



PUBLIC NOTICE

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Wireless Telecommunications Bureau Dismisses C.H. PCS, Inc. Applications for Auction Event No. 5

Today, the Wireless Telecommunications Bureau (Bureau) dismisses seven broadband Personal Communications Services (PCS) C block long-form applications of C.H. PCS, Inc. (CHPCS),¹ because CHPCS failed to submit timely down payments for these licenses. Under Section 24.711(a)(2) of the Commission's rules, each winning bidder in a C block auction must make a down payment equal to ten percent of its net winning bid as follows: the winning bidder must bring its total amount on deposit with the Commission to five percent of its net winning bid within five business days after the auction closes and must pay an additional five percent of its net winning bid within five business days after grant of the bidder's long-form application.²

CHPCS was the high bidder for seven broadband PCS C block markets³ in Auction Event No. 5, which closed on May 6, 1996.⁴ CHPCS paid \$1,505,812.50⁵ as an initial down payment for these licenses but made no further payments.⁶ Subsequently, CHPCS was the successful bidder for the Phoenix, Arizona BTA (Phoenix BTA) in Auction Event No. 10, the reauction of PCS C block licenses, which closed on July 16, 1996. Instead of making its initial down payment for the Phoenix BTA, on July 24, 1996, CHPCS filed an emergency petition for waiver of the down payment deadline.⁷

At the time of Auction Events Nos. 5 and 10, Section 1.2109 of the Commission's rules stated that if a winning bidder failed to remit the required down payment within five business days after the Commission had declared competitive bidding closed, the bidder would be deemed in

¹ See *infra* Appendix for a list of the CHPCS long-form applications being dismissed.

² 47 C.F.R. § 24.711(a)(2). See also 47 C.F.R. §24.708(b), which states that a bidder that defaults on a payment due will be subject to the payments specified in Section 1.2109 of the Commission's rules.

³ PBB124C (El Centro, CA), PBB144C (Flagstaff, AZ), PBB222C (Kahului, HI), PBB322C (Nogales, AZ), PBB362C (Prescott, AZ), PBB420C (Sierra Vista, AZ), and PBB486C (Yuma, AZ).

⁴ See *Public Notice*, *Entrepreneurs' C Block Auction Closes*, DA No. 96-716 (May 8, 1996).

⁵ This amount consists of \$299,000.00 in upfront money received on December 1, 1995 and \$1,206,812.50 received on May 15, 1996.

⁶ The applications for these seven licenses have not been accepted for filing.

⁷ C.H. PCS, Inc. Emergency Petition for Waiver of Section 24.711(a)(2) of the Commission's Rules (filed July 24, 1996).

default, have its application dismissed, and be liable for the default payment specified in Section 1.2104(g)(2) of the Commission's rules.⁸ Under Section 1.2104(g)(2), as then in effect, the defaulting bidder was subject to a payment equal to the difference between the amount of its bid and the amount of the winning bid the next time the license was offered by the Commission, plus an additional payment equal to three percent of the lesser of the defaulting bidder's bid amount or the subsequent winning bid.⁹

On August 9, 1996, the Bureau's Auctions Division denied CHPCS's waiver request and dismissed CHPCS's long-form application for the Phoenix BTA.¹⁰ In an order released on November 4, 1996 ("*CHPCS Payment Order*"), the Bureau assessed CHPCS a default payment with respect to the default on its Phoenix BTA license.¹¹ Noting that, pending reauction of the Phoenix BTA, the Bureau would not be able to assess the full amount of CHPCS's default payment obligation under Section 1.2104(g)(2), the Bureau assessed CHPCS a payment of three percent of its defaulted bid (\$6,414,232.50) toward the full default payment. The Bureau applied CHPCS's upfront payment of \$1,383,000 to this initial default payment, leaving an amount owed of \$5,031,232.50. The Bureau ordered CHPCS to pay this amount within thirty days of the release date of the *CHPCS Payment Order*.

In a letter dated February 4, 1997, from the Bureau to CHPCS, the Bureau noted that CHPCS had not yet paid the \$5,031,232.50.¹² The Bureau stated that it had applied the \$1,505,812.50 on deposit with the Commission as initial down payments for CHPCS's seven broadband PCS C block markets from Auction Event No. 5 toward CHPCS's outstanding \$5,031,232.50 default obligation for the Phoenix BTA. Consequently, CHPCS had a remaining default obligation for the Phoenix BTA of \$3,525,420, as well as an outstanding down payment obligation of \$1,505,812.50 for the seven C block licenses from Auction Event No. 5. The Bureau stated that CHPCS was required to pay both outstanding obligations within five business days of the date of the letter.

CHPCS has failed to pay these outstanding obligations. Accordingly, the Bureau dismisses CHPCS's seven applications for PCS C block licenses from Auction Event No. 5.

For further information, contact Cheryl Kornegay, Commercial Wireless Division, Wireless Telecommunications Bureau, at (202) 418-7240.

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⁸ 47 C.F.R. §1.2109(b) (1995). Currently, Section 1.2109(b) allows a winning bidder ten business days after the Commission has declared competitive bidding closed to remit the required down payment. 47 C.F.R. § 1.2109(b).

⁹ 47 C.F.R. § 1.2104(g)(2) (1995). This provision is essentially the same today.

¹⁰ In re C.H. PCS, Inc., Request for Waiver of Section 24.711(a)(2) of the Commission's Rules, *Order*, 11 FCC Rcd 9343 (WTB 1996).

¹¹ C.H. PCS, Inc., BTA No. B347 Frequency Block C, *Order*, 11 FCC Rcd 22,430 (WTB 1996).

¹² Letter from Wireless Telecommunications Bureau, Federal Communications Commission, to Mr. Kenneth Hobbs, CHPCS, DA 97-260 (February 4, 1997).

APPENDIX
Summary of Licenses to be Reauctioned or Re-offered in Block C

<u>License No.</u>	<u>Market Name</u>
PBB124C	El Centro, CA
PBB144C	Flagstaff, AZ
PBB222C	Kahului, HI
PBB322C	Nogales, AZ
PBB362C	Prescott, AZ
PBB420C	Sierra Vista, AZ
PBB486C	Yuma, AZ
