

Federal Communications Commission Postpones Advanced Wireless Services Spectrum Auction; Extends Bidder Registration Deadline Six Weeks to June 19, 2006

On Friday, May 19, 2006, the Federal Communications Commission ("FCC") issued a Public Notice announcing its decision to revise the schedule and filing requirements for the auction of spectrum licenses for Advanced Wireless Services ("AWS") (AU Docket No. 06-30; Report 06-66-C). The FCC announced the start date for Auction No. 66 has been moved from June 29, 2006 to August 9, 2006. The FCC also modified all accompanying deadlines for registration and upfront payments.

According to the FCC, the basis for the delay is to provide auction applicants with "additional time for preparation and planning for the auction." The auction will now commence on August 9, 2006. The deadline for filing short-form applications (FCC Form 175) has been moved to June 19, 2006. Upfront payments are now due on July 17, 2006. The complete revised auction schedule is listed below:

Short-Form Application Filing Window Opens	June 5, 2006; 12:00 p.m. EDT
Short-Form Application Filing Window Deadline	June 19, 2006; 6:00 p.m. EDT
Upfront Payments (via wire transfer)	July 17, 2006; 6:00 p.m. EDT
Mock Auction	August 7, 2006
Auction Begins	August 9, 2006

As announced by the FCC earlier this year, Auction No. 66 is intended to facilitate additional third generation (3G) or Advanced Wireless Services within the U.S. Notably, no specific technology requirements are associated with this spectrum. The auction will provide qualified parties with the opportunity to bid on 1,122 AWS licenses spanning 90 MHz of spectrum in two bands: 1710-1755 MHz and 2110-2155 MHz.

In short, the rescheduling of the FCC's Auction No. 66 provides companies and interested investors with an opportunity to either initiate participation in the auction or to secure additional financial resources to participate effectively.

The following are other important facts interested parties should consider in the wake of the FCC's decision to re-schedule Auction No. 66:

- Any party may participate in the auction, regardless of whether it submitted an application during the previous filing window.
- Parties have until June 19, 2006 to file a short-form application to register. In addition to filing a short-form application prior to 6:00 pm (Eastern time) June 19, those wishing to participate in the Auction must submit a sufficient upfront payment via wire transfer before 6:00 pm (Eastern time) on July 17, 2006.

- The specific upfront payment amounts and associated bidding units for each license available in the auction are set forth in Attachment A to the Auction Procedures Public Notice that was released on April 12, 2006.
- The Auction will use the Commission's standard simultaneous multiple-round (SMR) auction format. This type of auction offers every license for bid at the same time and consists of successive bidding rounds in which eligible bidders may place bids on individual licenses. Bidding generally remains open on all licenses until no new bids are received on any licenses.
- Within ten days after the release of the auction closing notice, each winning bidder must submit sufficient funds (in addition to its upfront payment) to bring its total amount of money on deposit with the Commission to 20 percent of the net amount of its winning bids.
- The Auction may be conducted under procedures that limit the information available prior to and during the auction – the so-called “blind bidding”

option. The FCC's determination regarding the release of information will be contingent on the level of competition in the auction (i.e., when the number of bidders and the level of upfront payments are relatively low compared to the number of licenses offered), according to a formula that the FCC has established in the Auction Procedures Public Notice.

- Although the Commission's prohibition against collusion is not triggered until the short-form filing deadline on June 19, 2006, applicants remain subject to antitrust laws and have continuing obligations to avoid anti-competitive behavior, including communications about auction plans or applications that might have anti-competitive effects.

Of course, the manner in which FCC rules may affect certain parties will vary. Please direct any questions regarding these matters to the attorneys listed below or to your regular Kelley Drye Collier Shannon contact.

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