applicable bidding credits). *See* 47 CFR 1.2107(b). In addition, by the same deadline all bidders must pay any withdrawn bid amounts due according to 47 CFR 1.2104(g), as discussed in ''Bid Removal and Bid Withdrawal,'' Part IV.B.vi. (Upfront payments are applied first to satisfy any withdrawn bid liability, before being applied toward down payments.)

B. Long-Form Application

114. Within ten business days after release of the auction closing public notice, winning bidders must electronically submit a properly completed long-form application and required exhibits for each 800 MHz license won through the auction. Winning bidders that are small businesses or very small businesses must include an exhibit demonstrating their eligibility for bidding credits. *See* 47 CFR 1.2112(b). Further filing instructions will be provided to auction winners at the close of the auction.

C. Default and Disqualification

115. Any high bidder that defaults or is disqualified after the close of the auction (*i.e.*, fails to remit the required down payment within the prescribed period of time, fails to submit a timely long-form application, fails to make full payment, or is otherwise disqualified) will be subject to the payments described in 47 CFR 1.2104(g)(2). In such event the Commission may re-auction the license or offer it to the next highest bidder (in descending order) at their final bid. *See* 47 CFR 1.2109(b) and (c). In addition, if a default or disqualification involves gross misconduct, misrepresentation, or bad faith by an applicant, the Commission may declare the applicant and its principals ineligible to bid in future auctions, and may take any other action that it deems necessary, including institution of proceedings to revoke any existing licenses held by the applicant. *See* 47 CFR 1.2109(d).

D. Refund of Remaining Upfront Payment Balance

116. All applicants that submitted upfront payments but were not winning bidders for an 800 MHz license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. No refund will be made unless there are excess funds on deposit from that applicant after any applicable bid withdrawal payments have been paid.

117. Qualified bidders that have exhausted all of their activity rule waivers, have no remaining bidding eligibility, and have not withdrawn a high bid during the auction must submit a written refund request. If the refund instructions were completed electronically, only a written request for the refund is necessary. If not, the request must also include wire transfer instructions and a Taxpayer Identification Number (''TIN''). Send refund request to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Shirley Hanberry, 445 12th Street, S.W., Room 1–A824, Washington, D.C. 20554.

118. Bidders are encouraged to file their refund information electronically using the refund information portion of the FCC Form 175, but bidders can also fax their information to the Auctions Accounting Group at (202) 418–2843. Once the information has been approved, a refund will be sent to the party identified in the refund information. Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Michelle Bennett or Gail Glasser at (202) 418–1995.

Federal Communications Commission.

Margaret Wiener,

Deputy Chief, Auctions & Industry Analysis Division, Wireless Telecommunications Bureau.

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FEDERAL COMMUNICATIONS COMMISSION

[Report No. AUC–00–31–H (Auction No. 31); DA 00–1486]

Auction of Licenses in the 747–762 AND 777–792 MHz Bands Scheduled for September 6, 2000; Procedures Implementing Package Bidding for Auction No. 31

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: This document announces revised procedures to allow for package bidding for the upcoming auction of licenses for services in the 747–762 and 777–792 MHz bands (''Auction No. 31''). These procedures are designed to be efficient, and to avoid both the risk of bidders winning licenses they do not desire (*exposure problems*) and the difficulty that multiple bidders desiring the single licenses (or smaller packages) that constitute a larger package may have in outbidding a single bidder bidding for the larger package (*threshold problems*). The procedures are also designed to allow the auction to proceed at an appropriate pace; to encourage straightforward bidding and deter gaming; and to be simple for straightforward bidders, while permitting bidders to employ flexible backup strategies.

DATES: Auction No. 31 is scheduled for September 6, 2000.

FOR FURTHER INFORMATION CONTACT: Howard Davenport, Attorney, Auctions Legal Branch; Joel Rabinovitz, Attorney, Auctions Legal Branch, or Craig Bomberger, Analyst, Auctions Operations Branch, at (202) 418–0660. *Media Contact:* Meribeth McCarrick at (202) 418–0654.

SUPPLEMENTARY INFORMATION: This is a summary of a public notice released July 3, 2000 (''*Auction No. 31 Public Notice*''). The complete text of the *Auction No. 31 Public Notice*, including all attachments, is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, SW, Washington, DC. It may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (ITS, Inc.) 1231 20th Street, NW, Washington, DC 20036, (202) 857–3800. It is also available on the Commission's website at *http://www.fcc.gov/wtb/auctions.*

List of Attachments available at the FCC:

Appendix A—List of Commenters
Attachment A—Licenses to be Auctioned
Attachment B—FCC Auction Seminar Registration Form
Attachment C—Electronic Filing and Review of the FCC Form 175
Attachment D—Guideline for Completion of FCC Form 175 and Exhibits
Attachment E—Accessing the FCC Network to Submit FCC Form 175 Applications

I. Introduction and General Information

A. Introduction

1. The public notice announces revised procedures to allow for package bidding for the upcoming auction of licenses for services in the 747–762 and 777–792 MHz bands (''Auction No. 31''). *See* Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules, *First Report and Order*, 65 FR 3139 (January 20, 2000). On February 18, 2000, the Wireless Telecommunications Bureau (''Bureau'') announced the procedures and minimum opening bids for Auction No. 31. *See* Auction of Licenses in the 747–762 and 777–792

MHz Bands, *Auction No. 31 Procedures Public Notice*, 65 FR 12251 (March 8, 2000) and *Postponement PN*, 65 FR 30598 (May 12, 2000). On May 18, 2000, the Bureau released a public notice seeking comment on modifying those procedures to allow combinatorial (or ''package'') bidding for Auction No. 31. *See* Auction of Licenses in the 747–762 and 777–792 MHz Bands Scheduled for September 6, 2000; Comment Sought on Modifying the Simultaneous Multiple Round Auction Design to Allow Combinatorial (Package) Bidding, *Auction No. 31 Package Bidding Comment Public Notice*, 65 FR 35636 (June 5, 2000). On June 22, 2000, the Commission adopted the *700 MHz Memorandum Opinion and Order and Further Notice of Proposed Rulemaking* in which it stated that the Bureau may implement a combinatorial auction design for Auction No. 31 pursuant to its existing delegated authority if, after review of the comments, the Bureau finds combinatorial bidding to be appropriate and feasible.

2. In general, package bidding should be an improvement over our usual auction design when (a) there are strong complementarities among licenses for some bidders, and (b) the pattern of those complementarities varies for different bidders. Under these circumstances, package bidding should yield the more efficient outcome, with licenses being sold to those bidders who value them the most. The comments we previously received in this docket have suggested these conditions are true for Auction No. 31. For example, some potential bidders have expressed the importance of acquiring a nationwide footprint, and others the importance of acquiring all 30 MHz in a region. The comments we received in response to the *Auction No. 31 Package Bidding Comment Public Notice* largely concur that package bidding is appropriate for the types of licenses being sold in Auction No. 31.

3. Under the procedures we establish here, bidders may place bids on individual licenses, as under our usual auction procedures, and may also place all-or-nothing bids on up to twelve packages of licenses of their own design at any point during the auction. This approach allows bidders to better express the value of any synergies (benefits from combining complementary items) that may exist among licenses. The winning bids are the set of ''consistent'' bids on individual licenses and packages that maximize total revenue when the auction closes. Consistent bids are bids that (i) do not overlap and (ii) are made or renewed by an individual bidder in the same round (bids made by an individual bidder in different rounds are treated as mutually exclusive under the procedures we are establishing for this auction).

4. The specific procedures we establish are designed to meet a number of objectives. They are designed to be efficient, and to avoid both *exposure problems*—the risk of bidders winning licenses they do not desire—and *threshold problems*—the difficulty that multiple bidders desiring the single licenses (or smaller packages) that constitute a larger package may have in outbidding a single bidder bidding for the larger package. The procedures are also designed to allow the auction to proceed at an appropriate pace; to encourage straightforward bidding and deter gaming; and to be simple for straightforward bidders while permitting bidders to employ flexible backup strategies.

5. As a general matter, bidders in our simultaneous multiple round auction that wish to acquire a certain combination of licenses, and only that combination, may face an *exposure problem.* Although they desire either all of the licenses or none, by bidding on the licenses individually they risk winning only some of the licenses. They therefore risk either acquiring licenses they do not desire or paying more for each license than they would have paid if they knew that the license was not going to be part of the combination they desired. With the package bidding procedures we establish today, however, this risk can be avoided. For example, a bidder desiring an aggregation of all six 20 MHz licenses in order to implement a nationwide service could bid on the six licenses as a package and thereby avoid the risk of winning only some of the desired licenses or of paying more for those licenses than it wishes.

6. Allowing package bidding, however, introduces a *threshold problem*—the difficulty that multiple bidders for the single licenses (or smaller packages) that constitute a larger package may have in outbidding a single bidder on the larger package, even though the multiple bidders may value the sum of the parts more than the single bidder values the whole. This may occur because bidders for parts of a larger package each have an incentive to hold back in the hope that a bidder for another part will increase its bid sufficiently for the bids on the pieces collectively to beat the bid on the larger package. The package bidding procedures that we establish are designed to facilitate the emergence of bids that will overcome this problem.

7. The changes we adopt from our initial package bidding proposal respond to three design weaknesses that were identified by commenters. First, the proposal to allow only nine specific packages was too restrictive. Second, in some circumstances the rules could have resulted in bidders being caught with retained but non-winning bids that they no longer wished to hold. This possibility could have chilled bidding and made bidders unable to switch to backup strategies. Third, the pace of the auction could be too slow because there were inadequate incentives for bidders to make bids that would be or could become provisional winning bids, as opposed to bids that merely preserved bidders' eligibility but were unlikely to become winning. In addition, implementation of package bidding procedures for Auction No. 31 makes unnecessary the nationwide bid withdrawal procedure we established in the *Auction No. 31 Procedures Public Notice*.

B. Auction Specifics

i. Auction Procedures and New Dates and Deadlines

8. The auction procedures announced in the February 18, 2000, *Auction No. 31 Procedures Public Notice* remain in effect except as modified by (a) the dates announced in the May 2, 2000, *Postponement Public Notice,* and (b) the package bidding and other auction procedures established here. The new schedule is as follows:

Filing Window Opens for FCC Form 175—July 17, 2000

Bidder Seminar—July 24, 2000

Filing Deadline for FCC Form 175—August 1, 2000, 6:00 p.m. EDT

Upfront Payment Deadline—August 18, 2000, 6:00 p.m. EDT

Mock Auction—August 31, 2000

Auction Start Date—September 6, 2000

ii. Licenses and Packages To Be Auctioned

9. The licenses available in this auction consist of one 20 megahertz license (consisting of paired 10 megahertz blocks) and one 10 megahertz license (consisting of paired 5 megahertz blocks) in each of six regions to be known as the 700 MHz Band Economic Area Groupings (''700 MHz Band EAGs''). These licenses are listed in this public notice in Attachment A and are shown in the following table.

700 MHz BAND EAGS

	Northeast	Mid-Atlantic	Southeast	Great Lakes	Central/Mountain	Pacific
10 MHz ..	WXEAG701–C	WXEAG702–C	WXEAG703–C	WXEAG704–C	WXEAG705–C	WXEAG706–C.
20 MHz ..	WXEAG701–D	WXEAG702–D	WXEAG703–D	WXEAG704–D	WXEAG705–D	WXEAG706–D

10. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed to permit bidders to submit all-or-nothing bids on nine packages of licenses: A global package of all of the licenses; a nationwide package of either 10 MHz or 20 MHz consisting of the six 10 MHz or the six 20 MHz licenses, respectively; or six regional 30 MHz packages consisting of the 10 MHz license and the 20 MHz license for a particular 700 MHz Band EAG. We also sought comment on whether the Commission should allow all possible packages composed of the twelve individual licenses, or only certain additional packages.

11. We agree with some of the commenters that limiting packages to those identified by the Commission is overly restrictive and may lead to inefficient results. On the other hand, we are also concerned that allowing an unlimited number of packages would be needlessly complex and could facilitate strategic bidding. It is highly unlikely that any serious bidder actually needs to bid on all 4,095 combinations of licenses that are possible in this auction. Moreover, allowing bidders to bid upon an unlimited number of packages would introduce the risk of bidders ''parking'' bids, which could lead to an unacceptable pace for the auction. ''Parking'' is the placing of a bid that a bidder does not expect to become a winning bid for the purpose of maintaining eligibility and/or keeping the auction open. Finally, from a purely practical view, allowing 4,095 possible packages may lead to computational difficulties.

12. Bidders will be permitted to create and bid on up to twelve different packages of their own choosing during the course of the auction. Each variation of a package is considered a separate package. This is a somewhat larger number than the nine packages originally proposed, and does not wed bidders to the Commission's choice of packages (although bidders may very well choose to bid on some of the packages already identified.) We believe that this provides bidders with sufficient flexibility to achieve any reasonable business plan, while maintaining simplicity for bidders and the Commission, as well as limiting the opportunity for ''parking'' on an unlimited number of packages. Bidders will not be required to identify or create their packages before start of the auction, but may create their packages as the auction progresses. Bidders may modify or delete a package after they create the package but before they bid on it. Once a bidder bids on a package, however, the package may not be modified or deleted and counts as one of the bidder's twelve allowable packages. Bidders are limited to bidding on, and hence creating packages from, those licenses which they selected on their FCC Form 175 and for which they have eligibility. Bidders may therefore wish to save one or more of their opportunities to create packages for use near the end of the auction.

iii. Bidding Methodology

13. The bidding methodology for Auction No. 31 will be simultaneous multiple round combinatorial (package) bidding. Bidding will be permitted only from remote locations, either electronically (by computer) or telephonically.

iv. Requirements for Participation

14. Those wishing to participate in the auction must:

- Submit a short form application (FCC Form 175) electronically by 6:00 p.m. EDT, August 1, 2000.
- Submit a sufficient upfront payment and a FCC Remittance Advice Form (FCC Form 159) by 6:00 p.m. EDT, August 18, 2000.
- Comply with all provisions outlined in this public notice and the February 18, 2000, *Auction No. 31 Procedures Public Notice.*
- Comply with all rules set forth in the Commission's orders in WT Docket No. 99–168, Service Rules for the 746–764 and 776–794 MHz Bands, and Revisions to Part 27 of the Commission's Rules.

v. Auction Registration and Remote Electronic Bidding Software

15. Procedures for replacement of lost security identification and access to remote electronic bidding software will be announced in a future Public Notice.

II. Auction Event

16. The first round of bidding for Auction No. 31 will begin on September 6, 2000. The initial bidding schedule will be announced in the public notice listing the qualified bidders, which is released approximately 10 days before the start of the auction.

A. Auction Structure

i. Simultaneous Multiple Round With Package Bidding

17. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed to award 12 licenses in the 700 MHz bands in a single, simultaneous multiple round auction with package bidding. When we refer to ''simultaneous multiple round'' we mean without package bidding; when we refer to ''package bidding'' we mean simultaneous multiple round with package bidding. We conclude that it is appropriate and operationally feasible to implement the package bidding design described for Auction No. 31. We believe that package bidding provides many advantages over our current simultaneous multiple round auction design. For the reasons we stated in the introduction, we believe that package bidding will allow bidders in this auction to take advantage of any synergies that exist among licenses and will lead to the most efficient outcome consistent with our objectives under section 309(j) of the Communications Act of 1934.

18. While commenters stated that we (and they) have not had sufficient time to consider package bidding and that more study is needed, in fact the Commission has been considering the possibility of implementing combinatorial bidding since 1994. Congress has also instructed us to experiment with this form of bidding. In 1997, the Commission awarded research and development contracts to consultants to provide and test combinatorial bidding approaches. Experiments and tests were completed this spring demonstrating that combinatorial bidding is feasible and generally leads to more efficient auction results. The material presented at the Combinatorial Bidding Conference that occurred this spring also supported the view that it was feasible to implement combinatorial bidding for this auction. We have made these studies and papers presented at the Conference available on the Commission's web site. In addition, the delay of the auction date provided more time to implement this auction

design. We conclude that there has been sufficient time to implement a proper package bidding auction design for this auction. We also have carefully considered the comments submitted in response to the *Auction No. 31 Package Bidding Comment Public Notice* which were very helpful in our process of determining the procedures for implementing package bidding. We are confident that the procedures we establish today adequately address the concerns raised in the comments.

19. Finally, we note that the auction will not occur for another two months. We believe that this time is sufficient for bidders to understand the package bidding procedures and to develop appropriate auction strategies. Moreover, we have endeavored, to the extent possible, to make the package bidding procedures similar to the simultaneous multiple round auction procedures with which bidders are familiar. We therefore believe that bidders will be able to grasp the new procedures quickly. We also plan on extensive bidder education efforts and will be available both before and during the auction to answer any questions bidders might have.

ii. Maximum Eligibility

20. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed no change in upfront payments established for individual licenses. We proposed to calculate bidding units and associated upfront payment for a package by adding together the bidding units and associated upfront payments of the individual licenses that make up the package. We conclude that the bidding units for a package will be calculated by adding together the bidding units of the individual licenses that make up the package.

21. We also proposed no change in our procedure for determining initial maximum eligibility, which calculates initial maximum eligibility based on the bidding units represented by a bidder's upfront payment. We noted, however, that, under some circumstances, bidders might wish to purchase more eligibility than the total bidding units associated with all licenses. We conclude that we will not change our procedure for determining initial maximum eligibility.

iii. Activity Rules

22. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively throughout the auction, rather than wait until the end before participating. Bidders are required to be active on a specific percentage of their maximum eligibility during each round of the auction if they wish to maintain their current eligibility.

23. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed that in each round of the auction a bidder desiring to maintain its current eligibility would be required to be active on licenses encompassing at least 50 percent of its current eligibility. For a bidder that failed to meet the activity requirement in a given round, we would reduce the bidder's eligibility for the next round to two times its activity in the current round. Thus, a bidder's eligibility in the current round would be the *lesser* of: (i) Its eligibility in the previous round, or (ii) twice its activity in the previous round.

24. We adopt the 50 percent activity requirement. We reserve the right, however, to increase to two-thirds the proportion of bidding units on which bidders must be active to retain their current eligibility. The two-thirds limit will ensure that bidders retain the flexibility to switch from bidding on a 20 MHz package to a 30 MHz package with the equivalent population. Any such change will be announced to bidders prior to the beginning of the round in which the change takes effect.

25. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed that a bid would be considered ''active'' if it was either a ''retained'' bid from the previous round or an accepted bid in the current round. A ''retained'' bid was defined as a provisionally winning bid or a bid that has the potential to become a provisionally winning bid because of changes in other bids in subsequent rounds. The bidding units associated with licenses on which a bidder was active, including retained bids, would count towards the bidder's activity. To account for the possibility of overlapping bids, which by definition can not simultaneously be part of the winning set, we proposed to measure a bidder's activity in a round as the *maximum* number of bidding units associated with the bidder's active bids that could simultaneously be in a provisional winning set.

26. Several of the commenters criticize the proposal to use retained bids. Also, under the procedures we establish today, we have not implemented the concept of ''retained'' bids as the term was used in the *Auction No. 31 Package Bidding Comment Public Notice.* We therefore cannot establish the activity rule originally proposed in the *Auction No. 31 Package Bidding Comment Public Notice.*

27. To determine activity in the current round, we will count accepted new bids made in the current round and provisionally winning bids that are ''renewed'' in the current round. Bids placed in a prior round no longer count towards a bidder's activity, except for bids that are provisionally winning bids at the end of the previous round. Therefore, a bidder is active on a license or package in the current round if (i) it has a bid on the license or package that is part of the provisionally winning set at the end of the previous round, or (ii) it submits a new accepted bid or renews a provisionally winning bid for the license or package in the current round.

28. A bidder's activity level in a round is the maximum number of bidding units that the bidder can win considering only the licenses and packages on which the bidder is active—*i.e.,* counting the set of bids with the most bidding units in the case of mutually exclusive bids. For example, suppose license A has 10 bidding units associated with it; license B, 20; and license C, 20. If the only bids made by a bidder were on packages AB and BC its activity would be 40 since AB and BC are mutually exclusive (*i.e.,* license B is included in both packages, but can only be awarded as part of one package) and the package BC has more bidding units. Counting activity as the maximum number of bidding units a bidder could win makes activity a measure of (i) a bidder's potential contribution to moving the auction along and (ii) the maximum amount of bidding units associated with active licenses for which the bidder could be financially responsible and for which it therefore must have eligibility (as determined by the bidder's upfront payment).

iv. Activity Rule Waivers and Reducing Eligibility

29. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed that each bidder in the auction would be provided five activity rule waivers that may be used in any round during the course of the auction. Use of an activity rule waiver preserves the bidder's current bidding eligibility despite the bidder's activity in the current round being below the required minimum level. An activity rule waiver applies to an entire round of bidding and not to a particular license.

30. Based upon our experience in previous auctions, we adopt our proposal that each bidder be provided five activity rule waivers that may be used in any round during the course of the auction. We are satisfied that our practice of providing five waivers over the course of the auction provides a sufficient number of waivers and

maximum flexibility to the bidders, while safeguarding the integrity of the auction.

31. We also proposed that bidders would not have the ability to apply waivers proactively, as they can under our current simultaneous multiple round auction format. We received no comment on this issue. We adopt our proposal.

32. We proposed, with the exception of the proactive waiver rule described, no other changes to activity rule waivers and reducing eligibility. Thus, automatic waivers and reducing eligibility will continue to function as described.

33. The FCC automated auction system assumes that bidders with insufficient activity would prefer to use an activity rule waiver (if available) rather than lose bidding eligibility. Therefore, the system will automatically apply a waiver at the end of any round where a bidder's activity level is below the minimum required unless: (i) There are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

34. A bidder with insufficient activity that wants to reduce its bidding eligibility rather than use an activity rule waiver must affirmatively override the automatic waiver mechanism during the round by using the reduce eligibility function in the software. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in the previous section. Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

v. Auction Stages and Stage Transitions

35. As stated in section II.B.iii. Activity Rules, in the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed that in each round of the auction a bidder desiring to maintain its current eligibility would be required to be active on licenses encompassing at least 50 percent of its current eligibility. We sought comment on whether we should instead adopt multiple stages with increasing activity requirements.

36. We adopt our proposal for a 50 percent activity requirement, but we retain the discretion during the auction to increase to two-thirds the proportion of bidding units on which bidders must be active to retain their current eligibility. The two-thirds limit will ensure that bidders retain the flexibility to switch from bidding on a 20 MHz package to a 30 MHz package with the equivalent population. Any such change will be announced to bidders prior to the beginning of the round in which the change takes effect.

vi. Auction Stopping Rules

37. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed to employ a two-round simultaneous stopping rule approach. A two-round simultaneous stopping rule means that all licenses remain open until two consecutive rounds have occurred in which no new bids are accepted. After the second consecutive such round, bidding closes simultaneously on all licenses. Thus, unless circumstances dictate otherwise, bidding would remain open on all licenses until bidding stops on every license.

38. The Bureau also sought comment on a modified version of the two-round simultaneous stopping rule that would close the auction for all licenses after the second consecutive round in which no bidder submits a new accepted bid on any license on which it is not the provisional winning bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the provisional winning bidder would not keep the auction open under this modified rule.

39. Based on our experience in past auctions with a simultaneous stopping rule that closed the auction after one round of no new bids (or withdrawals or proactive waivers), we believe that the two-round stopping rule we proposed allows adequate time for bidders. We therefore adopt the two-round simultaneous stopping rule we proposed, with one clarification. Renewed bids are not considered new bids for purposes of the stopping rule; in other words, a round in which the only bids that are placed are renewed bids is considered a round with no new bids for purposes of the stopping rule.

40. As in previous auctions, the Bureau proposed to retain the discretion to keep an auction open even if no new accepted bids are submitted. The activity rule would apply as usual, and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver. We also proposed that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds (''special stopping rule''). The Bureau would exercise this option only in certain circumstances, such as, for example, where the auction is proceeding very slowly, there is minimal overall bidding activity, or it appears likely that the auction will not close within a reasonable period of time. Before exercising this option, the Bureau is likely to attempt to increase the pace of the auction, for example, by increasing the number of bidding rounds per day, and/or by increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. We received no comments on these proposals, and we retain the discretion to keep an auction open or to implement a ''special stopping rule.'' Any such change will be announced to bidders before it takes effect.

vii. Auction Delay, Suspension, or Cancellation

41. We proposed no change to the procedures regarding auction delay, suspension, or cancellation. By public notice or by announcement during the auction, the Bureau may delay, suspend or cancel the auction in the event of natural disaster, technical obstacle, evidence of an auction security breach, unlawful bidding activity, administrative or weather necessity, or for any other reason that affects the fair and competitive conduct of competitive bidding. In such cases, the Bureau, in its sole discretion, may elect to: resume the auction starting from the beginning of the current round; resume the auction starting from some previous round; or cancel the auction in its entirety. Network interruption may cause the Bureau to delay or suspend the auction. We emphasize that exercise of this authority is solely within the discretion of the Bureau, and its use is not intended to be a substitute for situations in which bidders may wish to apply their activity rule waivers

B. Bidding Procedures

i. Round Structure

42. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed no changes in the round structure from those we have already adopted for Auction No. 31. We, adopt our proposal to use the round structure previously announced. Thus, the Commission will use an automated auction system to conduct the package bidding auction format. The initial bidding schedule will be announced in a public notice to be released at least one week before the start of the auction, and will be included in the registration mailings. The package bidding format will consist of sequential bidding rounds, each followed by the release of round results. Multiple bidding rounds may be conducted in a single day. Details regarding the location and format of round results will be included in the same public notice.

43. The Bureau has discretion to change the bidding schedule in order to foster an auction pace that reasonably balances speed with the bidders' need to study round results and adjust their bidding strategies. The Bureau may increase or decrease the amount of time for the bidding rounds and review periods, or the number of rounds per day, depending upon the bidding activity level and other factors. Any changes will be announced to bidders before they take effect.

ii. Reserve Price or Minimum Opening Bid

44. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed no change in the minimum opening bids from those we previously adopted for the individual licenses. For a package, we proposed to calculate the minimum, opening bid by adding together the minimum opening bids of the individual licenses that make up the package. We adopt our proposal for the minimum opening bids for individual licenses. For a package, we adopt our proposal that the minimum opening bid is the sum of the minimum opening bids of the individual licenses that make up the package. We retain the discretion to lower the minimum opening bids during the auction.

iii. Minimum Accepted Bids and Bid Increments

45. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed that for a bid to be accepted in any round it must be x% greater than the minimum amount to have become a retained bid in the previous round, where the Bureau will specify the value of x. This was analogous to the minimum accepted bid rule in a simultaneous multiple round auction. We also sought comment on other methods for calculating the minimum accepted bid. We noted that one possibility was to determine the bid increment as the maximum of (i) the increment as calculated and (ii) an increment based on the total revenue (the provisionally winning bids) in the previous round. Another possibility was to determine the minimum accepted bid by allocating the total amount needed to beat the provisional winners (''the shortfall approach''). We also proposed to set the minimum increment for a license or package initially at five percent and retain the discretion to vary the minimum bid increments in each round of the auction by announcement prior to each round.

46. We conclude that our original proposal for basing minimum accepted bids on retained bids did not comport well with other elements of our proposed package bidding procedures (*e.g.,* the use of contingent ''or'' bids or allowing cancellation of retained but non-provisionally winning bids) nor with other elements of the package bidding procedures we establish today (*e.g.,* allowing bidders to place mutually exclusive bids across rounds). With any of those procedures, the determination of retained bids as potentially winning bids is complicated. Accordingly, it is necessary to modify our proposal.

47. The major purpose of a minimum accepted bid rule is to ensure the proper pacing for the auction even if bidders act strategically. In the case of package bidding, a properly designed minimum accepted bid rule also can facilitate bids that overcome the threshold problem (the potential difficulty of combining small packages to beat larger ones). We believe that simplicity, while obviously desirable, ranks as a lesser factor. In this regard we note that bidders will not be required to calculate minimum accepted bids themselves, but will have the minimum accepted bids provided to them by the bidding software.

48. We adopt a variation of our first proposed alternative method for calculating minimum accepted bids. The minimum accepted bid for any license or package will be the greater of: (i) the minimum opening bid; (ii) the bidder's own previous high bid on that package plus x%, where the Bureau will specify the value of x in each round; and (iii) the number of bidding units for the license or package multiplied by the lowest $/bidding unit on any provisionally winning package in the last 5 rounds. We retain the discretion to change the minimum accepted bid, and to do so on a license-by-license and package-by-package basis, if circumstances so dictate. We will notify bidders of any such change before it takes effect.[1]

49. Part (i) of the formula simply ensures consistency with the minimum opening bids we have adopted. With regard to part (ii) of the formula, by using a bidder's own prior bid as a base we ensure that the price each bidder faces is rising, generally in small steps above the amount it has indicated it is willing to pay. Moreover, we find that when we allow for mutually exclusive bids across rounds[2] and package bidding, there are disadvantages to requiring a bidder to beat a high bid on a package or license. One effect of allowing mutually exclusive bids is that a bid does not necessarily have to be the highest bid on a particular package or license in order for it to be a provisional winner. An example will illustrate this point.

Bidder 1 places a bid of 50 on Package A, and Bidder 2 places a bid of 50 on Package B. In the next round, Bidder 1 places a bid of 100 on Package B, which is mutually exclusive with its bid of 50 on Package A from the previous round. If Bidder 3 is allowed to bid 40 on Package A, even though it is not higher than Bidder 1's bid of 50, Bidder 3 will become a provisional winner (assuming that these are the only bids). Bidder 3's bid of 40 on Package A plus Bidder 1's bid of 100 on Package B totals 140, and this total is higher than Bidder 1's bid of 50 on Package A plus Bidder 2's bid of 50 on Package B which totals only 100. We wish to encourage such bids. Moreover, Bidder 3 may not have bid if it were required to beat Bidder 1's bid of 50 on Package A, which is not the efficient outcome.

Under part (iii) of the formula, we calculate the least expensive provisionally winning ''unit price'' (the provisionally winning bid for a license or package divided by the number of bidding units associated with the bid) for the five prior rounds. To perform this calculation, we examine all of the provisionally winning bids for the five prior rounds. We then divide each of those provisionally winning bids by the number of bidding units associated with it, to yield a ''unit price'' for each provisionally winning bid. Finally, we determine the lowest unit price of all of the provisionally winning bids (in other words, the lowest unit price that any bidder has bid for any provisionally license or package in the prior five rounds). To apply part (iii) of the formula to a new bid, we multiply that lowest unit price by the bidding units associated with the license or package for which the bidder is bidding. It is possible, and indeed likely, that the lowest unit rate will come from a different license or package than the one on which the bidder is bidding.

50. Part (iii) of the formula essentially requires that bids on any license or package be not too far from the provisionally winning bids; unless we

[1] As described further in section II.B.iv, Last and Best Bids, and section II.B.v, Renewed Bids, there are two exceptions to the minimum accepted bid requirement. First, bidders who choose to place no further bids in the auction may place one last set of bids at any amount between their previous high bid and the minimum accepted bid. Second, at any time bidders may ''renew'' their highest previous bid on a license or package without increasing the bid; however, a bidder is not conferred activity credit for renewing a non-provisionally winning bid. Because bids in each round are considered mutually exclusive, renewing a provsionally winning bid does not double count that bid towards a bidder's total activity credit.

[2] As discussed in more detail in section II.B.vi.b, Winning and Provisionally Winning Bids, bids that are made by the same bidder in different rounds are treated as being mutually exclusive, or as contingent ''or'' ''bids''. The bidder may win with the bids in one round, or the other, but not both.

include such a provision, bids might not become competitive without many rounds of bidding. Part (iii) thereby facilitates bids that will overcome the threshold problem. By using the least expensive provisionally winning rate for any license or package over the previous five rounds, we believe that we have ensured that minimum accepted bids will not be too high. Although we recognize that part (iii) may not meet some commenters' concerns about simplicity, omitting part (iii) would adversely and unacceptably affect the pace of the auction. We also believe that the rule as a whole will discourage ''parking'' because any minimum accepted bid has a reasonable chance of becoming a provisional winner. ''Parking'' is the placing of a bid that a bidder does not expect to become a winning bid for the purpose of maintaining eligibility and/or keeping the auction open.

51. We retain the discretion to limit minimum accepted bids when circumstances warrant, and to do so on a round-by-round, package-by-package and license-by-license basis. We believe that this discretion, along with our discretion to increase the time for the bidding rounds and review periods and the number of rounds per day, which we will exercise with sensitivity to the needs of bidders to study round results and adjust their bidding strategies, is sufficient to meet commenters' concerns of having adequate time in which to make decisions involving potentially hundreds of millions of dollars.

52. We note that part (ii) of the minimum accepted bid rule is specific to each bidder. It may therefore be the case that different bidders will have different minimum accepted bids on the same license or package. We do not believe that this will yield an inefficient result because when part (ii) applies the bidder's new bid is based on an amount that it has already bid and therefore indicated it is willing to pay. Moreover, any inefficiency or inequity caused by part (ii) of this rule is mitigated by the ability of bidders to renew bids without increasing them and by the last and best bid procedure, described in the next section, which allows a bidder to make a final set of bids without regard to the minimum accepted bid rule.

53. As has become standard in our auctions, we also proposed that we would use ''click box'' bidding. Specifically, we proposed to allow package bids to increase by one increment in each round, while bids on individual licenses could increase by one to nine increments.

54. Under our previously adopted procedures, a bid increment was defined as x% of the standing high bid, where x was specified by the Bureau, and the minimum accepted bid was the standing high bid plus x%. Thus, if x was equal to 10, bidders were permitted to made bids of the standing high bid plus 10%, plus 20%, etc., with the maximum bid being equal to the standing high bid plus 90%. Under the procedures we establish today, however, there are no standing high bids and minimum accepted bids are not based on standing high bids. We believe, however, that the prior definition of a bid increment is one that is easy for bidders to understand. Accordingly, we believe our new definition of a bid increment should be analogous to the old definition. Accordingly, for this auction, we are defining a bid increment as x% of the minimum accepted bid, where the minimum accepted bid is determined as discussed. As under our previously established procedures, the Bureau will specify the value of x in each round. The Bureau also retains the discretion to change the bid increment, and to do so on a license-by-license and package-by-package basis, if circumstances so dictate. Any such change will be announced to bidders prior to the beginning of the round in which the change takes effect.

55. Several commenters disagreed with our proposal to restrict bidders from raising a bid on a package by more than one increment. Because we believe that the minimum bid rule we are adopting helps overcome the threshold problem, we no longer find it necessary to adopt that restriction. We note that we currently use click box bidding in our simultaneous multiple round auctions. Click box bidding eliminates the use of trailing digits for bid signaling. It also helps prevent bidders from making mistakes when placing their bids. The nine-increment limit constrains jump bidding to some degree while generally not preventing a bidder from making up in a single bid the entire shortfall necessary to become a provisional winner. We therefore adopt our proposal to use click box bidding and to allow bids on either individual licenses or packages to increase by one to nine increments. We reserve the right to change the number of possible increments. Any such change will be announced to bidders prior to the beginning of the round in which the change takes effect.

iv. Last and Best Bids

56. Bidders that wish to drop out of the auction or that believe they are about to lose their bidding eligibility will have the opportunity before they drop out to make a ''last and best'' bid on any packages for which they remain eligible. Such bids may be of any amount (in thousand dollar increments) between their previous high bid and the minimum accepted bid. This is a limited exception to the minimum accepted bid rule and to click box bidding. If a bidder chooses this option, it will not be permitted to make any further bids during the auction.

57. We adopt this procedure primarily as a method of ensuring that there are no tie bids at the end of the auction. Several commenters had expressed their concern that, especially with click box bidding, bidders could submit tie bids. We believe that this procedure provides a fair and efficient way to break ties should they occur, although it is not limited to those situations where there is a tie. An example of how this procedure would break a tie is provided at the beginning of section II.B.vi, Winning and Provisionally Winning Bids. The procedure also allows bidders to bid the maximum amount they are willing to pay for a package regardless of how the Commission sets the minimum accepted bid, and thus mitigates the possible inefficiency that would result from setting minimum accepted bids too high.

v. Renewed Bids

58. Without regard to the minimum accepted bid requirement, a bidder may ''renew'' in the current round the highest previous bid it made on any license or package; that is, it may resubmit the bid without increasing the amount bid. No activity credit will be conferred for renewing a non-provisionally winning bid (provisionally winning bids, however, receive activity credit whether or not they are renewed). Renewed bids will be treated as being made in the current round.

59. Allowing bidders to renew bids provides several benefits. For example, because bids made in different rounds are treated as mutually exclusive, if a bidder wishes to win both a license for which it is the provisional winner and another license, it must bid on both licenses in a single round. Therefore, unless we provide bidders an opportunity to renew their provisionally winning bids without increasing them, provisionally winning bidders that desired additional licenses would be forced to raise their bids on the licenses for which they were already provisional winners. Allowing bidders to renew bids also mitigates the potential concern that we are not retaining all potentially winning bids and a bidder may not be able to submit a new bid on a license

or package on which it previously bid because the bid increment is too high.

vi. Winning and Provisionally Winning Bids

60. The first part of this section describes how we will determine the winning and provisionally winning bids from among the bids we examine. The second part describes the universe of bids we will examine and includes a discussion of retained bids, contingent ''or'' bids, and bid cancellation.

Section A

61. In the *Auction No. 31 Package Bidding Comment Public Notice,* we defined winning bids as the set of gross bids on individual licenses and packages that maximizes gross revenue when the auction closes, assigning each license to only one party (a bidder or, in the case of unsold licenses, the Commission).[3] We defined provisionally winning bids as the set of bids that maximize revenue in a particular round (*i.e.,* they would win if the auction were to close in that round), assigning each license to only one party (a bidder or the Commission).

62. No commenter disagrees with how we proposed to determine the winning bids. Accordingly, we adopt our proposal with a clarification to take into account the fact that, we will treat the bids it makes in different rounds as mutually exclusive (as explained in section b). The *winning bids* are the set of ''consistent'' bids (bids that (i) do not overlap and (ii) are made or renewed by an individual bidder in the same round) that maximize total revenue when the auction closes. The *provisionally winning bids* are the consistent bids that maximize total revenue in a particular round. The Bureau is developing computer software to perform these tasks.[4]

63. We note that, in the case of a tie among bids, the algorithm we are using to calculate the winning and provisionally winning bids selects the winning bid randomly.[5] The procedure we are adopting for last and best bids, described in section II.B.iv, should help ensure that the winning bid is not the result of a tie. In the case of a tie, the bidder(s) whose bid is not chosen has the opportunity in the next round to make another bid. If the bidder believes that the minimum bid increment is too high and so would ordinarily cease bidding on that license or package, it still has the opportunity, using the last and best bid procedure, to make one final bid on the license or package (which may be as little as $1,000 more).[6] The bidder whose bid was chosen randomly then has the opportunity in the next round to beat the new bid.[7]

Bidder 1 and Bidder 2 both bid $100 million on License A in Round 20. The algorithm randomly selects Bidder 1 as the provisional winner. In round 21, Bidder 2 may make the minimum accepted bid on License A, for example, $105 million, in which case bidding on the license would simply continue. If, however, Bidder 2 does not value License A at $105 million, and if it wishes to cease bidding on all other licenses and packages, it may use the last and best bid option to place any bid it wishes on License A between $100,001,000 and $104,999,000 (in thousand dollar increments). (If Bidder 2 wishes to continue to bid on other licenses or packages, it may use the last and best bid option at a later point in the auction.) Bidder 2 therefore bids $103.5 million on License A, the maximum amount it is willing to bid. Bidder 2 is not permitted to place any new bids in the auction. In Round 22, Bidder 1 has the opportunity to place the minimum accepted bid on License A, for example, $108.67 million, thereby beating Bidder 2. But if Bidder 1 believes that the minimum bid is too high, Bidder 1 also has the opportunity to choose the last and best bid option to place any bid it wishes on License A between $103,501,000 and $108,670,100. He therefore bids $104 million, and is not permitted to place any new bids in the auction. If no other bidders bid on License A, Bidder 1 would be awarded the license at a price of $104 million.

We therefore believe that by adopting the last and best bid procedure, we have mitigated any adverse effects the algorithm may have on winning bids. We acknowledge, however, a bidder that submits a tie bid and whose bid is not selected as part of the provisionally winning set will have a higher minimum accepted bid in the next round than the bidder whose bid was selected and who need not raise its bid in order to be considered active on that license or package.

64. We also proposed that licenses on which no bids have been submitted would be treated as if the minimum opening bid had been submitted. SBC/BellSouth state that licenses for which no bids have been made should be treated as having a bid of $0. Prof. Paul Milgrom (''Milgrom'') disagrees.

65. In determining provisionally winning bids, individual licenses on which no bids are available to be considered when solving for the provisionally winning set will be treated as having a bid at the minimum opening bid. We believe that at the end of the auction there will not be any licenses on which bids no bids have been made (either directly or as part of a package), and if it appears that this will occur, the Commission retains the discretion during the auction to lower the minimum opening bid and the minimum accepted bid. Thus, the question of how to treat licenses for which no bids are currently available is one that mostly affects the pace of the auction and the computational simplicity in the early rounds. We believe that treating the licenses as having bids at the opening minimum bid is the better course.

Section B

66. *Mutually Exclusive Bids.* In order to determine the provisionally winning bids at the end of each round, we proposed to consider both the bids made in the current round and ''retained'' bids. We defined ''retained'' bids as the provisionally winning bids plus bids that have the potential to become provisionally winning bids because of changes in other bids in subsequent rounds. Somewhat simplified, retained bids were the standing high bids for any package or license (except that a bid on a package that was not greater than the sum of the bids on its best components would not be retained).

67. Commenters have various views of our proposed use of retained bids in calculating provisionally winning bids. Some commenters suggest that we retain all bids. If some or all bids are retained, commenters variously suggest that we permit non-provisionally winning bids to be cancelled, or that we permit contingent ''or'' bids. Contingent ''or'' bids would allow bidders to specify that they wish to win one bid or the other, but not both. We had proposed both of these alternatives in the *Auction No. 31 Package Bidding Public Notice.* We agree with those commenters that state

[3] If the action closes with any license(s) unsold, those license(s) remain held by the FCC. As stated, in determining the set of bids that maximizes gross revenue, FCC held licenses will be treated as having a bid at the minimum opening bid.

[4] For example, we are using the ILOG CPLEX, version 6.5 software for our solving algorithm. Prior to the auction date, the Bureau will release further information describing the computer software in detail. Further, we will make available a bidder aid for bidders to be able to determine for themselves what bid amount would have been necessary to beat the other bids and become a provisional winner in the prior round.

[5] To ensure randomness, we will use a National Institute of Standards and Technology (''NIST'') tested pseudorandom generator, which will permute the order of the set of all bids prior to consideration by the solving algorithm.

[6] The bidder would ordinarily choose the best and final bid option only when it has decided to stop bidding and drop out of the auction altogether.

[7] If, however, the bidder whose bid is not chosen chooses not to bid and no other bidder makes a higher bid (and the provisionally winning bidder does not make a mutually exclusive bid on a different license or package), then the provisional winner will become the winner at the end of the auction.

that without one of these procedures (cancellation or contingent ''or'' bids) bidders face the risk that they will have retained but non-provisionally winning bids that they do not desire, which both consumes some of their eligibility and leads to the possibility that they ultimately may win more licenses than they wish. This risk could make bidders unable to switch to backup strategies and could generally chill bidding.

68. In the *Auction No. 31 Package Bidding Public Notice,* we noted that contingent ''or'' bids could provide a bidder greater flexibility to aggressively bid on licenses that it considers substitutes by overcoming the exposure problem. For computational simplicity and transparency, we proposed a number of restrictions on the use of 'or'' bids. We also noted that we would need to modify our method for determining retained bids. With regard to bid cancellation, we noted that it could avoid the possible complexity of ''or'' bids while overcoming exposure problems and thereby allow bidders to explore bids that would overcome the threshold problem. On the other hand, by allowing potential partnering bids to be cancelled, bid cancellation could also make it more difficult to overcome the threshold problem. It also could facilitate adverse strategic bidding, and adversely affect the pace of the auction. Finally, we noted that if we permitted bid cancellation, we would probably retain all bids and modify the activity rules and the procedures for calculating minimum accepted bids.

69. We conclude that calculating provisionally winning bids using the definition of retained bids as set forth in the *Auction No. 31 Package Bidding Comment Public Notice* does not necessarily ''retain'' all potentially winning bids when bidders are permitted to submit bids that are mutually exclusive across rounds (''or'' bids). As illustrated in section II.B.iii., Minimum Accepted Bids and Bid Increments, a bid does not have to be the highest bid on a particular package in order for it to be a provisional winner. The definition of retained bids, however, would not retain a bid unless it was the highest bid on a particular package.

70. We also conclude that it is not computationally feasible at this time to calculate provisionally winning bids using all of the bids that are made throughout the auction (i.e., to retain all bids) when ''or'' bids are permitted. Similarly, we conclude that permitting unrestricted ''or'' bids is computationally too complicated to implement for this auction. Finally, we do not favor allowing bidders to freely cancel bids because, as stated, bid cancellation could be used strategically and because other bidders on a smaller package attempting to beat a larger package need some certainty about what bids are available in order to overcome the threshold problem.

71. We conclude that the nature of package bidding requires that we devise some system for retaining non-provisionally winning bids so that more than just the bids made in the current round are considered in determining the new provisionally winning bids. Otherwise, it would be very difficult to overcome the threshold problem. Bidders on individual licenses or smaller packages need to know what other bids are available that, when considered along with their bids, could beat a larger package.

72. We believe that the following procedure meets our objectives and responds to the design weaknesses discussed. First, we will treat the bids a bidder makes in the current round as mutually exclusive with the bids that same bidder made in prior rounds. If a bidder does not want a bid from the previous round (including a provisionally winning bid) to be considered mutually exclusive with bids made in the current round, it can resubmit the bid in the current round. A bidder may either ''renew'' a bid without increasing the amount bid or increase the bid.[8]

73. Second, to determine the provisionally winning bids, we will consider (i) the bids made by each bidder in the most recent two rounds in which that bidder placed new or renewed bids and (ii) all provisionally winning bids from the prior round. This approach ensures that bidders in the current round will have bids by other bidders available for them to ''partner'' with so they can make a bid that would have made them a provisional winner in the last round.[9] It thereby assists bidders in overcoming the threshold problem. This approach also helps ensure that bidding is sincere since bidders are held to their bids even after they stop bidding. Bidders should be willing to pay the amount they previously bid even if they are not willing to raise their bids.

74. The auction design we establish today therefore takes elements from both, contingent ''or'' bids and bid cancellation. By making a bidder's own bids mutually exclusive across rounds, we have implicitly provided for a limited number of ''or'' bids without the imposition of excessive computational burdens. Moreover, by considering only a bidder's two most recent rounds in which it made a bid (either an accepted new bid or a renewed bid), plus any provisionally winning bids, we have essentially cancelled all of the bidder's other bids.

75. More importantly, treating each participant's bids across rounds as mutually exclusive meets the objectives that both of these methods were attempting to accomplish without either the complications or the risks. As with ''or'' bids and bid cancellation, bidders may pursue back-up strategies without exposing themselves to the risk that they will win both sets of licenses. Also, bidders may achieve all of the flexibility of using ''or'' bids within a round by bidding straightforwardly across rounds. And by considering a bidder's two most recent rounds of bids in which accepted new bids or renewed bids were made (plus its provisionally winning bids), we allow bidders to explore ways to partner with other bids in order to beat bids on larger packages. Yet the bidding method we are adopting, by automatically canceling bids instead of leaving it to the bidder's discretion, lessens the risk of strategic bidding. We believe that this bidding method meets both the commenters' concerns and their desires.

vii. Bidding

76. During a bidding round, a bidder may submit individual bids for as many licenses as it wishes, subject to its eligibility; may submit bids on any packages it has designed, subject to its eligibility and a limit of bidding on twelve different packages throughout the auction; may renew bids it has previously made; may remove bids placed in that round before the round closes; may use an activity rule waiver, and may permanently reduce eligibility. Bidders may make certain mutually exclusive bids (*i.e.*, overlapping bids) in a bidding round. For example, a bidder may place a bid on License A and a bid on a package consisting of Licenses A and B. The bids are mutually exclusive because it is not possible that both bids can become provisionally winning bids. Bidders have the option of making multiple submissions and removals in each bidding round.

[8] As stated, ''renewing'' a non-provisionally winning bid confers no activity credit, while making a minimum accepted bid does. On the other hand, a bidder receives activity for a bid that is a provisionally winning bid at the end of the last round, whether or not it renews the bid.

[9] The use of the term ''partner'' does not imply collusion among bidders and collusion is strictly prohibited by the Commission's Rules. See 47 CFR 1.2105(c). It simply refers to the fact that in order to beat a larger package, a bidder on an individual license or smaller package needs others to bid on the other licenses or packages that make up the larger package.

77. Bidders should note that all bidding will take place remotely either through the automated bidding software or by telephonic bidding. (Telephonic bid assistants are required to use a script when entering bids placed by telephone. Telephonic bidders are therefore reminded to allow sufficient time to bid by placing their calls well in advance of the close of a round, especially since this is the first combinatorial auction conducted by the Commission. For the simultaneous multiple round auctions, normally, four to five minutes were necessary to complete a bid submission. Bid submissions may take longer for combinatorial auctions.) There will be no on-site bidding during Auction No. 31.

78. A bidder's ability to bid on specific licenses and packages in the first round of the auction is determined by two factors: (i) The licenses applied for on FCC Form 175; and (ii) the upfront payment amount deposited. The bid submission screens will be tailored for each bidder to include only those licenses for which the bidder applied on its FCC Form 175. Bidders must create packages on the package creation screen before they are permitted to bid on the packages. Bidders are reminded that they will be able to create only those packages (i) that contain only the licenses for which they applied on FCC Form 175, and (ii) for which they have eligibility based on their upfront payments.

79. The bidding software requires each bidder to log in to the FCC auction system during the bidding round using its FCC-supplied security identification. Procedures for obtaining security information and accessing the FCC auction system will be announced in a future Public Notice. Bidders are strongly encouraged to download and print bid confirmations *after* they submit their bids.

80. The bid entry screen of the automated auction system software for Auction No. 31 allows bidders to place multiple increment bids. In addition to placing the minimum accepted bid, bidders may increase the minimum accepted bid by from one to nine bid increments. The bidding software will display allowable bids for each license and package created by the bidder.

81. To place a new bid on a license or package, the bidder must place a minimum accepted bid, and may place a bid up to nine times the bid increment. A bidder may also place a renewed bid on a license or package. Both actions are done by clicking the desired bid amount in the Amount Bid box displayed on the bidding screen and then clicking the submit button.

viii. Bid Removal and Bid Withdrawal

82. Bid ''removal'' is the voiding of a bid made in the current round. Bid ''withdrawal'' is the voiding of a provisionally winning bid. Bid ''cancellation'' is the voiding of a non-provisionally winning bid. We discuss bid cancellation in section II.B.vi.b, Winning and Provisionally Winning Bids. For the reasons set forth and in section II.B.vi.b, we permit only the removal of bids placed in the current round. The withdrawal or cancellation of bids made in previous rounds is *prohibited.*

83. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed to retain the bid removal procedures that we previously established. Spectrum Exchange endorses the proposal and no commenter objects. Accordingly, we retain the bid removal procedures previously announced. At any time before the close of a bidding round, a bidder has the option of removing any bids placed in that round. By using the remove bid function in the software, a bidder may effectively ''unsubmit'' any bid placed within that round. This is not the same as withdrawing a bid, which, in our simultaneous multiple round auction system, can occur in rounds subsequent to the round in which the high bid was placed. A bidder removing a bid placed in the same round is not subject to withdrawal payments. *See* 47 CFR 1.2104(g). Once a round closes, a bidder may no longer remove a bid.

84. We also proposed not to allow bidders to withdraw provisionally winning bids from previous rounds. If a bid is declared the winner and the bidder does not pay the amount due, it is liable for a default payment as set forth in the Commission's Rules.

85. We believe that by making bids placed in different rounds mutually exclusive, we have eliminated a bidder's exposure risk when changing strategies. Bidders will win at most one set of bids, not both. Moreover, the bid withdrawal procedure was designed to allow bidders to back out of failed aggregations—to avoid winning some licenses that are worth less to them than the amount bid without the other licenses they need to implement their business plan. Therefore, since bidders may make package bids on all combinations of licenses with significant complementarities, the use of withdrawals to mitigate such risk is no longer necessary. Moreover, while there is no offsetting benefit from allowing bid withdrawals, there would still be potential harm. Withdrawals may be used strategically to provide incorrect price signals during the auction and lead other bidders to place inefficient bids. Also, when withdrawals are permitted, one cannot ensure that the auction will proceed at an acceptable pace. Moreover, the harm associated with withdrawals is likely to be more severe in auctions with package bidding since a single withdrawal of a bid (on either an individual license or a package) can affect the entire provisionally winning set. Accordingly, we will *not* permit bidders to withdraw their provisionally winning bids.

86. Finally, we proposed that the previously announced special 30 MHz nationwide bid withdrawal procedure would no longer apply. No commenter objects. We believe that such a special procedure is unnecessary once package bidding is generally permitted. Accordingly, upon approval by the Commission, we will not apply the previously announced special 30 MHz nationwide bid withdrawal procedure.[10]

ix. Bid Composition Restriction

87. We sought comment on bid composition restrictions to deter bidders without complementarities from strategically bidding on large packages in order to create a threshold problem for competitors that want only parts of the larger package. For example, the Milgrom-McAfee bid composition restriction would not allow a bidder that is active in a round on a package, but not on a subset of that package, to bid subsequently for the subset. No commenter believes that such a bid composition restriction is necessary for this auction. We agree. Therefore, we are not adopting any restrictions on bid composition (other than limiting bidders to creating and bidding on at most twelve packages).

x. Default

88. In the *Auction No. 31 Package Bidding Comment Public Notice,* we proposed to modify the default procedures and rules to take into account package bidding. In the 700 *MHz Memorandum Opinion and Order and Further Notice of Proposed Rulemaking,* the Commission stated that after the Bureau has reviewed the record in this proceeding and determined

[10] In the *700 MHz First Report and Order,* the Commission directed the Bureau to adopt a special 30 MHz nationwide withdrawal rule if it was operationally feasible to do so. Accordingly, the Bureau established such a rule in the *Auction No. 31 Procedures Public Notice.* As discussed in section II.B.x, Default, the Commission has stated that prior to the due date for the filing of short form applications for Auction No. 31, it will adopt any rule changes necessary to implement package bidding.

whether or not to implement package bidding, which we do today, it will adopt any necessary rule changes, such as changes to the general competitive bidding default payment rule, in a further reconsideration order to be adopted prior to the due date for the filing of short forms for Auction No. 31. Accordingly, we leave for the Commission the discussion of the proposed modifications to the default rule and the comments received to that proposal.

xi. Round Results

89. Although we did not propose any changes to the round results that would be provided, the modified procedures we establish today change some of the results that will be reported. As we stated in the *Auction No. 31 Procedures Public Notice,* bids placed during a round will not be published until the conclusion of that bidding period. After a round closes, the Commission will compile reports of all bids placed, provisionally winning bids, whether or not there were ties for the provisionally winning bids, and bidder eligibility status (bidding eligibility and activity rule waivers), and post the reports for public access. Reports reflecting bidders' identities and bidder identification numbers for Auction No. 31 will be available before and during the auction. Thus, bidders will know in advance of this auction the identities of the bidders against which they are bidding.

xii. Auction Announcements

90. The Commission will use auction announcements to announce items such as schedule changes. All Commission auction announcements will be available on the FCC Extranet and on the Internet.

xiii. Maintaining the Accuracy of FCC Form 175 Information

91. As we stated in the *Auction No. 31 Procedures Public Notice,* after the short-form filing deadline, applicants may make only minor changes to their FCC Form 175 applications. For example, permissible minor changes include deletion and addition of authorized bidders (to a maximum of three) and certain revisions to exhibits. Impermissible changes include changes to the selection of licenses on which the applicant wishes to bid. Filers must make these changes on-line, and submit a letter to: Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554. A separate copy of the letter should be mailed to Howard Davenport, Auctions and Industry Analysis Division), briefly summarizing the changes. Questions about other changes should be directed to Howard Davenport, Auctions and Industry Analysis Division at (202) 418–0660.

C. Post-Auction Procedures: Refund of Remaining Upfront Payment Balance

92. The package bidding procedures we adopt here necessitate a slight change in the post-auction procedures regarding the refund of a bidder's remaining upfront payment balance. Because a bidder with no provisionally winning bids during the auction may still be a winning bidder at the end of the last round of the auction, bidders may not drop out of the auction completely. Accordingly, bidders are no longer eligible for a refund of their upfront payments before the close of the auction. The refund procedures are therefore as follows:

93. All applicants that submitted upfront payments but were not winning bidders for a 700 MHz license may be entitled to a refund of their remaining upfront payment balance after the conclusion of the auction. At the end of the auction, those bidders who are eligible for a refund must submit a written refund request which includes wire transfer instructions, a Taxpayer Identification Number (''TIN''), and a copy of their bidding eligibility screen print, to: Federal Communications Commission, Financial Operations Center, Auctions Accounting Group, Shirley Hanberry, 445 12th Street, SW, Room 1–A824, Washington, DC 20554.

94. Bidders are encouraged to file their refund information electronically using the Refund Information portion of the FCC Form 175, but bidders can also fax their request to the Auctions Accounting Group at (202) 418–2843. Once the request has been approved, a refund will be sent to the party identified in the refund information. Refund processing generally takes up to two weeks to complete. Bidders with questions about refunds should contact Michelle Bennett or Gail Glasser at (202) 418–1995.

Federal Communications Commission.

Margaret Wiener,

Deputy Chief, Auctions and Industry Analysis Division Wireless Telecommunications Bureau.

ATTACHMENT—AUCTION NO. 31; LICENSES TO BE AUCTIONED

Economic area grouping	License numbers	License bandwidth (MHz)	Description	Population (1990)	Bidding units	Upfront payment	Minimum opening bid
EAG701	WXEAG701–C	10	Northeast	41,567,654	14,000,000	$14,000,000	$40,000,000
EAG702	WXEAG702–C	10	Mid-Atlantic	42,547,218	14,000,000	14,000,000	40,000,000
EAG703	WXEAG703–C	10	Southeast	44,516,919	14,000,000	14,000,000	40,000,000
EAG704	WXEAG704–C	10	Great Lakes	41,560,906	14,000,000	14,000,000	40,000,000
EAG705	WXEAG705–C	10	Central/Mountain	40,926,284	14,000,000	14,000,000	40,000,000
EAG706	WXEAG706–C	10	Pacific	41,427,686	14,000,000	14,000,000	40,000,000
Subtotal					84,000,000	84,000,000	240,000,000
EAG701	WXEAG701–D	20	Northeast	41,567,654	28,000,000	28,000,000	80,000,000
EAG702	WXEAG702–D	20	Mid-Atlantic	42,547,218	28,000,000	28,000,000	80,000,000
EAG703	WXEAG703–D	20	Southeast	44,516,919	28,000,000	28,000,000	80,000,000
EAG704	WXEAG704–D	20	Great Lakes	41,560,906	28,000,000	28,000,000	80,000,000
EAG705	WXEAG705–D	20	Central/Mountain	40,926,284	28,000,000	28,000,000	80,000,000
EAG706	WXEAG706–D	20	Pacific	41,427,686	28,000,000	28,000,000	80,000,000
Subtotal					168,000,000	168,000,000	480,000,000
Total					252,000,000	252,000,000	720,000,000

[FR Doc. 00–17673 Filed 7–12–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CS Docket No. 00–30; DA 00–1432]

En Banc Hearing on America Online, Inc and Time Warner, Inc. Applications for Transfer of Control

AGENCY: Federal Communications Commission.

ACTION: Notice of Hearing.

SUMMARY: The Federal Communications Commission (FCC) will hold an en banc hearing to discuss issues pertinent to the joint applications of America Online, Inc. (''AOL'') and Time Warner, Inc. (Time Warner) for Commission approval of the transfer of control to AOL Time Warner, a new entity, of licenses and authorizations now held by AOL and Time Warner. AOL and Time Warner, as well as consumer, community, and industry representatives will be invited to participate as panelists.

DATES: The hearing will be held on Thursday, July 27, 2000 from 1:00 p.m. to 5:00 p.m.

ADDRESSES: The hearing will be held at the Federal Communications Commission, Commission Meeting Room, 445 12th Street, S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Linda Senecal, 202–418–7044. News Media Contact: Michelle Russo, 202–418–2358.

SUPPLEMENTARY INFORMATION: A transcript of the en banc will be available 10 days after the event on the FCC's Internet site. The URL address for the FCC's Internet Home Page is http://www.fcc.gov. Transcripts may be obtained from the FCC's duplicating contractor, International Transcription Service (ITS) at (202) 857–3800 or fax (202) 857–3805 or TTY (202) 293–8810. ITS may be reached by e-mail at: service@itsdocs.com. ITS's Internet address is http://www.itsdocs.com. The transcript is available to individuals with disabilities requiring accessible formats (electronic ASCII text, Braille, large print, and audiocassette) by contacting Brian Millin at (202) 418–7426 (Voice), (202) 418–7365 (TTY), or by sending an email to access@fcc.gov. The en banc can be viewed over George Mason University's Capitol Connection via the Internet by calling (703) 993–3100 for more information. The audio portion of the en banc will be broadcast live on the Internet via the Commission's Internet audio/video broadcast page at http://www.fcc.gov/realaudio. The en banc can also be heard via telephone, for a fee, from National Narrowcast Network, telephone (202) 966–2211 or fax (202) 966–1770. Users must have an account with National Narrowcast prior to the en banc. Audio and video tapes of the en banc may be purchased from Infocus, 341 Victory Drive, Herndon, Virginia 20170, by calling Infocus at (703) 834–0100 or by faxing Infocus at (703) 834–0111.

Dated: July 6, 2000.

John Norton,

Division Chief, Policy and Rules Division, Cable Services Bureau.

[FR Doc. 00–17667 Filed 7–12–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2423]

Petition for Reconsideration of Action in Rulemaking Proceeding

July 7, 2000.

Petition for Reconsideration has been filed in the Commission's rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of this document is available for viewing and copying in Room CY–A257, 445 12th Street, SW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to this petition must be filed by July 28, 2000. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Implementation of Section 255 and 251(a)(2) of the Communications Act of 1934, as Enacted by the Telecommunications Act of 1996 (WT Docket No. 96–198).

Access to Telecommunications Service, Telecommunications Equipment and Customer Premises Equipment by Persons with Disabilities

Number of Petitions Filed: 1.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–17664 Filed 7–12–00; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 1:36 p.m. on Monday, July 10, 2000, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory, corporate, and receivership activities.

In calling the meeting, the Board determined, on motion of Ms. Julie L. Williams, acting in the place and stead of Director John D. Hawke, Jr. (Comptroller of the Currency), seconded by Vice Chairman Andrew C. Hove, Jr., concurred in by Director Ellen S. Seidman (Director, Office of Thrift Supervision), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice earlier than July 6, 2000, of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, N.W., Washington, D.C.

Dated: July 10, 2000.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 00–17859 Filed 7–11–00; 8:45 am]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

Date & Time: Tuesday, July 18, 2000 at 10:00 a.m.

Place: 999 E Street, N.W., Washington, D.C.

Status: This meeting will be closed to the public.

Items To Be Discussed:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.