

August 16, 2001

DA 01-1849

Mr. Scott A. Blank
Pegasus Guard Band, LLC
225 City Line Avenue
Suite 200
Bala Cynwyd, Pennsylvania 19004

Re: Refunds For Auction No. 33

Dear Mr. Blank:

Pegasus Guard Band, LLC (“Pegasus”), a participant in Auction No. 33, withdrew high bids on the following licenses: (i) MEA014-B; (ii) MEA028-B; (iii) MEA034-B; (iv) MEA037-B; and (v) MEA048-B.¹ Auction No. 38, the subsequent auction for the licenses on which Pegasus withdrew high bids in Auction No. 33, has been completed.² Therefore, in accordance with the Commission’s rules, we were able to determine that no withdrawal payment is owed and calculate the appropriate refund, as described below.

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the course of an auction is subject to a bid withdrawal payment equal to the difference between the amount of the withdrawn bid and the amount of the subsequent winning bid.³ If a high bid is withdrawn on a license that remains unsold at the close of the auction, the withdrawing bidder will be required to make an interim payment equal to three percent (3%) of the net amount of the withdrawn bid.⁴ This payment amount is deducted from any up-front payments or down payments deposited for this bidder’s account with the Commission.⁵ If, in a subsequent auction, that license receives a winning bid in an amount equal to or greater than the withdrawn bid amount, then no final bid withdrawal payment will be assessed, and upon appropriate request, the Commission will refund the interim three percent (3%) payment.⁶ If, in a subsequent auction, the winning bid for that license is less than the bidder’s withdrawn bid amount, then the bidder will be required to make a

¹ 700 MHz Guard Bands Auction Closes, Winning Bidders Announced, Down Payments Due October 10, 2000, *Ten-Day Petition to Deny Period, Public Notice*, DA 00-2154 at Attachment C (rel. September 25, 2000) (“*Auction No. 33 Winning Bidders’ Public Notice*”).

² 700 MHz Guard Bands Auction Closes, Winning Bidders Announced, Down Payments Due March 8, 2001, *Ten-Day Petition to Deny Period, Public Notice*, DA 01-478 (rel. February 22, 2001) (“*Auction No. 38 Winning Bidders’ Public Notice*”).

³ 47 C.F.R. § 1.2104(g)(1); During Auction No. 33, Pegasus also withdrew a high bid of \$641,000 on license MEA035-B. That license was sold in Auction No. 33 at a gross bid of \$576,000. Applying 1.2104(g)(1), the bid withdrawal payment was calculated as the difference between Pegasus’ high bid and the amount of the subsequent winning bid (\$641,000 - \$576,000 = \$65,000). The bid withdrawal payment for license MEA035-B, \$65,000, has already been deducted from the upfront payments submitted by Pegasus in Auction No. 33. *Auction No. 33 Winning Bidders’ Public Notice* at Attachments B and C.

⁴ *Id.*; *Auction No. 33 Winning Bidders’ Public Notice* at Attachment C. This attachment identifies bidders that withdrew bids in Auction 33 and indicates the interim three percent bid withdrawal payment.

⁵ See 47 C.F.R. § 1.2106(e); *Auction No. 33 Winning Bidders’ Public Notice* at Attachment C.

⁶ 47 C.F.R. § 1.2104(g)(1).

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final bid 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.⁷

With respect to Pegasus' bid withdrawals on unsold licenses in Auction No. 33, the Commission has previously deducted the following interim bid withdrawal payments from the funds on deposit with the Commission:⁸

MEA014(B)	Pegasus Guard Band	\$32,880.00
MEA028(B)	Pegasus Guard Band	\$54,990.00
MEA034(B)	Pegasus Guard Band	\$25,800.00
MEA037(B)	Pegasus Guard Band	\$33,750.00
MEA048(B)	Pegasus Guard Band	<u>\$14,430.00</u>
		\$161,850.00

As shown in Attachment A, in each instance, the net winning bids in the subsequent auction of the licenses was greater than Pegasus' net withdrawn bids.⁹ Therefore, in accordance with Section 1.2104 of the Commission's rules, the Commission refunded to the payor(s) of record the \$161,850.00 withheld in connection with these licenses.

If you have additional questions or require further information, please contact Howard C. Davenport in the Auctions and Industry Analysis Division at (202) 418-0660.

Sincerely,

Margaret W. Wiener, Chief
Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

⁷ *Id.*

⁸ *Auction No. 33 Winning Bidders' Public Notice*, at Attachments B and C. In Attachment C, the Commission explained that the interim bid withdrawal payments were based upon three percent (3%) of the net withdrawn bids on each of the licenses: (i) MEA014-B (\$1,096,00 X 3% = \$32,880.00); (ii) MEA028-B (\$1,833,000 X 3% = \$54,990.00); (iii) MEA034-B (\$860,000 X 3% = \$25,800); (iv) MEA037-B (\$1,125,000 X 3% = \$33,750.00); and (v) MEA048-B (\$481,000 X 3% = \$14,430.00). In Attachment B, the Commission set forth the combined amount of Pegasus' interim bid withdrawal payments for the five licenses and the final bid withdrawal payment for license MEA035-B. The interim bid withdrawal payments of \$161,850.00 for the five licenses combined with the \$65,000.00 final bid withdrawal payment for license MEA035-B equals the \$226,850.00. This amount was deducted from upfront payments submitted by Pegasus.

⁹ Attachment A (calculates the refund); *Auction No. 38 Winning Bidders' Public Notice* at Attachment C (Attachment C sets forth the withdrawal payments or refunds, based upon a reconciliation of final results in Auction No. 33 and Auction No. 38).

ATTACHMENT A

**700 MHz Guardband Auction
Multi-Auction Refund Report**

License Number	Freq Blk	Market Description	Winning Bidder's Net Bid Amount (Auction 38)	Pegasus Spectrum, LLC's					Pegasus Spectrum, LLC's Refund Amount Due Pegasus Spectrum, LLC
				Withdrawn Gross Bid Amount (Auction 33)	Withdrawn Bid Amount (Auction 33)	Spectrum, LLC's Withdrawn Net Bid Amount (Auction 33)	Pegasus Spectrum, LLC's Interim Withdrawal Payment	Pegasus Spectrum, LLC's Final Withdrawal Payment	
MEA014	B	Columbus, OH	\$3,650,000.00	\$1,096,000.00	\$1,096,000.00	\$1,096,000.00	\$32,880.00	0	\$32,880.00
MEA028	B	Little Rock, AR	\$5,548,500.00	\$1,833,000.00	\$1,833,000.00	\$1,833,000.00	\$54,990.00	0	\$54,990.00
MEA034	B	Omaha, NE	\$3,723,000.00	\$860,000.00	\$860,000.00	\$860,000.00	\$25,800.00	0	\$25,800.00
MEA037	B	Oklahoma City, OK	\$2,857,000.00	\$1,125,000.00	\$1,125,000.00	\$1,125,000.00	\$33,750.00	0	\$33,750.00
MEA048	B	Hawaii	\$1,342,000.00	\$481,000.00	\$481,000.00	\$481,000.00	\$14,430.00	0	\$14,430.00