



Federal Communications Commission  
Washington, D.C. 20554

March 23, 2012

DA 12-458

**Via Certified Mail, Return Receipt Requested**

VentureTel 700, Inc.  
Attn: Charles M. Austin  
400 E. Royal Lane  
Suite N24  
Irving, TX 75039

**Re: VentureTel 700, Inc. – Eligibility for Refund of Amount on Deposit for Auction 73 for licenses CMA147-B, CMA169-B, CMA202-B, CMA204-B, CMA625-B, CMA724-B, and CMA725-B**

Dear Mr. Austin:

By this letter, we notify VentureTel 700, Inc. (“VentureTel”) of the availability of a refund of funds on deposit with the Federal Communications Commission (“Commission”) related to VentureTel’s participation in the Commission’s auction of 700 MHz licenses (Auction 73).

VentureTel, a participant in Auction 73, was the winning bidder for seven 700 MHz B Block licenses, CMA147-B, CMA169-B, CMA202-B, CMA204-B, CMA625-B, CMA724-B, and CMA725-B. After the close of Auction 73, VentureTel defaulted on its final payment obligation for these licenses.<sup>1</sup> In 2008, the Commission assessed VentureTel a total initial default payment of \$218,250.00, from the monies it had on deposit.<sup>2</sup> New licenses for the same spectrum were offered in a subsequent auction of 700 MHz band licenses (Auction 92), and because they received winning bids,<sup>3</sup> the Commission is now able to calculate VentureTel’s final default payment obligation with respect to the Licenses.<sup>4</sup>

Under the Commission’s rules, at the close of the auction, a winning bidder assumes a binding obligation to pay the full amount of its accepted winning bid. A bidder who defaults on that obligation or is disqualified is subject to a default payment.<sup>5</sup> The default payment has two components. The first component is the difference between the bidder’s net defaulted bid and the subsequent net winning bid, or the difference between the bidder’s gross defaulted bid and the subsequent gross winning bid, whichever is less, the next time a license for the spectrum is won, should the subsequent winning bid be less than the

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<sup>1</sup> See Letter from Margaret W. Wiener, Chief, Auctions and Spectrum Access Division, and Roger S. Noel, Chief, Mobility Division, Wireless Telecommunications Bureau, to VentureTel 700, Inc., Attn: Charles M. Austin, 23 FCC Rcd 14,092 (WTB/ASAD/MD 2008) (“*VentureTel Letter*”).

<sup>2</sup> See *VentureTel Letter*, 23 FCC Rcd at 14,094; see also 47 C.F.R. § 1.2104(g)(2).

<sup>3</sup> See “Auction of 700 MHz Band Licenses Closes, Winning Bidders Announced for Auction 92,” *Public Notice*, 26 FCC Rcd 10,494 (WTB 2011).

<sup>4</sup> 47 C.F.R. § 1.2104(g)(2).

<sup>5</sup> 47 C.F.R. §§ 1.2104(g)(2), 1.2109(b).

defaulted bid.<sup>6</sup> The second component of the default payment is an additional payment, which, pursuant to the rule in effect at the time of Auction 73, is equal to fifteen percent (15%) of the defaulter's bid, or the subsequent winning bid, whichever is less.<sup>7</sup> In the event that the subsequent winning bid is greater than or equal to the defaulted bid, the total default payment is equal to fifteen percent (15%) of the defaulted bid.<sup>8</sup>

As shown in Attachment A, in accordance with section 1.2104(g)(2) of the Commission's rules, because the subsequent winning bid on each license exceeded the corresponding defaulted bid, VentureTel is liable only for the additional payment component as a final default payment in the amount of \$218,250.00. After applying the interim default payments, no outstanding balance is owed to the Commission. Therefore, in accordance with Section 1.2104 of the Commission's rules, the Commission is prepared to refund the payor(s) of record the \$487,250.00 remaining funds on deposit with the Commission. To obtain a refund, the payor(s) of record<sup>9</sup> must submit a request in accordance with the instructions set forth in Attachment B.

### 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)(2) of the Commission's rules, 47 C.F.R. § 1.2104(g)(2), VentureTel 700, Inc. is ASSESSED a final default payment obligation as computed in Attachment A.

IT IS FURTHER ORDERED, that, pursuant to 47 C.F.R. §§ 1.2104 and 1.2106, VentureTel 700, Inc.'s interim payments or funds on deposit will be applied towards the sum of the default payment, and the Commission will refund amounts due upon request from the payor(s) of record.

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 VentureTel 700, Inc.'s default referenced above. To obtain a refund, the payor(s) of record must submit a request(s) in accordance with the instructions set forth in Attachment B.

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<sup>6</sup> 47 C.F.R. § 1.2104(g)(2)(i).

<sup>7</sup> 47 C.F.R. § 1.2104(g)(2) (2007); *see* Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, Upfront Payments, and Other Procedures for Auction 73 and 76, *Public Notice*, 22 FCC Rcd 18141,18,220-221 (2007) ("*Auction 73 Procedures Public Notice*").

<sup>8</sup> *Id.*

<sup>9</sup> *See* In the Matter of 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).

IT IS FURTHER ORDERED that this Order shall be sent to VentureTel 700, Inc. 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,

Gary D. Michaels  
Deputy Chief, Auctions and Spectrum Access Division  
Wireless Telecommunications Bureau

**ATTACHMENT A**  
**Multi-Auction Default Payment Report**

License Number Frequency Block	Defaulted Gross Bid Auction 73	Defaulted Net Bid Auction 73	Re-auction Gross Bid Auction 92	Re-auction Net Bid Auction 92	15% Payment	Lower Difference Payment	Final Payment
WY-CMA147-B	\$590,000.00	\$442,500.00	\$3,065,000.00	\$3,065,000.00	\$66,375.00	\$0.00	\$66,375.00
WY-CMA169-B	\$547,000.00	\$410,250.00	\$2,599,000.00	\$2,599,000.00	\$61,537.50	\$0.00	\$61,537.50
WY-CMA202-B	\$401,000.00	\$300,750.00	\$800,000.00	\$800,000.00	\$45,112.50	\$0.00	\$45,112.50
WY-CMA204-B	\$204,000.00	\$153,000.00	\$1,281,000.00	\$1,281,000.00	\$22,950.00	\$0.00	\$22,950.00
WY-CMA625-B	\$26,000.00	\$19,500.00	\$103,000.00	\$103,000.00	\$2,925.00	\$0.00	\$2,925.00
WY-CMA724-B	\$134,000.00	\$100,500.00	\$2,913,000.00	\$2,913,000.00	\$15,075.00	\$0.00	\$15,075.00
WY-CMA725-B	\$38,000.00	\$28,500.00	\$537,000.00	\$537,000.00	\$4,275.00	\$0.00	\$4,275.00

Amount on Deposit	\$705,500.00
Less 15% Default Payment	\$218,250.00
<b>Refund Due to VentureTel 700, Inc.</b>	<b>\$487,250.00</b>

## **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).<sup>10</sup> 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) 418-2980. The mailing address is: Federal Communications Commission, Office of the Managing Director, Attention: Auctions Accounting Group, Room 1-C864, 445 12<sup>th</sup> 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.

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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<sup>10</sup> 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.