, as amended. The report also details the timelines for all previous auctions conducted by the Commission since the program's inception in 1994.

I would like to take this opportunity to highlight some of the accomplishments of our spectrum auctions program over the past five years. Since the first spectrum auction was held in July of 1994, the FCC has completed 24 auctions with participation by over 1,800 qualified bidders. The Commission has auctioned over 8,000 licenses and collected over \$13.6 billion for the U.S. Treasury.

Auctions encourage strong market competitors by awarding spectrum to those who value it the most. Auctions have dramatically changed the way licenses are distributed, aggregated, and valued, while accelerating the deployment of new technologies into the market place. While comparative hearings took an average of 720 days to complete and lotteries took an average of 412 days, auctions average 233 days.

The changes brought about by the auction program have fostered the entry of new companies into the market and encouraged the development of innovative wireless technologies. Consumers are benefiting from more choice, greater innovation and lower prices. Indications of these benefits include the following:

- Markets including over three-quarters of the U.S. population have at least five competing mobile phone operators.

The Honorable John Kasich  
November 9, 1999  
Page 2

- Over the past five years, the average mobile phone subscriber bill has dropped from \$61 per month in 1993 to \$39 per month in 1998. The average price per minute has dropped by 35% between 1994 and 1998, and is predicted to drop an additional 40% by 2003.
- Wireless subscriptions grew from 16 million in 1993 to over 69 million in 1998, and are projected to increase to 149 million by 2003. This translates into a penetration rate that has grown from less than 10% in 1993 to a projected 60% in 2003.

The tremendous success of the auctions program would not have been possible without the support of Congress. I look forward to sharing the continued success of this program as we enter the new millennium. If you have additional questions regarding the auction program, please do not hesitate to contact me.

Sincerely,



William E. Kennard  
Chairman

Enclosure

cc: The Honorable John Spratt  
(with enclosure)



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

November 9, 1999

The Honorable Bill Young  
Chairman  
Committee on Appropriations  
United States House of Representatives  
H-218, The Capitol  
Washington, D.C. 20515

Dear Chairman Young:

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The Honorable Bill Young

November 9, 1999

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Sincerely,

A handwritten signature in black ink, appearing to read "William E. Kennard". The signature is fluid and cursive, written in a professional style.

William E. Kennard  
Chairman

Enclosure

cc: The Honorable David Obey  
(with enclosure)



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

November 9, 1999

The Honorable Pete Domenici  
Chairman  
Committee on Budget  
United States Senate  
621 Senate Dirksen Office Building  
Washington, D.C. 20510

Dear Chairman Domenici:

I am pleased to submit the enclosed report, as required by Section 8124 (b)(1) of the Department of Defense Appropriations Act for FY 2000, Public Law 106-79 (October 25, 1999).

The report outlines the steps that the Federal Communications Commission (FCC) will take in conducting an auction and provides a timeline for the accelerated auction of 36 megahertz (MHz) of spectrum in the 746-764 and 776-794 MHz bands, as required by P.L. 106-79. This spectrum was reallocated for commercial use pursuant to Section 337 of the Communications Act, as amended. The report also details the timelines for all previous auctions conducted by the Commission since the program's inception in 1994.

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The Honorable Pete Domenici  
November 9, 1999  
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Sincerely,



William E. Kennard  
Chairman

Enclosure

cc: The Honorable Frank Lautenberg  
(with enclosure)



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

November 9, 1999

The Honorable John McCain  
Chairman  
Committee on Commerce, Science  
and Transportation  
United States Senate  
508 Senate Dirksen Office Building  
Washington, D.C. 20510

Dear Chairman McCain:

I am pleased to submit the enclosed report, as required by Section 8124 (b)(1) of the Department of Defense Appropriations Act for FY 2000, Public Law 106-79 (October 25, 1999).

The report outlines the steps that the Federal Communications Commission (FCC) will take in conducting an auction and provides a timeline for the accelerated auction of 36 megahertz (MHz) of spectrum in the 746-764 and 776-794 MHz bands, as required by P.L. 106-79. This spectrum was reallocated for commercial use pursuant to Section 337 of the Communications Act, as amended. The report also details the timelines for all previous auctions conducted by the Commission since the program's inception in 1994.

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The Honorable John McCain  
November 9, 1999  
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Sincerely,



William E. Kennard  
Chairman

Enclosure

cc: The Honorable Ernest Hollings  
(with enclosure)



OFFICE OF  
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON

November 9, 1999

The Honorable Ted Stevens  
Chairman  
Committee on Appropriations  
United States Senate  
S-128, The Capitol  
Washington, D.C. 20510

Dear Chairman Stevens:

I am pleased to submit the enclosed report, as required by Section 8124 (b)(1) of the Department of Defense Appropriations Act for FY 2000, Public Law 106-79 (October 25, 1999).

The report outlines the steps that the Federal Communications Commission (FCC) will take in conducting an auction and provides a timeline for the accelerated auction of 36 megahertz (MHz) of spectrum in the 746-764 and 776-794 MHz bands, as required by P.L. 106-79. This spectrum was reallocated for commercial use pursuant to Section 337 of the Communications Act, as amended. The report also details the timelines for all previous auctions conducted by the Commission since the program's inception in 1994.

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The Honorable Ted Stevens  
November 9, 1999  
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Sincerely,



William E. Kennard  
Chairman

Enclosure

cc: The Honorable Robert C. Byrd  
(with enclosure)