

107TH CONGRESS
2D SESSION

S. 2869

AN ACT

To facilitate the ability of certain spectrum auction winners to pursue alternative measures required in the public interest to meet the needs of wireless telecommunications consumers

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. RELIEF FROM CONTINUING OBLIGATIONS.**

2 A winning bidder to which the Commission has not
 3 granted an Auction 35 license may irrevocably elect to re-
 4 linquish any right, title, or interest in that license and the
 5 associated license application by formal written notice to
 6 the Commission. Such an election may only be made with-
 7 in 30 days after the date of enactment of this Act. A win-
 8 ning bidder that makes such an election shall be free of
 9 any obligation the winning bidder would otherwise have
 10 with respect to that license, the associated license applica-
 11 tion, and the associated winning bid, including the obliga-
 12 tion to pay the amount of its winning bid that would be
 13 otherwise due for such license.

14 **SEC. 2. RETURN OF DEPOSITS AND DOWNPAYMENTS.**

15 Within 37 days after receiving an election that meets
 16 the requirements of section 3 from an Auction 35 winning
 17 bidder that has made the election described in section 1,
 18 the Commission shall refund any deposit or down-payment
 19 made with respect to a winning bidder for the license that
 20 is the subject of the election.

21 **SEC. 3. COMMISSION TO ISSUE PUBLIC NOTICE.**

22 (a) PUBLIC NOTICE.—Within 5 days after the date
 23 of enactment of this Act, the Commission shall issue a
 24 public notice specifying the form and the process for the
 25 return of deposits and downpayments under section 2.

1 (b) TIME FOR ELECTION.—An election under this
 2 section is not valid unless it is made within 30 days after
 3 the date of enactment of this Act.

4 **SEC. 4. WAIVER OF PAPERWORK REDUCTION ACT REQUIRE-**
 5 **MENTS.**

6 Section 3507 of title 44, United States Code, shall
 7 not apply to the Commission’s implementation of this Act.

8 **SEC. 5. NO INFERENCE WITH RESPECT TO NEXTWAVE**
 9 **CASE.**

10 It is the sense of the Congress that no inference with
 11 respect to any issue of law or fact in Federal Communica-
 12 tions Commission v. NextWAVE Personal Communica-
 13 tions, Inc., et al. (Supreme Court Docket No. 01-653)
 14 should be drawn from the introduction, amendment, de-
 15 feat, or enactment of this Act.

16 **SEC. 6. DEFINITIONS.**

17 In this Act:

18 (1) AUCTION 35.—The term “Auction 35”
 19 means the C and F block broadband personal com-
 20 munications service spectrum auction of the Com-
 21 mission that began on December 1 , 2000, and
 22 ended on January 6, 2001, insofar as that auction
 23 related to spectrum previously licensed to NextWave
 24 Personal Communications, Inc., NextWave Power
 25 Partners, Inc., or Urban Comm North Carolina, Inc.

1 (2) COMMISSION.—The term “Commission”
2 means the Federal Communications Commission or
3 a bureau or division thereof acting on delegated au-
4 thority.

5 (3) WINNING BIDDER.—The term “winning
6 bidder” means any person who is entitled under
7 Commission order FCC 02-99 (released March 27,
8 2002), to a refund of a substantial portion of monies
9 on deposit for spectrum formerly licensed to
10 Nextwave and Urban Comm as defined in that
11 order.

Passed the Senate November 14, 2002.

Attest:

Secretary.

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