Federal Communications Commission
Washington, D.C. 20554

October 31, 2006

DA 06-2165

<u>**Via Certified Mail, Return Receipt Requested**</u>

New Mexico RSA 6-III Partnership
Attn: Ms. Caressa D. Bennet, Esq.
Bennet & Bennet, PLLC
10 G Street, NE
Suite 700
Washington, DC 20002

Re: Final Bid Withdrawal Payment for Auction No. 22

Dear Ms. Bennet:

New Mexico RSA 6-III Partnership ("New Mexico RSA"), a participant in Auction No. 22, withdrew its high bid on license BTA414C2 (Sedalia, MO) in that auction. Auction No. 35, the subsequent auction for the license on which New Mexico RSA withdrew its high bid, has closed. As shown on attachment A, in accordance with the Federal Communications Commission's ("Commission's") rules, we are now able to calculate New Mexico RSA's final bid withdrawal payment obligation.

Under the Commission's rules, a bidder that withdraws a high bid during the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid. If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.[1] This payment amount is deducted from any upfront payments or down payments deposited for this bidder's account with the Commission.[2] If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and, upon appropriate request, the Commission will refund the interim three percent (3%) payment.[3] If in a subsequent auction, the winning bid for that license is less than the bidder's withdrawn amount, then the bidder will be required to make a final withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid, or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid, whichever is less.[4]

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[1] Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253, *Fifth Report and Order*, 9 FCC Rcd 5532, 5563 at n. 51 (1994); C.H. PCS, Inc., 11 FCC Rcd 14495 (1996) (requiring a three percent deposit).
[2] 47 C.F.R. § 1.2106(d) and (e).
[3] 47 C.F.R. § 1.2104(g)(1).
[4] 47 C.F.R. § 1.2104(g)(1).

As shown in Attachment A, in accordance with Section 1.2104(g)(1), after applying any interim bid withdrawal payment or amounts on deposit with the Commission, New Mexico RSA has a refund due of $293.00.

Ordering Clauses

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934 as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.2104(g) of the Commission's rules, 47 C.F.R. § 1.2104(g), New Mexico RSA 6-III Partnership is ASSESSED a final bid withdrawal payment as computed in Attachment A.

IT IS FURTHER ORDERED that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, New Mexico RSA 6-III Partnership's interim bid withdrawal payment or funds on deposit will be applied towards the sum of the final bid withdrawal payment.

IT IS FURTHER ORDERED that, in accordance with Section 1.2104 of the Commission's rules, the Commission is prepared to refund to the payor(s) of record, the remaining funds withheld in connection with New Mexico RSA 6-III Partnership's withdrawal referenced above. To obtain a refund, the payor(s) of record[5] must submit a request(s) in accordance with the instructions set forth in Attachment B.

IT IS FURTHER ORDERED that this letter shall be sent to the applicant and its representatives by certified mail, return receipt requested. This action is taken pursuant to authority delegated by Section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Sincerely,

Rita Cookmeyer
Financial Policy Analyst
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

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[5] *See* Entertainment Unlimited, Inc., Request for Refund of Late Payment Fees for PCS Licenses Purchased in Auction No. 22, *Memorandum Opinion and Order*, 16 FCC Rcd. 10,030 (2001) (noting that the Commission does not accept instructions regarding the refund of excess upfront payments from entities or individuals other than the payor of record).

ATTACHMENT A

Multi-Auction
Bid Withdrawal Payment/Refund Report

License Number	Withdrawn Gross Bid # 22	Withdrawn Net Bid Auction # 22	Re-auction Gross Bid Auction # 35	Re-auction Net Bid Auction # 35	3% Deposit Withheld from Auction # 22	Final Bid Withdrawal Payment	Refund Due
BTA414C2	$13,000.00	$9,750.00	$3,308,000.00	$2,481,000.00	$293.00	$0.00	$293.00

Total Refund Due	**$293.00**

ATTACHMENT B

The Commission will make refunds upon compliance with the following procedures:

➢ For each payor of record, submit an Automated Clearing House Vendor/Miscellaneous Payment Enrollment Form ("ACH Form") (see sample attached).[6] You may obtain additional copies of this form at http://www.fms.treas.gov/pdf/3881.pdf.

> The ACH form may be either faxed or mailed to the Commission. The fax number is (202) 418-2843. The mailing address is: Federal Communications Commission, Office of the Managing Director, Attention: Auctions Accounting Group, Room 1-C846, 445 12th Street SW, Washington, DC 20554. If you have questions concerning the completion of this form, please contact Gail Glasser at (202) 418-0578.

➢ Submit a letter (along with the ACH form) signed by the payor of record, requesting a refund. The Commission will calculate the amount of the applicable refund.

Refunds will be processed within approximately two weeks of the Commission's receipt of the ACH form and accompanying letter from the payor of record.

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[6] Refunds will be processed via ACH credits. ACH is a domestic funds transfer system providing an electronic parallel to the Federal Reserve check clearing system. ACH is governed by the Rules of the National Automated Clearing House Association. Generally speaking, an ACH is an instrument for moving money electronically from one participating financial institution to another.