

Notes:

1. The expired station license must be retained in the station records until the first Commission inspection after the expiration date.

2. Alternatively, a list of coast stations maintained by the licensee with which communications are likely to be conducted, showing watchkeeping hours, frequencies and charges, is authorized.

3. Required only if station provides a service to oceangoing vessels.

4. Certification of a Great Lakes Agreement inspection may be made by either a log entry or issuance of a Great Lakes Agreement certificate. Radiotelephone logs containing entries certifying that a Great Lakes Agreement inspection has been conducted must be retained and be available for inspection by the FCC for 2 years after the date of the inspection.

7. Section 80.409 is amended by adding a new sentence at the end of paragraph (b)(2), and revising paragraph (f)(2) to read as follows:

§ 80.409 Station logs.

* * * * *

(b) * * *

(2) * * * Additionally, logs required by paragraph (f) of this section must be retained on board the vessel for a period of 2 years from the date of the last inspection of the ship radio station.

(f) * * *

(2) Radiotelephony stations subject to the Great Lakes Agreement and the Bridge-to-Bridge Act must record entries indicated by paragraphs (e) (1), (5), (6), (7), (8), (9), (11) and (12) of this section. Additionally, the radiotelephone log must provide an easily identifiable, separate section relating to the required inspection of the ship's radio station. Entries must be made in this section giving at least the following information:

(i) The date the inspection was conducted;

(ii) The date by which the next inspection needs to be completed;

(iii) The inspector's printed name, address and class of FCC license (including the serial number);

(iv) The results of the inspection, including any repairs made;

(v) The inspector's signed and dated certification that the vessel meets the requirements of the Great Lakes Agreement and the Bridge-to-Bridge Act contained in Subparts T and U of this part and has successfully passed the inspection; and

(vi) The vessel owner, operator, or ship's master's certification that the inspection was satisfactory.

* * * * *

8. Section 80.411 is amended by adding a new sentence to the end of paragraph (b) to read as follows:

§ 80.411 Vessel certification or exemption.

* * * * *

(b) * * * Ships subject to the Great Lakes Agreement may, in lieu of a posted certificate, certify compliance in the station log required by section 80.409(f).

9. Section 80.953 is revised to read as follows:

§ 80.953 Inspection and certification.

(a) Each U.S. flag vessel subject to the Great Lakes Agreement must have an inspection of the required radiotelephone installation at least once every 13 months. This inspection must be made while the vessel is in active service or within not more than one month before the date on which it is placed in service.

(b) An inspection and certification of a ship subject to the Great Lakes Agreement must be made by a technician holding one of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the vessel's owner, operator, master, or an employee of any of them. The results of the inspection must be recorded in the ship's radiotelephone log and include:

(1) The date the inspection was conducted;

(2) The date by which the next inspection needs to be completed;

(3) The inspector's printed name, address, class of FCC license (including the serial number);

(4) The results of the inspection, including any repairs made; and

(5) The inspector's signed and dated certification that the vessel meets the requirements of the Great Lakes Agreement and the Bridge-to-Bridge Act contained in Subparts T and U of this part and has successfully passed the inspection.

(c) The vessel owner, operator, or ship's master must certify that the inspection required by paragraph (b) was satisfactory.

(d) The ship's log must be retained on-board the vessel for at least two years from the date of the inspection.

10. Section 80.1005 is amended by adding two new sentences at the end of the section to read as follows:

§ 80.1005 Inspection of station.

* * * An inspection of the bridge-to-bridge station on a Great Lakes Agreement vessel must normally be made at the same time as the Great Lakes Agreement inspection is conducted by a technician holding one

of the following: a General Radiotelephone Operator License, a GMDSS Radio Maintainer's License, a Second Class Radiotelegraph Operator's Certificate, or a First Class Radiotelegraph Operator's Certificate. Additionally, the technician must not be the vessel's owner, operator, master, or an employee of any of them. Ships subject to the Bridge-to-Bridge Act may, in lieu of an endorsed certificate, certify compliance in the station log required by section 80.409(f).

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47 CFR Part 24

[DA 96-706]

Waiver of Bid Withdrawal Payment Provisions

AGENCY: Federal Communications Commission.

ACTION: Final rule; waiver.

SUMMARY: On March 6, 1995, Georgia Independent PCS Corporation (Georgia) filed a request for waiver of the bid withdrawal payment provisions applicable to the broadband PCS C block auction. Under the Commission's rules, the amount of the bid withdrawal payment is equal to the difference between the withdrawn bid amount and the amount of the subsequent winning bid, if the subsequent winning bid is lower. No withdrawal payment is assessed if the subsequent winning bid exceeds the withdrawn bid. The Order reduces Georgia's bid withdrawal payment to the minimum bid increment for License B-076 (Chattanooga, TN) in Round 37 of the broadband Personal Communications Services (PCS) C block auction, or \$569,898.

EFFECTIVE DATE: May 6, 1996.

FOR FURTHER INFORMATION CONTACT: James Hedlund at 202-418-0660.

SUPPLEMENTARY INFORMATION: This Order, adopted May 6, 1996 and released May 6, 1996, is available for inspection and copying during normal business hours in the FCC Reference Center, Room 239, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, International Transcription Services, Inc., 2100 M Street NW., Suite 140, Washington, DC 20037 (202) 857-3800.

Order

1. The Wireless Telecommunications Bureau has before it a Request for Waiver of Section 24.704(a)(1) of the Commission's rules filed by Georgia

Independent PCS Corporation ("Georgia"). By this Order, we hereby resolve Georgia's request. Specifically, this Order reduces Georgia's bid withdrawal payment to the minimum bid increment for License B-076 (Chattanooga, TN) in Round 37 of the broadband Personal Communications Services (PCS) C block auction, or \$569,898.

2. *Background.* On March 6, 1995, Georgia filed a request for waiver of the bid withdrawal payment provisions applicable to the broadband PCS C block auction. Under the Commission's rules, the amount of the bid withdrawal payment is equal to the difference between the withdrawn bid amount and the amount of the subsequent winning bid, if the subsequent winning bid is lower. No withdrawal payment is assessed if the subsequent winning bid exceeds the withdrawn bid.

3. On May 3, 1996, the Commission issued an Order partially waiving the bid withdrawal payment provisions applicable to the 900 MHz Specialized Mobile Radio (SMR) and broadband PCS C block auctions. The Order resolved the waiver requests of two applicants who submitted erroneous bids which were later withdrawn. The Order also delegated authority to resolve requests for waiver of the bid withdrawal payment provisions involving similar factual circumstances to the Wireless Telecommunications Bureau ("Bureau"). The Order indicated that for a party to be eligible for such a waiver, it must submit a request for waiver accompanied by a sworn declaration attesting to the veracity of the factual circumstances surrounding the erroneous bid submission. In addition, the Bureau was directed to consider such requests on a case-by-case basis.

4. *Georgia Waiver Request.* In its request, Georgia alleges that due to a clerical or typographical error, it submitted a bid of \$119,720,000 for License B-076 (Chattanooga, TN) in Round 37 of the broadband PCS C block auction. Georgia further alleges that the error may have been due in part to a "flaw" in the Commission's remote bidding software. Georgia states that it intended to submit the minimum accepted bid for that round and license, or \$11,972,000. Georgia attempted to withdraw its \$119,720,000 bid during the bid withdrawal period for Round 37 by contacting the FCC telephonically. Due in part to technical problems with the FCC's wide-area network, Georgia claims it was not able to withdraw its erroneous bid until Round 38. The final high bid on this market at the close of the auction was \$21,288,000. Consequently, if the bid withdrawal

payment requirement were fully enforced, Georgia would be subject to a bid withdrawal payment of \$73,824,000. Affidavits by A.J. Paserella, and Robert L. Swearingen, Jr., two of Georgia's authorized bidders, and Mr. Swearingen's secretary, Wanda Queen, describe the events surrounding the erroneous bid submission.

5. Georgia argues that imposition of the bid withdrawal payment for its erroneous bid would be unduly burdensome and contrary to the public interest. Georgia contends that there is established case law governing mistaken bids that prohibit the requirement of any payment for bids resulting from typographical or clerical errors. It observes that Section 24.822 of the Commission's rules allows for the correction of typographical errors on applicants' short-form applications (FCC Form 175s) and that the Auctions Division has granted waiver requests to other C block applicants which sought to correct clerical or typographical errors. Finally, Georgia argues that the most that the Commission should require from bidders who submit erroneous bids is the forfeiture of a single activity rule waiver.

6. *Decision.* In the May 3, 1996, Order, the Commission considered the same issues presented here and indicated that full application of the bid withdrawal payment provisions in instances of erroneous bids would cause an extreme and unnecessary hardship on most bidders. On the other hand, the Commission also indicated that a full waiver of these provisions could threaten the economic efficiency of the auction process. The Commission therefore decided to reduce the bid withdrawal payments substantially, taking into consideration the round and stage in which the mistaken bids were submitted and withdrawn.

7. Among other things, the Commission decided specifically that if a mistaken bid is withdrawn in the same round in which it was submitted, the withdrawal payment should be the greater of (a) the minimum bid increment during the round in which it was submitted or (b) the standard bid withdrawal payment calculated as if the bidder had made a bid at the minimum accepted bid. The Commission applied this calculation to reduce the bid withdrawal payment of MAP Wireless, L.L.C., who withdrew its erroneous bid in the same round in which it was submitted.

8. Under the facts presented, Georgia has demonstrated that it submitted an erroneous bid of \$119,720,000 for License B-076 (Chattanooga, TN) in Round 37 of the broadband PCS C block

auction. Georgia has further demonstrated that it attempted to withdraw its erroneous bid in Round 37. Georgia submitted a request for waiver accompanied by sworn affidavits attesting to the veracity of the factual circumstances surrounding the erroneous bid. We find that full enforcement of the bid withdrawal payment against Georgia in this instance would not serve the purpose of this rule and would be contrary to the public interest. In accordance with the Commission's May 3 Order, we find that a partial waiver of Section 24.704(a)(1) of the Commission's rules is warranted. Specifically, because Georgia attempted to withdraw its erroneous bid in the same round in which it was submitted, we will reduce Georgia's required bid withdrawal payment to the minimum bid increment for License B-076 in Round 37 of the broadband PCS C block auction, or \$569,898.

9. Accordingly, *it is ordered* that the waiver request submitted by Georgia Independent PCS Corporation is granted to the extent indicated above.

10. *It is further ordered* that Georgia Independent PCS Corporation is subject to a bid withdrawal payment requirement of \$569,898.

Federal Communications Commission.
Michele C. Farquhar,
Chief, Wireless Telecommunications Bureau.
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47 CFR Part 24

[DA 96-705]

Waiver of Audited Financial Statements and General Application Requirements for the Broadband Personal Communications Services

AGENCY: Federal Communications Commission.

ACTION: Final rule; waiver.

SUMMARY: Several parties have filed requests for waiver of Sections 24.720 (f) and (g) of the Commission's rules with respect to the long-form applications (FCC Form 600) to be filed for broadband Personal Communications Service (PCS) C block licenses. The parties argued that the requirement that gross revenues and total assets figures disclosed on the long-form applications be evidenced by audited financial statement is unduly burdensome. The Commission granted the waivers and on our own motion extended the waiver to all broadband PCS C block applicants subject to the requirements of Sections 24.720 (f) and (g) of the rules. In