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FCC To Auction VHF/UHF Paging Frequencies in May 2010

On May 25, 2010, the FCC will begin auctioning 9,603 licenses distributed throughout the United States, including 7,752 licenses in the lower paging bands (35 MHz, 43 MHz, 152/158 MHz (paired and unpaired) and 454/459 MHz (paired) as well as 1,851 licenses in the upper paging bands (929 MHz and 931 MHz). The band plan is set out at <http://wireless.fcc.gov/auctions/data/bandplans/pagingLwrband.pdf>.

These licenses are designated for commercial service, but many private licensees, including utilities, oil and gas companies and public safety entities, have acquired previously auctioned paging frequencies. A rule waiver is required to use these frequencies for private, internal purposes, but the FCC routinely grants such waivers. These frequency assignments are not subject to the FCC's narrowbanding requirements.

Technical Parameters

The Commission's rules generally limit the effective radiated power ("ERP") for base transmitters to 500 watts and mobile transmitters to 60 watts. In addition, the licensees of these paging channels must ensure that incumbent licensees are protected from potential interference.

Construction Requirements

Licenses purchased at auction will be issued for ten-year terms. During this initial term, the licensee must meet one of two construction requirements. The first construction requirement is based on the population of the BEA where the license is located. Within three years, the licensee must construct a system that covers one-third of the population of the BEA. The licensee's system must cover two-thirds of the BEA's population within five years.

Alternatively, the licensee could meet the construction requirement by demonstrating it is providing "substantial service" in its geographic area at the five-year mark. The Commission defines substantial service as service that is "sound, favorable and substantially above a level of mediocre service that would barely warrant renewal."

Auction Procedures

An entity interested in participating in the auction must submit a short form application to the Commission by March 16, 2010 identifying the licenses on which it intends to bid. When completing this form, it is best to be overly-inclusive and identify all possible licenses on which the applicant may wish to bid. The applicant is not required to bid on all the licenses it identifies on its Short Form application, but it will be unable to bid on any license not identified on this initial application.

The minimum opening bid is \$500 per license. In the FCC's previous paging auctions, many licenses sold for the minimum bid. The applicant's upfront payment, which will be based on the number of licenses on which it intends to bid, is due by April 23, 2010 and the auction is scheduled to begin on May 25, 2010.

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