

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS—Continued

[Week of September 14 through September 18, 1998]

Date	Name and location of applicant	Case No.	Type of submission
9/18/98	City of Federal Way, Federal Way, WA	VFA-0445	Appeal of an Information Request Denial. If Granted: The July 29, 1998 Freedom of Information Request Denial issued by the Bonneville Power Administration would be rescinded, and City of Federal Way would receive access to certain DOE information.

[FR Doc. 98-32558 Filed 12-7-98; 8:45 am]

BILLING CODE 6450-01-P

FARM CREDIT ADMINISTRATION**Farm Credit Administration Board; Regular Meeting****AGENCY:** Farm Credit Administration.**SUMMARY:** Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).**DATE AND TIME:** The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on December 10, 1998, from 9:00 a.m. until such time as the Board concludes its business.**FOR FURTHER INFORMATION CONTACT:** Floyd Fithian, Secretary to the Farm Credit Administration Board, (703) 883-4025, TDD (703) 883-4444.**ADDRESSES:** Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.**SUPPLEMENTARY INFORMATION:** Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:*Open session**A. Approval of Minutes*

—November 12, 1998 (Open and Closed)

B. Report

—Farm Credit System Building Association Quarterly Report

C. New Business

Policy Statements

1. Interest Rate Risk Management (Final)
2. Young, Beginning, and Small Farmers and Ranchers (Final)

Regulation

—Customer Choice Rule (Proposed rule; comment period extension) [12 CFR Parts 611, 614, and 618]

** Closed session**C. Report*

—OSMO Report

* Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: December 3, 1998.

Jeanette Brinkley,*Acting Secretary, Farm Credit Administration Board.*

[FR Doc. 98-32626 Filed 12-4-98; 11:03 am]

BILLING CODE 6705-01-P

FEDERAL COMMUNICATIONS COMMISSION**[DA 98-2386; Report No. AUC-99-24-A (Auction No. 24)]****Phase II 220 MHz Service Spectrum Auction Scheduled for June 8, 1999; Application Filing Deadline Set for May 10, 1999; Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures****AGENCY:** Federal Communications Commission.**ACTION:** Notice; seeking comment.**SUMMARY:** This Public Notice announces an auction of 225 Phase II 220 MHz Service licenses set to begin on June 8, 1999 and seeks comment on procedural issues relating to this auction.**DATES:** Comments are due on or before December 16, 1998, and reply comments are due on or before December 23, 1998.**ADDRESSES:** To file formally, parties must submit an original and four copies to the Office of the Secretary, Federal Communications Commission, Federal Communications Commission, 445 Twelfth Street, S.W., TW-A325, Washington, D.C. 20554. In addition, parties must submit one copy to Amy Zoslov, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, Room 5202, 2025 M Street N.W., Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business

hours in the FCC Public Reference Room, Room 239, 1919 M Street N.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Christina Clearwater, Ruby Hough, or Bob Reagle, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at (202) 418-0660.

SUPPLEMENTARY INFORMATION: ThisPublic Notice was released on November 24, 1998, and is available in its entirety, including the Attachment, for inspection and copying during normal business hours in the Wireless Telecommunications Bureau Reference Center, Room 5608, 20205 M Street, N.W., Washington, D.C., and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, fax (202) 857-3805, 1231 20th Street, N.W., Washington, D.C. 20036. It is also available on the Commission's website at <http://www.fcc.gov>.**Synopsis**

1. By this Public Notice, the Wireless Telecommunications Bureau ("Bureau") announces an auction of 225 Phase II 220 MHz Service licenses set to begin on June 8, 1999 (Auction No. 24). A list of licenses is included as an Attachment. In addition, future public notices could include additional information about available spectrum in conjunction with Auction No. 24. Future public notices will include further details regarding application filing and payment deadlines, a seminar for potential bidders, and other pertinent information. In this Public Notice, the Commission seeks comment on procedural issues relating to Auction No. 24.

Key Dates

- Short Form Application (FCC Form 175), May 10, 1999; 5:30 p.m. ET.
- Upfront Payments (via wire transfer), May 24, 1999; 6:00 p.m. ET.
- Auction Start, June 8, 1999.

I. Reserve Price or Minimum Opening Bid

2. The Balanced Budget Act of 1997 calls upon the Commission to prescribe methods by which a reasonable reserve price will be required or a minimum opening bid established when FCC licenses are subject to auction (*i.e.*, because the Commission has accepted mutually exclusive applications for those licenses), unless the Commission determines that a reserve price or minimum opening bid is not in the public interest. Consistent with this mandate, the Commission has directed the Bureau to seek comment on the use of a minimum opening bid and/or reserve price prior to the start of each auction. The Bureau was directed to seek comment on the methodology to be employed in establishing each of these mechanisms. Among other factors the Bureau should consider are the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands, and any other relevant factors that reasonably could have an impact on valuation of the spectrum being auctioned. The Commission concluded that the Bureau should have the discretion to employ either or both of these mechanisms for future auctions.

3. Normally, a reserve price is an absolute minimum price below which an item will not be sold in a given auction. Reserve prices can be either published or unpublished. A minimum opening bid, on the other hand, is the minimum bid price set at the beginning of the auction below which *no bids* are accepted. It is generally used to accelerate the competitive bidding process. Also, in a minimum opening bid scenario, the auctioneer generally has the discretion to lower the amount later in the auction. It is also possible for the minimum opening bid and the reserve price to be the same amount.

4. In anticipation of this auction and in light of the Balanced Budget Act, the Bureau proposes to establish minimum opening bids for the Phase II 220 MHz Service auction, and retain discretion to lower the minimum opening bids. The Bureau believes a minimum opening bid, which has been utilized in other auctions, is an effective bidding tool. A minimum opening bid, rather than a reserve price, will help to regulate the pace of the auction and provides flexibility.

5. Specifically, for Auction No. 24, the Commission proposes the following for minimum opening bids:

1. EAG Licenses, \$0.0125 * 0.15 MHz * License Population (rounded up to the nearest dollar.)

2. EA Licenses, \$500 per license.

Comment is sought on this proposal. If commenters believe that the formula proposed above for minimum opening bids will result in substantial numbers of unsold licenses, or is not a reasonable amount, or should instead operate as a reserve price, they should explain why this is so, and comment on the desirability of an alternative approach. Commenters are advised to support their claims with valuation analyses and suggested reserve prices or minimum opening bid levels or formulas. In establishing the formula for minimum opening bids, the Commission particularly seeks comment on such factors as, among other things, the amount of spectrum being auctioned, levels of incumbency, the availability of technology to provide service, the size of the geographic service areas, issues of interference with other spectrum bands and any other relevant factors that could reasonably have an impact on valuation of the Phase II 220 MHz Service spectrum. Alternatively, comment is sought on whether, consistent with the Balanced Budget Act, the public interest would be served by having no minimum opening bid or reserve price.

II. Other Auction Procedures

6. The Balanced Budget Act of 1997 requires the Commission to "ensure that, in the scheduling of any competitive bidding under this subsection, an adequate period is allowed . . . before issuance of bidding rules, to permit notice and comment on proposed auction procedures. . . ." Consistent with the provisions of the Balanced Budget Act and to ensure that potential bidders have adequate time to familiarize themselves with the specific provisions that will govern the day-to-day conduct of an auction, the Commission directed the Bureau, under its existing delegated authority, to seek comment on a variety of auction-specific procedures prior to the start of each auction. The Bureau therefore seeks comment on the following issues.

a. Auction Sequence and License Groupings

7. Because it is most administratively appropriate, and allows bidders to take advantage of any synergies that exist among licenses, the Commission proposes to award these 225 Phase II 220 MHz Service licenses in a single, simultaneous multiple-round auction. The Bureau seeks comment on this proposal.

b. Upfront Payments and Initial Maximum Eligibility for Each Bidder

8. The Bureau has delegated authority and discretion to determine an appropriate upfront payment for each license being auctioned, taking into account such factors as the population in each geographic license area, and the value of similar spectrum. With these guidelines in mind, the Bureau proposes for the Phase II 220 MHz Service auction the following upfront payments:

1. EAG Licenses, \$0.01 * 0.15 MHz * License Population (rounded up to the nearest dollar.)

2. EA Licenses, \$500 per license.

The Bureau seeks comment on this proposal. For the Phase II 220 MHz Service auction, the Bureau further proposes that the amount of the upfront payment submitted by a bidder will determine the initial maximum eligibility (as measured in bidding units) for each bidder. Upfront payments will not be attributed to specific licenses, but instead will be translated into bidding units to define a bidder's initial maximum eligibility, which cannot be increased during the auction. Thus, in calculating the upfront payment amount, an applicant must determine the *maximum* number of bidding units it may wish to bid on (or hold high bids on) in any single round, and submit an upfront payment covering that number of bidding units. The Commission seeks comment on this proposal.

c. Structure of Bidding Rounds, Activity Requirements, and Criteria for Determining Reductions in Eligibility

9. The Commission proposes to divide the auction into three stages: Stage One, Stage Two and Stage Three. The auction will start in Stage One. The Commission proposes that the auction will generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when the auction activity level, as measured by the percentage of bidding units receiving new high bids, is below ten percent for three consecutive rounds of bidding in each Stage. However, the Commission further proposes that the Bureau retain the discretion to change stages unilaterally by announcement during the auction. In exercising this discretion, the Bureau will consider a variety of measures of bidder activity including, but not limited to, the auction activity level, the percentages of licenses on which there are new bids, the number of new bids, and the percentage increase in revenue. The Commission seeks comment on these proposals.

10. In order to ensure that the auction closes within a reasonable period of time, an activity rule requires bidders to bid actively on a percentage of their maximum bidding eligibility during each round of the auction rather than waiting until the end to participate. A bidder that does not satisfy the activity rule will either lose bidding eligibility in the next round or use an activity rule waiver.

11. For the Phase II 220 MHz Service auction, the Commission proposes that, in each round of Stage One of the auction, a bidder desiring to maintain its current eligibility is required to be active on licenses encompassing at least 80 percent of its current bidding eligibility. Failure to maintain the requisite activity level will result in a reduction in the bidder's bidding eligibility in the next round of bidding (unless an activity rule waiver is used). During Stage One, reduced eligibility for the next round will be calculated by multiplying the current round activity by five-fourths (5/4). In each round of the second stage of the auction, a bidder desiring to maintain its current eligibility is required to be active on at least 90 percent of its current bidding eligibility. During Stage Two, reduced eligibility for the next round will be calculated by multiplying the current round activity by ten-ninths (10/9). In each round of Stage Three, a bidder desiring to maintain its current eligibility is required to be active on 98 percent of its current bidding eligibility. In this final stage, reduced eligibility for the next round will be calculated by multiplying the current round activity by fifty forty-ninths (50/49). The Commission seeks comment on these proposals.

d. Minimum Accepted Bids

12. Once there is a standing high bid on a license, a bid increment will be applied to that license to establish a minimum acceptable bid for the following round. For the Phase II 220 MHz Service auction, the Commission proposes to use a smoothing methodology to calculate bid increments. This methodology will be designed to vary the increment for a given license between a maximum and minimum value based on the bidding activity on that license. A similar methodology was used in previous auctions, including the original Phase II 220 MHz Service auction and LMDS auction. The Bureau proposes initial values for the maximum of 0.2 or 20% of the license value, and a minimum of 0.1 or 10% of the license value.

13. The Bureau retains the discretion to change these values if circumstances

so dictate, such as raising the minimum increment toward the end of the auction to enable bids to reach their final values more quickly. The Bureau will do so by announcement in the Automated Auction System. Under its discretion the Bureau may also implement an absolute dollar floor for the bid increment to further facilitate a timely close of the auction. The Bureau further seeks comment on the advantages and disadvantages of using the discretion to adjust the minimum bid increment without prior notice. As an alternative approach, the Bureau seeks comment on the advantages and disadvantages of adjusting the minimum bid increment gradually over a number of rounds as opposed to single large changes in the minimum bid increment. The Bureau also retains the discretion to use alternate methodologies for the Phase II 220 MHz Service auction if circumstances warrant. The Commission seeks comment on these proposals.

e. Activity Rule Waivers and Reducing Eligibility

14. 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. Activity waivers are principally a mechanism for auction participants to avoid the loss of auction eligibility in the event that exigent circumstances prevent them from placing a bid in a particular round.

15. The FCC 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 (known as an "automatic waiver") at the end of any bidding period where a bidder's activity level is below the minimum required unless: (1) there are no activity rule waivers available; or (2) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements.

16. 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 bidding period 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 above. Once eligibility has been reduced, a bidder will not be

permitted to regain its lost bidding eligibility.

17. A bidder may proactively use an activity rule waiver as a means to keep the auction open without placing a bid. If a bidder submits a proactive waiver (using the proactive waiver function in the bidding software) during a bidding period in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. An automatic waiver invoked in a round in which there are no new valid bids will not keep the auction open.

18. The Bureau proposes that each bidder in the Phase II 220 MHz Service auction be provided with five activity rule waivers that may be used in any round during the course of the auction as set forth above. The Commission seeks comment on this proposal.

f. Information Regarding Bid Withdrawal and Bid Removal

19. For the Phase II 220 MHz Service auction, the Bureau proposes the following bid removal and bid withdrawal procedures. Before the close of a bidding period, 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. A bidder removing a bid placed in the same round is not subject to withdrawal payments.

20. Once a round closes, a bidder may no longer remove a bid. However, in the next round, a bidder may withdraw standing high bids from previous rounds using the withdraw bid function. A high bidder that withdraws its standing high bid from a previous round is subject to the bid withdrawal payment provisions. The Commission seeks comment on these bid removal and bid withdrawal procedures.

21. In the *Third Report and Order and Second Further Notice of Proposed Rule Making*, 63 FR 2315 (January 15, 1998), ("Part 1 Third Report and Order"), the Commission recently explained that allowing bid withdrawals facilitates efficient aggregation of licenses and the pursuit of efficient backup strategies as information becomes available during the course of an auction. The Commission noted, however, that, in some instances, bidders may seek to withdraw bids for improper reasons, including to delay the close of the auction for strategic purposes. The Bureau, therefore, has discretion, in managing the auction, to limit the number of withdrawals to prevent strategic delay of the close of the auction or other abuses. The Commission stated that the Bureau should assertively exercise its

discretion, consider limiting the number of rounds in which bidders may withdraw bids, and prevent bidders from bidding on a particular market if the Bureau finds that a bidder is abusing the Commission's bid withdrawal procedures.

22. Applying this reasoning, the Bureau proposes to limit each bidder in the Phase II 220 MHz Service auction to withdrawals in no more than two rounds during the course of the auction. To permit a bidder to withdraw bids in more than two rounds would likely encourage insincere bidding or the use of withdrawals for anti-competitive strategic purposes. The two rounds in which withdrawals are utilized will be at the bidder's discretion; withdrawals otherwise must be in accordance with the Commission's rules. There is no limit on the number of standing high bids that may be withdrawn in either of the rounds in which withdrawals are utilized. Withdrawals will remain subject to the bid withdrawal payment provisions specified in the Commission's rules. The Commission seeks comment on this proposal.

g. Stopping Rule

23. For the Phase II 220 MHz Service auction, the Bureau proposes to employ a simultaneous stopping approach. The Bureau has discretion "to establish stopping rules before or during multiple round auctions in order to terminate the auction within a reasonable time." A simultaneous stopping rule means that all licenses remain open until the first round in which no new acceptable bids, proactive waivers or withdrawals are received. After the first 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.

24. The Bureau seeks comment on a modified version of the simultaneous stopping rule. The modified stopping rule would close the auction for all licenses after the first round in which no bidder submits a proactive waiver, a withdrawal, or a new bid on any license on which it is not the standing high bidder. Thus, absent any other bidding activity, a bidder placing a new bid on a license for which it is the standing high bidder would not keep the auction open under this modified stopping rule. The Bureau further seeks comment on whether this modified stopping rule should be used unilaterally or only in stage three of the auction.

25. The Commission proposes that the Bureau retain the discretion to keep an auction open even if no new acceptable bids or proactive waivers are submitted

and no previous high bids are withdrawn. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. The activity rule, therefore, will apply as usual and a bidder with insufficient activity will either lose bidding eligibility or use a remaining activity rule waiver.

26. Finally, the Commission proposes that the Bureau reserve the right to declare that the auction will end after a specified number of additional rounds ("special stopping rule"). If the Bureau invokes this special stopping rule, it will accept bids in the final round(s) only for licenses on which the high bid increased in at least one of the preceding specified number of rounds. The Bureau proposes to 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 by, for example, moving the auction into the next stage (where bidders would be required to maintain a higher level of bidding activity), increasing the number of bidding rounds per day, and/or increasing the amount of the minimum bid increments for the limited number of licenses where there is still a high level of bidding activity. The Commission seeks comment on these proposals.

h. Information Relating to Auction Delay, Suspension or Cancellation

27. For the Phase II 220 MHz Service auction, the Commission proposes that, 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. The Commission emphasizes 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. The Commission seeks comment on this proposal.

Federal Communications Commission.

Daniel B. Phythyon,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 98-32641 Filed 12-7-98; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 217-011540-002

Title: Blue Star/Fesco Space Charter Agreement

Parties: P&O Nedlloyd Limited, Fesco Ocean Management Limited d/b/a Fesco Australia, North American Line
Synopsis: The proposed modification changes one of the parties to the agreement from Ocean Management, Inc. to Fesco Ocean Management Limited, both wholly owned subsidiaries of a common parent, Far Eastern Shipping Company.

Dated: December 2, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98-32484 Filed 12-7-98; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

National Freight Express, Inc., 10501 N.W. 7th Avenue, Miami, FL 33150,
Officers: Zakay Sasson, President,
Ezra Sasson, Vice President.