

Before the
Federal Communications Commission
Washington, D.C. 20554

In re Application of)	
)	
Marathon Telecom, L.C.)	
)	File No. 02413-CL-P2-97
Phase II Unserved Area Application)	
for Market Nos. 677(B), Utah 5)	
Carbon RSA, and 678(B), Utah 6)	
Piute RSA, CRS Station KNKR321)	
)	

MEMORANDUM OPINION AND ORDER

Adopted: February 28, 2000

Released: February 29, 2000

I. INTRODUCTION

1. The Policy and Rules Branch of the Wireless Telecommunications Bureau has before it a petition for reconsideration (Petition) filed by Cellular Inc. Network Corporation (CINC) on August 1, 1997. CINC seeks reversal of the Commission's July 3, 1997, grant of the above-captioned Phase II cellular unserved area application of Marathon Telecom, L.C. (Marathon).¹ For the reasons stated below, we dismiss CINC's Petition as moot.

II. DISCUSSION

2. CINC is the licensee of Cellular Radiotelephone Service Station KNKN237. On March 13, 1997, CINC filed an application for authority to compute its Cellular Geographic Service Area (CGSA) for its Moab, Utah cell site, with an alternate CGSA computation methodology.² CINC's application was granted on May 23, 1997.³ On April 25, 1997, Marathon filed a Phase II cellular unserved area application, in which it proposed to construct a cell site near Hanksville, Utah. Marathon's application was granted on July 3, 1997.⁴ On August 1, 1997, CINC filed the instant Petition opposing grant of Marathon's application. Marathon filed an Opposition on August 14, 1997 (Opposition). Marathon argues that its application is mutually exclusive with CINC's application and requests that both applications be restored to pending status and scheduled for an auction.⁵ In the alternative, Marathon requests that we

¹ *Public Notice*, Report No. CL-97-68 (rel. July 3, 1997).

² FCC File No. 01993-Cl-P2-97. *See* 47 C.F.R. § 22.911(b)(alternate CGSA computation rule).

³ *Public Notice*, Report No. CL-97-59 (rel. May 23, 1997).

⁴ *Public Notice*, Report No. CL-97-68 (rel. July 3, 1997).

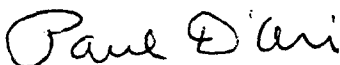
⁵ Opposition at 5.

limit CINC's alternative CGSA computation to permit final grant of both applications.⁶

3. Marathon's construction authorization expired on July 3, 1998. Counsel for Marathon recently advised the Commission that the Company did not construct facilities pursuant to the construction authorization.⁷ Pursuant to former Section 22.144(b) of the Commission's rules,⁸ Marathon's authorization automatically terminated. CINC's Petition contesting the Commission's grant of Marathon's authorization, and Marathon's Opposition to CINC's Petition are, therefore, moot.

4. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 405 and Section 1.106 and former Section 22.144(b) of the Commission's rules, 47 C.F.R. §§ 1.106 & 22.144(b) (1998), the petition for reconsideration filed by Cellular Inc. Network Corporation on August 1, 1997, IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION



Paul D'Ari
Chief, Policy and Rules Branch
Wireless Telecommunications Bureau

⁶ *Id.*

⁷ *Letter from Caressa D. Bennet, Esq. to Steven C. Weingarten, Chief Commercial Wireless Division, February 23, 2000.*

⁸ *See 47 C.F.R. § 22.144(b) (1998).*