



Federal Communications Commission  
Washington, D.C. 20554

July 13, 2004

DA 04-2121

**Via Certified Mail, Return Receipt Requested**

Mr. Jeffrey L. Burtch  
Trustee of the Chapter 7 Estate of Net Radio Group Communications, LLC  
824 Market Street, Suite 1000  
Wilmington, DE 19801

Re: Net Radio Group Communications, LLC -- Final Bid Withdrawal Payment Obligations  
for Auction No. 18

Dear Mr. Burtch:

Net Radio Group Communications, LLC, ("Net Radio"), a participant in Auction No. 18, withdrew high bids on 56 licenses in that auction.<sup>1</sup> Thirty-one of those licenses remained unsold at the close of Auction No. 18.<sup>2</sup> Auction No. 24, the subsequent auction for those licenses, has closed.<sup>3</sup>

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<sup>1</sup> Phase II 220 MHz Service Auction Closes, Winning Bidders In the Auction of 908 Phase II 220 MHz Service Licenses, Report No. AUC-18-F (Auction No. 18), *Public Notice*, 14 FCC Rcd 605 at Attachment C, 660 (1998) ("*Auction No. 18 Winning Bidders Public Notice*").

<sup>2</sup> Withdrawal payments were assessed for the following 31 licenses: BEA 016D (Staunton, VA-WV), BEA 042D (Asheville, NC), BEA 045D (Johnson City-Kingsport-Bristol, TN-VA), BEA 045E (Johnson City-Kingsport-Bristol, TN-VA), BEA 046D, (Hickory-Morganton, NC-TN), BEA 048B (Charleston, WV-KY-OH), BEA 052C (Wheeling, WV-OH), BEA 053A (Pittsburgh, PA-WV), BEA 112D (Bismarck, ND-MT-SD), BEA 113D (Fargo-Moorhead, NC-MN), BEA 114D (Aberdeen, SD), BEA 115A (Rapid City, SD-MT-ND-NE), BEA 115B (Rapid City, SD-MT-ND-NE), BEA 115C (Rapid City, SD-MT-ND-NE), 115D (Rapid City, SD-MT-ND-NE), BEA 120C (Grand Island, NE), BEA 120D (Grand Island, NE), BEA 121C (North Platte, NE-CO), BEA 121D (North Platte, NE-CO), BEA 122D (Wichita, KS), BEA 123C (Topeka, KS), BEA 124C (Tulsa, OK-KS), BEA 126D (Western Oklahoma, OK), BEA 126E (Western Oklahoma, OK), BEA 130E (Austin-San Marcos, TX), BEA 142C (Scottsbluff, NE-WY), BEA 142D (Scottsbluff, NE-WY), BEA 168D (Pendleton, OR-WA), EAG 001F (Northeast), EAG 001G (Northeast), EAG 004H (Great Lakes). The following 25 licenses were sold in Auction No. 18, subsequent to Net Radio's bid withdrawal in that auction: BEA 017A (Roanoke, VA-WV), BEA 029A (Jacksonville, FL-GA), BEA 029D (Jacksonville, FL-GA), BEA 030A (Orlando, FL), BEA 110E (Grand Forks, ND-MN), BEA 112E (Bismarck, ND-MT-SD), BEA 113E (Fargo-Moorhead, ND-MN), BEA 114E (Aberdeen, SD), BEA116A (Sioux Falls, SD,-IA-MN-NE), BEA116B (Sioux Falls, SD,-IA-MN-NE), BEA116C (Sioux Falls, SD,-IA-MN-NE), BEA116D (Sioux Falls, SD,-IA-MN-NE), BEA 117A (Sioux City, IA-NE-SD), BEA 117B (Sioux City, IA-NE-SD), BEA 117C (Sioux City, IA-NE-SD), BEA 117D (Sioux City, IA-NE-SD), BEA 118B (Omaha, NE-IA-MO), BEA 119C (Lincoln, NE), BEA 122C (Wichita, KS-OK), BEA 124E (Tulsa, OK-KS), BEA 140A (Pueblo, CO-NM), BEA 157A (El Paso, TX-NM), BEA 157D (El Paso, TX-NM), BEA 159A (Tucson, AZ), EAG 0051 (Central/Mountain). *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment C, 660.

Therefore, in accordance with the Federal Communications Commission's ("Commission") rules, we are now able to calculate Net Radio's final bid withdrawal payment obligations for the 31 licenses that were sold in Auction No. 24.

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.<sup>4</sup> A withdrawal payment will not be assessed if the subsequent winning bid or any of the intervening subsequent withdrawn bids equals or exceeds that withdrawn bid.<sup>5</sup> 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.<sup>6</sup> This payment amount is deducted from any upfront payments or down payments deposited for this bidder's account with the Commission.<sup>7</sup> If, in a subsequent auction, that license receives a winning bid (or a subsequent withdrawn bid) that is equal to or greater than the withdrawn bid amount, no final bid withdrawal payment will be assessed, and upon appropriate request, the Commission will refund the interim three percent (3%) payment.<sup>8</sup> If, in a subsequent auction, the winning bid for that license (or subsequent withdrawn bid) is less than the bidder's withdrawn bid amount, then the bidder will be required to make a final bid withdrawal payment equal to either the difference between the bidder's net withdrawn bid and the subsequent net winning bid (or subsequent net withdrawn bid), or the difference between the bidder's gross withdrawn bid and the subsequent gross winning bid (or subsequent gross withdrawn bid), whichever is less.<sup>9</sup>

In Auction No. 18, Net Radio withdrew high bids on 56 licenses.<sup>10</sup> Of these licenses, 25 licenses were sold in Auction No. 18 and the remaining 31 licenses were sold in Auction No. 24.<sup>11</sup> Because Auction No. 24 has now concluded, the Commission is able to assess the full amount of the final bid

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<sup>3</sup> Phase II 220 MHz Service Auction Closes: Winning Bidders In the Auction of 225 Licenses in the Phase II 220 MHz Service, Report No. AUC-24-E (Auction No. 24), *Public Notice*, 14 FCC Rcd 11218 (1999) ("*Auction No. 24 Winning Bidders Public Notice*").

<sup>4</sup> 47 C.F.R. § 1.2104(g)(1).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*; see *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at 608 and at Attachment C, 658 (lists bidders' three percent interim bid withdrawal payments).

<sup>7</sup> 47 C.F.R. § 1.2106(e); see *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at 608.

<sup>8</sup> 47 C.F.R. § 1.2104(g)(1).

<sup>9</sup> *Id.*

<sup>10</sup> *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment C, 660.

<sup>11</sup> *Id.*, 14 FCC Rcd at Attachment B, 656 and Attachment C, 658-663; *Auction No. 24 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment E, 11241 (multiple auction withdrawal payment report). Eleven of the twenty-five licenses that later sold in Auction No. 18 sold for winning bids less than Net Radio's withdrawn bid amount. Therefore, a final bid withdrawal payment for these eleven licenses in the amount of \$2,795.00 was assessed and deducted from Net Radio's upfront payment for licenses BEA 017A, BEA 029A, BEA 112E, BEA 116A, BEA 116B, BEA 117B, BEA 117D, BEA 118B, BEA 124E, BEA 157D, BEA 159A. *Id.* Fourteen of the twenty-five licenses that later sold in Auction No. 18 sold for net winning bids that were equal to or greater than Net Radio's withdrawn bid amount. Therefore, a final bid withdrawal payment was not assessed for these fourteen licenses. *Id.*

withdrawal payment for each of the 31 licenses not sold in Auction No. 18.<sup>12</sup> In Auction No. 24, the winning bids for 24 of these 31 licenses were less than Net Radio's withdrawn bids in Auction No. 18.<sup>13</sup> Therefore, Net Radio owes final bid withdrawal payments for 24 of the 31 licenses reauctoned in Auction No. 24.<sup>14</sup> Final bid withdrawal payments are not assessed for the remaining seven licenses reauctoned in Auction No. 24 because the winning or subsequent intervening withdrawn bids in Auction No. 24 were greater than the amounts of Net Radio's withdrawn bids for these seven licenses in Auction No. 18.<sup>15</sup> The cumulative sum of the final bid withdrawal payment is \$58,040.00, as shown below in Attachment A to this letter.<sup>16</sup>

The amount of money that Net Radio now owes to the Commission is reduced by the sum of Net Radio's interim bid withdrawal payments, which the Commission deducted from Net Radio's upfront payments at the close of Auction No. 18.<sup>17</sup> The cumulative sum of these interim bid withdrawal payments is \$11,777.00, as shown in Attachment A to this letter.<sup>18</sup> Therefore, in accordance with Section 1.2104 of the Commission's rules, after applying the interim bid withdrawal payments of \$11,777.00, Net Radio owes an outstanding balance of \$46,263.00 for the high bids that it withdrew in Auction No. 18.

Sum of Final Bid Withdrawal Payments	\$ 58,040.00
Less sum of Interim Withdrawal Payments	\$ 11,777.00
<b>Total amount due</b>	<b>\$ 46,263.00</b>

As a result, Net Radio is in debt to the United States in the amount of \$46,263.00. This letter establishes the amount of Net Radio's final bid withdrawal payment liability for the licenses on which it withdrew bids in Auction No. 18. We note, however, that on November 18, 2003, a petition was filed which put Net Radio in bankruptcy under Chapter 7 of the Bankruptcy Code.<sup>19</sup> Therefore, the Commission will file a proof of claim at the appropriate time in the Net Radio bankruptcy proceeding regarding final withdrawal payment debt.

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<sup>12</sup> See *Auction No. 24 Winning Bidders Public Notice*, 14 FCC Record at Attachment E, 11241.

<sup>13</sup> *Id.*

<sup>14</sup> 47 C.F.R. § 1.2104(g)(1).

<sup>15</sup> *Auction No. 24 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment C, 11239 and Attachment E, 11240; 47 C.F.R. § 1.2104(g)(1). During Auction No. 24, a bidder withdrew a high bid for one license that was greater than the high bid that Net Radio withdrew on the same license in Auction No. 18 (EAG 001F); six other licenses sold for sums greater than Net Radio's withdrawn bids in Auction No. 18 (BEA 048B, BEA 053A, BEA 115A, BEA 115B, BEA 122D, BEA 124C). See *Auction No. 24 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment A, 11227; *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment C, 658.

<sup>16</sup> Attachment A of this letter calculates the final bid withdrawal payments for each of the licenses; see also *Auction No. 24 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment E, 11241.

<sup>17</sup> See 47 C.F.R. § 1.2106(e); see *Auction No. 18 Winning Bidders Public Notice*, 14 FCC Rcd at Attachment B, 656 and Attachment C, 658.

<sup>18</sup> See 47 C.F.R. § 1.2104(g)(1).

<sup>19</sup> Net Radio Group Communications, LLC, Case No. 03-13532 (Bankr. D. Del. filed Nov. 18, 2003).

Mr. Jeffrey L. Burtch  
July 13, 2004

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 of the Commission's Rules, 47 C.F.R. § 1.2104(g), Net Radio IS LIABLE for a final bid withdrawal payment in the amount of \$650.00 for license BEA 016D, \$585.00 for license BEA 042D, \$1,040.00 for license BEA 045D, \$780.00 for license BEA 045E, \$975.00 for license BEA 046D, \$715.00 for license BEA 052C, \$1,625.00 for license BEA 112D, \$1,495.00 for license BEA 113D, \$715.00 for license BEA 114D, \$130.00 for license BEA 115C, \$455.00 for license BEA 115D, \$780.00 for license BEA 120C, \$1,105.00 for license BEA 120D, \$1,105.00 for license BEA 121C, \$1,040.00 for license BEA 121D, \$65.00 for license BEA 123C, \$650.00 for license BEA 126D, \$260.00 for license BEA 126E, \$3,700.00 for license BEA 130E, \$1,170.00 for license BEA 142C, \$1,170.00 for license BEA 142D, \$130.00 for license BEA 168D, \$31,850.00 for license EAG 001G, \$5,850.00 for license EAG 004H, totaling \$58,040.00, as computed in Attachment A.

IT IS FURTHER ORDERED, that, pursuant to Sections 1.2104 and 1.2106 of the Commission's rules, 47 C.F.R. §§ 1.2104 and 1.2106, the sum of Net Radio's interim bid withdrawal payments of \$11,777.00 will be applied towards the sum of the final bid withdrawal payments of \$58,040.00 for its withdrawn bids on the twenty-four 220 MHz licenses from Auction No. 18, leaving Net Radio with a total debt to the Commission in the amount of \$46,263.00.

IT IS FURTHER ORDERED, that there is no final bid withdrawal payment with respect to licenses BEA 048B, BEA 053A, BEA 115A, BEA 115B, BEA 122D, BEA 124C, and EAG 001F.

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

cc: Mr. Warren Havens

Net Radio Group Communications, LLC

**ATTACHMENT A**

**Phase II 220 MHz Service Spectrum License Auction  
 Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	AUCTION 18, Net Radio's Withdrawn Gross Bid Amount	AUCTION 18, Net Radio's Withdrawn Net Bid Amount	AUCTION 24, Gross Bid Amount	AUCTION 24, Net Winning Bid Amount	Net Radio's Final Bid Withdrawal Payment (Difference between the Auction 18 and Auction 24 Net Bids)	Net Radio's Interim Withdrawal Payment (3% of withdrawn net bid)
BEA 016D	Staunton, VA-WV	\$2,500.00	\$1,625.00	\$1,500.00	\$975.00	\$650.00	\$49.00
BEA 042D	Asheville, NC	\$2,500.00	\$1,625.00	\$1,600.00	\$1,040.00	\$585.00	\$49.00
BEA 045D	Johnson City–Kingsport–Bristol, TN-VA	\$2,500.00	\$1,625.00	\$900.00	\$585.00	\$1,040.00	\$49.00
BEA 045E	Johnson City–Kingsport–Bristol, TN-VA	\$2,500.00	\$1,625.00	\$1,300.00	\$845.00	\$780.00	\$49.00

**ATTACHMENT A (continued)**

**Phase II 220 MHz Service Spectrum License Auction  
Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	AUCTION 18, Net Radio's Withdrawn Gross Bid Amount	AUCTION 18, Net Radio's Withdrawn Net Bid Amount	AUCTION 24, Gross Bid Amount	AUCTION 24, Net Winning Bid Amount	Net Radio's Final Bid Withdrawal Payment (Difference between the Auction 18 and Auction 24 Net Bids)	Net Radio's Interim Withdrawal Payment (3% of withdrawn net bid)
BEA 046D	Hickory-Morganton, NC-TN	\$2,500.00	\$1,625.00	\$1,000.00	\$650.00	\$975.00	\$49.00
BEA 048B	Charleston, WV-KY-OH	\$3,300.00	\$2,145.00	\$3,500.00	2,275.00	\$0.00	\$64.00
BEA 052C	Wheeling, WV-OH	\$2,500.00	\$1,625.00	\$1,400.00	\$910.00	\$715.00	\$49.00
BEA 053A	Pittsburgh, PA-WV	\$4,505.00	\$2,928.00	\$6,200.00	\$4,030.00	\$0.00	\$88.00
BEA 112D	Bismarck, ND-MT-SD	\$3,000.00	\$1,950.00	\$500.00	\$325.00	\$1,625.00	\$59.00
BEA 113D	Fargo-Moorhead, NC-MN	\$3,000.00	\$1,950.00	\$700.00	\$455.00	\$1,495.00	\$59.00

**ATTACHMENT A (continued)**

**Phase II 220 MHz Service Spectrum License Auction  
Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	AUCTION 18, Net Radio's Withdrawn Gross Bid Amount	AUCTION 18, Net Radio's Withdrawn Net Bid Amount	AUCTION 24, Gross Bid Amount	AUCTION 24, Net Winning Bid Amount	Net Radio's Final Bid Withdrawal Payment (Difference between the Auction 18 and Auction 24 Net Bids)	Net Radio's Interim Withdrawal Payment (3% of withdrawn net bid)
BEA 114D	Aberdeen, SD	\$2,600.00	\$1,690.00	\$1,500.00	\$975.00	\$715.00	\$51.00
BEA 115A	Rapid City, SD-MT-ND-NE	\$3,000.00	\$1,950.00	\$2,100.00	\$2,100.00	\$0.00	\$59.00
BEA 115B	Rapid City, SD-MT-ND-NE	\$2,500.00	\$1,625.00	\$2,100.00	\$2,100.00	\$0.00	\$49.00
BEA 115C	Rapid City, SD-MT-ND-NE	\$2,500.00	\$1,625.00	\$2,300.00	\$1,495.00	\$130.00	\$49.00
BEA 115D	Rapid City, SD-MT-ND-NE	\$3,000.00	\$1,950.00	\$2,300.00	\$1,495.00	\$455.00	\$59.00
BEA 120C	Grand Island, NE	\$2,500.00	\$1,625.00	\$1,300.00	\$845.00	\$780.00	\$49.00
BEA 120D	Grand Island, NE	\$3,000.00	\$1,950.00	\$1,300.00	\$845.00	\$1,105.00	\$59.00

Mr. Jeffrey L. Burtch  
June 13, 2004

**ATTACHMENT A (continued)**

**Phase II 220 MHz Service Spectrum License Auction  
Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	AUCTION 18, Net Radio's Withdrawn Gross Bid Amount	AUCTION 18, Net Radio's Withdrawn Net Bid Amount	AUCTION 24, Gross Bid Amount	AUCTION 24, Net Winning Bid Amount	Net Radio's Final Bid Withdrawal Payment (Difference between the Auction 18 and Auction 24 Net Bids)	Net Radio's Interim Withdrawal Payment (3% of withdrawn net bid)
BEA 121C	North Platte, NE-CO	\$2,600.00	\$1,690.00	\$900.00	\$585.00	\$1,105.00	\$51.00
BEA 121D	North Platte, NE-CO	\$2,500.00	\$1,625.00	\$900.00	\$585.00	\$1040.00	\$49.00
BEA 122D	Wichita, KS	\$3,000.00	\$1,950.00	\$4,700.00	\$3,055.00	\$0.00	\$59.00
BEA 123C	Topeka, KS	\$2,500.00	\$1,625.00	\$2,400.00	\$1,560.00	\$65.00	\$49.00
BEA 124C	Tulsa, OK-KS	\$2,500.00	\$1,625.00	\$3,800.00	\$3,800.00	\$0.00	\$49.00
BEA 126D	Western Oklahoma, OK	\$2,500.00	\$1,625.00	\$1,500.00	\$975.00	\$650.00	\$49.00

**ATTACHMENT A (continued)**

**Phase II 220 MHz Service Spectrum License Auction  
Multi-Auction Bid Withdrawal Payment Report**

License Number	Market Description	AUCTION 18, Net Radio's Withdrawn Gross Bid Amount	AUCTION 18, Net Radio's Withdrawn Net Bid Amount	AUCTION 24, Gross Bid Amount	AUCTION 24, Net Winning Bid Amount	Net Radio's Final Bid Withdrawal Payment (Difference between the Auction 18 and Auction 24 Net Bids)	Net Radio's Interim Withdrawal Payment (3% of withdrawn net bid)
BEA 126E	Western Oklahoma, OK	\$2,500.00	\$1,625.00	\$2,100.00	\$1,365.00	\$260.00	\$49.00
BEA 130E	Austin-San Marcos, TX	\$38,000.00	\$24,700.00	\$21,000.00	\$21,000.00	\$3,700.00	\$741.00
BEA 142C	Scottsbluff, NE-WY	\$2,500.00	\$1,625.00	\$700.00	\$455.00	\$1,170.00	\$49.00
BEA 142D	Scottsbluff, NE-WY	\$2,500.00	\$1,625.00	\$700.00	\$455.00	\$1,170.00	\$49.00
BEA 168D	Pendleton, OR-WA	\$2,500.00	\$1,625.00	\$2,300.00	\$1,495.00	\$130.00	\$49.00
EAG 001F	Northeast	\$123,000.00	\$79,950.00	\$0.00	\$0.00	\$0.00	\$2,399.00
EAG 001G	Northeast	\$189,000.00	\$122,850.00	\$140,000.00	\$91,000.00	\$31,850.00	\$3,686.00
EAG 004H	Great Lakes	\$180,000.00	\$117,000.00	\$171,000.00	\$111,150.00	\$5,850.00	\$3,510.00

Total Final Bid Withdrawal Payments	\$58,040.00
Less Sum of Interim Withdrawal Payments	\$11,777.00
<b>Total Amount Due</b>	<b>\$46,263.00</b>

