



FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

DA 00-458
March 2, 2000

Mr. William Buxbaum
Buxbaum & Associates, A.P.C.
PMB 284
1560 Newbury Road
Suite 100
Newbury Park, CA 91320

Dear Mr. Buxbaum:

This letter confirms your telephone conversation of February 23, 2000, with Brett Tarnutzer and responds to the "Auction No. 26, Request for waiver by Network Services, LLC" filed on February 18, 2000.¹ Network Services, LLC. ("Network") requests permission to amend its short-form application (FCC Form 175). Specifically, Network requests that we waive Section 1.2105 (b)(2) of the Commission's Rules to permit it to add license areas (MEA040-AW, MEA043-AW and MEA044-AW) to those already selected on its short-form application.²

In order to obtain a waiver of the Commission's competitive bidding rules,³ Network must show: (i) that the underlying purpose of the rule would not be served, or would be frustrated, by its application in this particular case, and that grant of the waiver of the requested waiver would be in the public interest; or (ii) that the unique facts and circumstances of the particular case render application of the rule inequitable, unduly burdensome or otherwise contrary to the public interest, or that the applicant has no reasonable alternative.⁴

In support of its Request, Network argues that it should be allowed to add the licenses it intended to acquire from a potential bidder, California Wireless Communications ("CWC"), in Auction No. 26, which recently converted from a Chapter 11 bankruptcy reorganization to a Chapter 7 bankruptcy. Network states that it had planned to present an offer for acquisition of CWC's subscribers and incumbent licenses, among other assets of CWC's bankruptcy estate. However, CWC did not qualify to bid on Auction No. 26. Network further states that although CWC is an incumbent licensee in the requested license areas, CWC's lack of participation in Auction No. 26 may affect Network's evaluation of the proposed acquisition.

¹ See Letter from William Buxbaum, Attorney for Network Services, LLC. to Amy Zoslov, Chief, Auctions & Industry Analysis Division, Wireless Telecommunications Bureau Telecommunications Bureau, Federal Communications Commission, February 18, 2000 ("Request").

² 47 C.F.R. § 1.2105(b)(2).

³ 47 C.F.R. § 1.2105(b)(2).

⁴ 47 C.F.R. § 1.925.

On the basis of the record before us, we are not persuaded that Network has demonstrated that application of rule in its case would undercut or frustrate its purpose, nor do we find that Network presented unique circumstances sufficient to justify grant of its waiver request. Moreover, Network has not shown the lack of a reasonable alternative. We are denying Network's request because it does not meet the criteria for granting a waiver.

This action is taken under the delegated authority pursuant to Section 0.331 of the Commission's Rules.⁵

Sincerely,

Mark Bollinger
Acting Chief, Auctions and Industry Analysis
Wireless Telecommunications Bureau

⁵ 47 C.F.R. § 0.331.

William Buxbaum, Esq.
March 2, 2000
