

FCC Sets Rules for 5G Spectrum Auction – Bidding to Start December 8

August 6, 2020

The Federal Communications Commission (FCC) has adopted its bidding plans for the next 5G auction, Auction 107. Auction 107 will offer 5,684 licenses in the 3.7 – 3.98 GHz band, part of what is known as the C-band. This C-band spectrum is being reclaimed from the satellite industry and successful bidders will be responsible for their pro rata share of the expenses incurred to relocate incumbent spectrum users. Interested bidders and investors should follow the FCC's progress as it moves forward with both auction bidding plans and plans to reclaim the spectrum.

C-band auction – Auction 107

New spectrum licenses will be awarded in geographic areas called Partial Economic Areas (PEAs) in the contiguous United States. In each PEA the FCC will offer 14 unpaired 20 MHz licenses for 15-year, renewable license terms. Because the satellite industry is clearing the spectrum in two phases, in the 46 PEAs where some spectrum will be cleared early there will be bidding on two separate sets of generic blocks. In the remaining 360 PEAs all spectrum will be in a single bidding category.

Auction applications are due at 6:00 pm ET on September 22. This deadline also marks the beginning of the start of the "quiet period" or the "anti-collusion rule period," when the FCC's rules prohibiting communications with other bidders (or any of the nationwide wireless providers even if they do not register to bid) are in effect. Bidders and investors must be aware of, and follow, the FCC's "quiet period" requirements. Any entity involved in the C-band auction as either a bidder or an investor should educate its team about these rules before the September 22 deadline so as to protect against any claims of collusive behavior. These rules are in force for all auction applicants, even those that withdraw or otherwise decide not to bid, until the post-auction down payment deadline.

Bidding will start on December 8. The FCC will use the two-phase auction process it has used in previous auctions. First, bidders will bid on generic spectrum blocks in successive "clock bidding" rounds, where minimum bids will increase by amounts specified by the FCC. Following the conclusion of the clock phase of the auction, bidders will bid for frequency-specific license assignments that will allow them to acquire contiguous blocks of spectrum across PEAs. Bidding credits will be available to small businesses and rural service providers.

C-band spectrum clearing

Satellite carrier plans for clearing the spectrum have been filed and are available for public review. While we expect the satellite carriers will be responsible for retuning the majority of the terrestrial earth stations that need to be modified to receive signals in the post-auction satellite portion of the reconfigured C-band, some earth station operators may choose to do the work themselves and receive compensation for their expenses directly. The retuning costs for the satellite carriers and the terrestrial earth stations will be paid by winning bidders separately from and in addition to their payments for their auction bids. The amount paid for retuning by each winning bidder will be based on the proportion of the total winning clock round bid amounts to the total winning bid amounts nationally, in each PEA where the bidder wins licenses and, for bidders that win licenses in the top 46 PEAs where Phase I clearing

will occur, to the total winning clock bid amounts in those PEAs. Because successful C-band auction winners will be responsible for covering retuning expenses, investors and auction participants must factor these expenses into their bidding plans.

The FCC is currently seeking public comment on two important implementation roles for the C-band retuning. RSM has been nominated as the C-band relocation coordinator and CohnReznick – and its subcontractors Squire Patton and Intellicom Technologies – has been nominated as the C-band relocation payment clearinghouse. Comments on these nominations are due on August 18 with replies due August 28.

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