

and will generally advance to the next stage (*i.e.*, from Stage One to Stage Two, and from Stage Two to Stage Three) when, in each of three consecutive rounds of bidding, the high bid has increased on 20 percent or less of the licenses being auctioned (as measured in bidding units). In addition, the Bureau will retain the discretion to regulate the pace of the auction by announcement. This determination will be based on a variety of measures of bidder activity, including, but not limited to, the auction activity level, the percentages of licenses (as measured in bidding units) on which there are new bids, the number of new bids, and the percentage increase in revenue. The Bureau believes that these stage transition rules, having proven successful in prior auctions, are appropriate for use in Auction No. 49.

v. Activity Rule Waivers and Reducing Eligibility

110. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed that each bidder in the auction would be provided five activity rule waivers. Bidders may use an activity rule waiver in any round during the course of the auction. Aloha and Cavalier support the Bureau's proposal on this issue.

111. Based upon its experience in previous auctions, *the Bureau adopts its proposal that each bidder be provided five activity rule waivers that may be used in any round during the course of the auction.* 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 level. An activity rule waiver applies to an entire round of bidding and not to a particular license. The Bureau is satisfied that our practice of providing five waivers over the course of the auction provides a sufficient number of waivers and flexibility to the bidders while safeguarding the integrity of the auction.

112. The FCC Automated 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 round where a bidder's activity level is below the minimum required unless: (i) there are no activity rule waivers available; or (ii) the bidder overrides the automatic application of a waiver by reducing eligibility, thereby meeting the minimum requirements. If a bidder has no waivers remaining and does not

satisfy the required activity level, the current eligibility will be permanently reduced, possibly eliminating the bidder from the auction.

113. 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 round by using the reduce eligibility function in the bidding system. In this case, the bidder's eligibility is permanently reduced to bring the bidder into compliance with the activity rules as described in "Auction Stages" (see section IV.A.iii discussion). Once eligibility has been reduced, a bidder will not be permitted to regain its lost bidding eligibility.

114. Finally, 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 FCC Automated Auction System) during a round in which no bids are submitted, the auction will remain open and the bidder's eligibility will be preserved. However, an automatic waiver triggered during a round in which there are no new bids or withdrawals will not keep the auction open.

Note: Once a proactive waiver is submitted during a round, that waiver cannot be unsubmitted.

vi. Auction Stopping Rules

115. For Auction No. 49, the Bureau proposed to employ a simultaneous stopping rule. The Bureau also sought comment on a modified version of the stopping rule. The modified version of the 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.

116. The Bureau further proposed retaining the discretion to keep the auction open even if no new bids or proactive waivers are submitted and no previous high bids are withdrawn in a round. In this event, the effect will be the same as if a bidder had submitted a proactive waiver. Thus, the activity rule will apply as usual, and a bidder with insufficient activity will either use an activity rule waiver (if it has any left) or lose bidding eligibility.

117. In addition, the Bureau proposed that it reserve the right to declare that

the auction will end after a designated 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 proposed to exercise this option only in circumstances such as where the auction is proceeding very slowly, where there is minimal overall bidding activity or where 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 will be required to maintain a higher level of bidding activity), increasing the number of rounds per day, and/or adjusting the minimum acceptable bids and bid increments for the licenses.

118. Aloha and Cavalier support the Bureau's proposal concerning the auction stopping rules. In light of the foregoing, the Bureau adopts the proposals. Auction No. 49 will begin under the simultaneous stopping rule, and the Bureau will retain the discretion to invoke the other versions of the stopping rule. The Bureau believes that these stopping rules are most appropriate for Auction No. 49, because its experience in prior auctions demonstrates that the auction stopping rules balance the interests of administrative efficiency and maximum bidder participation.

vii. Auction Delay, Suspension, or Cancellation

119. In the *Auction No. 49 Comment Public Notice* and *Auction No. 49 Revised Comment Public Notice*, the Bureau proposed that, by public notice or by announcement during the auction, it 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 conduct of competitive bidding. Aloha and Cavalier support the Bureau's proposal on this issue.

120. Because this approach has proven effective in resolving exigent circumstances in previous auctions, the Bureau adopts its proposed auction cancellation rules. 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,