

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

In the matter of	)	
	)	
	)	
Primosphere Limited Partnership	)	File Nos. 29/30-DSS-LA-93
	)	16/17-DSS-P-93
	)	
Application for Authority to Construct, Launch	)	
and Operate Satellites in the Satellite Digital	)	
Audio Radio Service	)	

**ORDER**

**Adopted: November 29, 2001**

**Released: November 30, 2001**

By the Chief, International Bureau:

**I. INTRODUCTION**

1. By this Order, we deny Primosphere Limited Partnership's ("Primosphere") Petition for Reconsideration of the International Bureau Order dismissing Primosphere's above-captioned application.<sup>1</sup>

**II. BACKGROUND**

2. Primosphere was one of four applicants participating in the Satellite Digital Audio Radio Service ("SDARS") auction held on April 1, 1997. Satellite CD Radio, Inc. ("CD Radio") and American Mobile Satellite Radio Corporation ("AMRC") were the winning bidders in that auction. Primosphere filed petitions to deny both CD Radio's and AMRC's subsequently filed applications. Both CD Radio and AMRC's applications were granted and Primosphere's petitions were denied in October 1997.<sup>2</sup> Primosphere subsequently filed Applications for Review of the grants of both the CD Radio and AMRC applications.<sup>3</sup>

3. On October 28, 1997 the Commission dismissed Primosphere's application because Primosphere was an unsuccessful bidder in the auction and there were no remaining SDARS licenses available. Primosphere filed a Petition for Reconsideration of the dismissal of its application, stating that

<sup>1</sup> DA-97-2275, 13 FCC Rcd. 8976 (Int'l Bur. 1997).

<sup>2</sup> See *Satellite CD Radio Inc., Application for Authority to Construct, Launch, and Operate a Two Satellites in the Satellite Digital Audio Radio Service*, Order and Authorization, 13 FCC Rcd 7971, 7973 (Int'l Bur. 1997) ("CD Radio License"); *American Mobile Radio Corporation, Application for Authority to Construct, Launch, and Operate Two Satellites in the Satellite Digital Audio Radio Service*, Order and Authorization, 13 FCC Rcd 8829 (Int'l Bur. 1997) ("AMRC License Order").

<sup>3</sup> Primosphere Limited Partnership, Application for Review of CD Radio License Order, filed November 10, 1997; Primosphere Limited Partnership, Application for Review of AMRC License Order, filed November 17, 1997.

the grants of the CD Radio and AMRC applications are not final until the Commission has ruled on Primosphere's Applications for Review of those grants. Both CD Radio and AMRC filed oppositions to Primosphere's petition.

### **III. DISCUSSION**

4. Primosphere's petition argues that the dismissal of its application was premature in light of its pending applications for review of the grant of the winning applicants' applications. It asserts that if either of its applications for review is successful, Primosphere's application would be eligible for grant.

5. On November 30, 2001, the Commission denied both of Primosphere's applications for review and reaffirmed the October, 1997 Bureau Orders granting CD Radio and AMRC's applications for the two available SDARS licenses. Therefore, Primosphere's application is moot.

6. As this is the only issue that Primosphere raised in its petition, we deny Primosphere's petition for reconsideration and affirm the dismissal of Primosphere's application for an SDARS license.

### **IV. ORDERING CLAUSES**

7. Accordingly, IT IS ORDERED, pursuant to Section 0.261 and Section 1.106 of the Commission's rules, 47 C.F.R. § 0.261 and 47 C.F.R. § 1.106, that Primosphere Limited Partnership's Petition for Reconsideration of the Order of Chief, International Bureau, DA-97-2275, 13 FCC Rcd. 8976 (1997) is DENIED.

8. IT IS FURTHER ORDERED that this Order will be effective upon release.

FEDERAL COMMUNICATIONS COMMISSION

Donald Abelson  
Chief, International Bureau