



Federal Communications Commission
Washington, D.C. 20554

August 19, 2003

DA 03-2691

Certified Mail/Return Receipt Requested

Metro PCS, Inc.
8144 Walnut Hill Lane
Suite 600
Dallas, Texas 75231

Re: Broadband PCS Authorization for:
BTA No. B404 (San Francisco-Oakland)
BTA No. B079 (Chico-Oroville)
BTA No. B485 (Yuba City-Marysville)
BTA No. B389 (Sacramento)
BTA No. B434 (Stockton)
BTA No. B397 (Salinas-Monterey)
BTA No. B022 (Athens)
BTA No. B024 (Atlanta)
BTA No. B160 (Gainesville, GA)
BTA No. B152 (Ft. Pierce-Vero Beach)
BTA No. B469 (West Palm Beach)
BTA No. B293 (Miami-Ft. Lauderdale)
BTA No. B313 (Naples)
BTA No. B151 (Ft. Myers)

Dear Metro PCS, Inc.:

This is in response to the grace period requests¹ filed by General Wireless, Inc. ("GWI")² on behalf of the fourteen wholly owned subsidiaries of GWI (collectively, the "GWI Licensees").³ Specifically, GWI requested a grace period for the first quarterly installment payments (originally due April 30, 1997) for the above-referenced broadband Personal Communications

¹ Letters from Dennis G. Spickler, Vice President and Chief Financial Officer, General Wireless, Inc., to William F. Caton, Acting Secretary, Federal Communications Commission, dated February 24, 1997 and February 25, 1997 ("Grace Period Requests").

² The parent of the GWI Licensees, General Wireless, Inc., subsequently changed its name to Metro PCS, Inc.

³ The GWI Licensees are GWI PCS1, Inc., GWI PCS2, Inc., GWI PCS3, Inc., GWI PCS4, Inc., GWI PCS5, Inc., GWI PCS6, Inc., GWI PCS7, Inc., GWI PCS8, Inc., GWI PCS9, Inc., GWI PCS10, Inc., GWI PCS11, Inc., GWI PCS12, Inc., GWI PCS13, Inc., and GWI PCS14, Inc.

Services ("PCS") C block licenses held by the GWI Licensees. For the reasons set forth below, we dismiss GWI's Grace Period Requests.

GWI was the high bidder for 14 Basic Trading Area licenses in the Commission's auction of PCS C block licenses, which concluded on May 6, 1996. GWI elected to fulfill its payment obligations under the Commission's installment payment plan as provided in Section 24.711(b).⁴ As required under Section 24.711(a)(2),⁵ GWI timely submitted its first and second down payments. The licenses were conditionally granted to the GWI Licensees on January 27, 1997.⁶

At the time GWI filed its Grace Period Requests, Section 1.2110(e)(4)(ii) of the Commission's rules provided that "upon default or in anticipation of default of one or more installment payments, a licensee may request that the Commission permit a three to six month grace period, during which no installment payments need be made."⁷

On March 31, 1997, while GWI's Grace Period Requests were pending the Commission suspended the deadline for payment of all broadband PCS C block installment payments.⁸ Subsequently, the Commission reinstated installment payment deadlines for all C block licensees and stated that C block licensees could resume payments under their existing note(s) or choose one of three alternative options for relief (disaggregation, amnesty or prepayment).⁹ Subsequently, on October 20, 1997, the GWI Licensees filed voluntary petitions for relief under Chapter 11 of title 11 of the United States Code.¹⁰

⁴ At that time, Section 24.711(b) permitted eligible C block licensees to pay in installments pursuant to Section 1.2110(e) and specified terms. See 47 C.F.R. §§ 24.711(b) and 1.2110(e) (1997).

⁵ Section 24.711(a)(2) provides that "[e]ach winning bidder shall make a down payment equal to ten percent of its winning bid (less applicable bidding credits); a winning bidder shall bring its total amount on deposit with the Commission (including upfront payment) to five percent of its net winning bid within five business days after the auction closes, and the remainder of the down payment (five percent) shall be paid within five business days after the application required by § 24.809(b) is granted." 47 C.F.R. § 24.711(a)(2) (1997).

⁶ See "Wireless Telecommunications Bureau Announces Grant of Broadband Personal Communications Services Entrepreneurs' C Block Licenses to GWI PCS Inc.," *Public Notice*, DA 97-156 (rel. January 27, 1997).

⁷ 47 C.F.R. § 1.2110(e)(4)(ii) (1997). Although this rule was later amended, in doing so, the Commission determined that it would not apply the revised rule to licensees with properly filed grace period requests until the Bureau addressed the grace period requests. Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, FCC 97-413, ¶¶ 106-113 (rel. December 31, 1997); See Wireless Telecommunications Bureau Provides Guidance on Grace Period and Installment Payment Rules, *Public Notice*, DA 98-1897 (1998).

⁸ See Installment Payments for PCS Licenses, *Order*, DA 97-649 (rel. March 31, 1997) ("*C Block Suspension Order*").

⁹ See Amendment of Part 1 of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, WT Docket No. 97-82, *Second Report and Order and Further Notice of Proposed Rule Making*, FCC 97-342, ¶¶ 24-31 (rel. October 16, 1997) ("*Second Report and Order*").

¹⁰ On June 4, 1998, the Bankruptcy Court entered a judgment in Adversary Proceeding No. 397-3492, captioned GWI PCS I, Inc., et al. v. Federal Communications Commission ("the Adversary Proceeding"). On August 17, 1998, the Bankruptcy Court entered an Order Conditionally Sustaining Objection and Partially Disallowing Claim of FCC (the "Claim Order"), allowing the Commission's claim against the GWI Licensees.

On March 24, 1998, the Commission released the *Order on Reconsideration* in which it, *inter alia*, extended to 90 days the 60-day non-delinquency period for payments due on the payment resumption date.¹¹ The *Order on Reconsideration* also specifically declined to provide a subsequent grace period beyond the 90-day non-delinquency period.¹² The Commission announced an election date of June 8, 1998, and a payment resumption date of July 31, 1998.¹³ Pursuant to the *Second Report and Order*¹⁴, as amended by the *Order on Reconsideration*¹⁵, the GWI Licensees elected to resume payments for all of the licenses under the terms established by the Adversary Proceeding in the bankruptcy court.

The suspension of payment deadlines and the process of considering and adopting financial relief for all C block licensees provided a period of well over a year in which no payment was required of GWI. Given this suspension of the payment obligations, as well as the GWI Licensees subsequent payment of the installment payment obligations that are the subject of the instant Grace Period Requests, GWI's Grace Period Requests are moot. Accordingly, GWI's Grace Period Requests are HEREBY DISMISSED.

This action is taken pursuant to delegated authority under 47 C.F.R. § 0.331.

Sincerely,

Rachel Kazan
Chief, Auctions Finance and Market Analysis Branch
Wireless Telecommunications Bureau

¹¹ See Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, *Order on Reconsideration of the Second Report and Order*, FCC 98-46, ¶ 25 (rel. March 24, 1998) ("*Order on Reconsideration*").

¹² *Id.* at ¶ 26.

¹³ See "Wireless Telecommunications Bureau Announces June 8, 1998 Election Date for Broadband PCS C Block Licenses," *Public Notice*, DA 98-741 (rel. April 17, 1998).

¹⁴ Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications (PCS) Licensees, WT Docket 97-82, *Second Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd 16436 (1997). ("*Second Report and Order*")

¹⁵ Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licensees, WT Docket No. 97-82, *Order on Reconsideration of the Second Report and Order*, 13 FCC Rcd 8345 (1998). ("*Order on Reconsideration*").