

Federal Communications Commission.
William F. Caton,
Acting Secretary.

Rule Changes

Part 100 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 100—DIRECT BROADCAST SATELLITE SERVICE

1. The authority citation for Part 100 is revised to read as follows:

Authority: 47 U.S.C. 154, 303, 309, and 554, unless otherwise noted.

2. Section 100.17 is revised to read as follows:

§ 100.17 License term.

(a) Licenses for non-broadcast facilities governed by this part will be issued for a period of ten (10) years. Licenses for broadcast facilities governed by this part will be issued for a period of five (5) years.

3. Section 100.19 is revised to read as follows:

§ 100.19 Due diligence requirements.

(a) All persons granted DBS authorizations shall proceed with diligence in constructing DBS systems. Permittees shall be required to complete contracting for construction of the satellite station(s) within one year of the grant of the construction permit. The satellite stations shall also be required to be in operation within six years of the construction permit grant.

(b) In addition to the requirements stated in paragraph (a) of this section, all persons who receive new or additional DBS construction permits after January 19, 1996 shall complete construction of the first satellite in their respective DBS systems within four years of the grant of the construction permit. All satellite stations in such a DBS system shall be in operation within six years of the grant of the construction permit.

(c) DBS permittees and licensees shall be required to proceed consistent with all applicable due diligence obligations, unless otherwise determined by the Commission upon proper showing in any particular case. Transfer of control of the construction permit shall not be considered to justify extension of these deadlines.

4. A new Section 100.53 is added to Subpart D to read as follows:

§ 100.53 Geographic service requirements.

(a) Those holding DBS permits or licenses as of January 19, 1996 must either:

(1) Provide DBS service to Alaska and Hawaii from one or more orbital

locations before the expiration of their current authorizations; or

(2) Relinquish their western DBS orbital/channel assignments at the following orbital locations: 148° W.L., 157° W.L., 166° W.L., and 175° W.L.

(b) Those acquiring DBS authorizations after January 19, 1996 must provide DBS service to Alaska and Hawaii where such service is technically feasible from the acquired orbital location.

A new subpart E consisting of §§ 100.71 through 100.80 is added to Part 100 to read as follows:

Subpart E—Competitive Bidding Procedures for DBS

Sec.

100.71 DBS subject to competitive bidding.

100.72 Competitive bidding design for DBS construction permits.

100.73 Competitive bidding mechanisms.

100.74 Withdrawal, default and disqualification payments.

100.75 Bidding application (FCC Form 175 and 175-S Short-form).

100.76 Submission of upfront payments and down payments.

100.77 Long-form applications.

100.78 Permit grant, denial, default, and disqualification.

100.79 Prohibition of collusion.

100.80 Transfer disclosure.

§ 100.71 DBS subject to competitive bidding.

Mutually exclusive initial applications to provide DBS service are subject to competitive bidding procedures. The general competitive bidding procedures found in Part 1, Subpart Q of this chapter, will apply unless otherwise provided in this part.

§ 100.72 Competitive bidding design for DBS construction permits.

(a) The Commission will employ the following competitive bidding designs when choosing from among mutually exclusive initial applications to provide DBS service:

(1) Single round sealed bid auctions (either sequential or simultaneous);

(2) Sequential oral auctions;

(3) Combined sealed bid-oral auctions;

(4) Sequential multiple round electronic auctions; or

(5) Simultaneous multiple round auctions.

(b) The Wireless Telecommunications Bureau may design and test alternative procedures. The Wireless Telecommunications Bureau will announce by Public Notice before each auction the competitive bidding design to be employed in a particular auction.

(c) The Wireless Telecommunications Bureau may use combinatorial bidding, which would allow bidders to submit

all or nothing bids on combinations of construction permits, in addition to bids on individual construction permits. The Commission may require that to be declared the high bid, a combinatorial bid must exceed the sum of the individual bids by a specified amount. Combinatorial bidding may be used with any type of auction design.

(d) The Wireless Telecommunications Bureau may use single combined auctions, which combine bidding for two or more substitutable construction permits and award construction permits to the highest bidders until the available construction permits are exhausted. This technique may be used in conjunction with any type of auction.

§ 100.73 Competitive bidding mechanisms.

(a) *Sequencing.* In sequential auctions, the Wireless Telecommunications Bureau will generally auction DBS construction permits in order of their estimated value, with the highest value construction permit being auctioned first. The Wireless Telecommunications Bureau may vary the sequence in which DBS construction permits will be auctioned.

(b) *Grouping.* All DBS channels available for a particular orbital location will be auctioned as a block, unless the Wireless Telecommunications Bureau announces, by Public Notice prior to the auction, an alternative auction scheme. In the event the Wireless Telecommunications Bureau uses either a simultaneous multiple round competitive bidding design or combinatorial bidding, the Wireless Telecommunications Bureau will determine which construction permits will be auctioned simultaneously or in combination.

(c) *Bid Increments and Tie Bids.* The Wireless Telecommunications Bureau may, by announcement before or during an auction, establish, raise or lower minimum bid increments in dollar or percentage terms. The Wireless Telecommunications Bureau may establish and change maximum bid increments during an auction. The Wireless Telecommunications Bureau may also establish by Public Notice a suggested opening bid or a minimum opening bid on each construction permit. Where a tie bid occurs, the high bidder will be determined by the order in which the bids were received by the Commission.

(d) *Stopping Rules.* The Wireless Telecommunications Bureau may establish stopping rules before or during multiple round auctions in order to terminate an auction within a reasonable time.