



Federal Communications Commission
Washington, D.C. 20554

January 30, 2007

DA 07-406

Frederick M. Joyce
Christine McLaughlin
Venable LLP
575 7th Street, NW
Washington, DC 20004-1601

RE: Telebeeper of New Mexico, Inc.
Final Bid Withdrawal Payment for Auction No. 40
DA 05-12 (released January 5, 2005)

Dear Counsel:

This responds to your request on behalf of Telebeeper of New Mexico, Inc. (“Debtor”) received February 4, 2005 (“Request”)¹ seeking “reconsideration of the Division’s assessment . . . of a bid withdrawal [payment]” and requests that the Commission waive or substantially reduce the bid withdrawal payment. For the reasons discussed below, we are returning your Request without action. Your request to waive or reduce the payment does not include adequate information conforming to the Commission’s rules for debt compromise.² Any further consideration of one or more requests for debt compromise, must conform to our rule at 47 C.F.R. § 1.1915. Future correspondence seeking compromise should be directed to the Commission’s Office of the Managing Director.

The Division Letter was a demand for payment on all debts within 30 days, but if the debts remained unpaid after that date administrative charges, interest, and penalties would accrue.³ Your Request seeks relief in the nature of waiver or reduction in the debt. Consequently, we construe your Request as seeking debt compromise. Because the debt is less than \$100,000,⁴ it is within the Commission’s compromise authority,⁵ which may be initiated by request from the Debtor.⁶ Such a request and our review must comply with Federal Claims

¹ Letter from Frederick M. Joyce and Christine McLaughlin, Venable, LLP, 575 7th Street, NW, Washington, D.C. to Margaret Wiener, Chief, Auctions and Spectrum Access Division, Wireless Telecommunications Bureau, Federal Communications Commission, Washington, D.C. 20554, received February 4, 2005. (The letter refers to the Letter from Rita Cookmeyer, Financial Policy Analyst, Wireless Telecommunications Bureau, Federal Communications Commission, 20554, dated January 5, 2005 (“Division Letter”).

² 47 C.F.R. § 1.1915.

³ 31 U.S.C. § 3717.

⁴ Each withdrawn bid results in a separate debt to the Commission.

⁵ 31 U.S.C. § 3711; 31 C.F.R. § 902.2; 47 C.F.R. § 1.1915.

⁶ 47 C.F.R. § 1.1915.

Collection standards,⁷ which limit the scope of compromise to four situations: (a) inability to pay; (b) inability of the Government to collect within a reasonable time using enforced collection proceedings; (c) diminishing returns; and (d) “significant doubt” concerning the Government’s ability to prove its case in court.⁸

A request to compromise one or more claims must be “submitted in writing with full justification of the offer and addressing the bases for compromise at 31 CFR 902.2.”⁹ A debtor must comply with the regulatory requirements¹⁰ to provide both verified information to establish that the debtor is unable to pay more than the amount offered and a full justification for compromise that includes a discussion of the bases for compromise set out at 31 C.F.R. § 902.2(a). The debtor must also include in the discussion and justification the factors at § 902.2(b), *e.g.*: age and health of the debtor; present and potential income; inheritance prospects; the possibility that assets have been concealed or improperly transferred by the debtor; and the availability of assets or income that may be realized by enforced collection proceedings.

If a debtor fails to provide the requested information, or if the justification and supporting financial information is insufficient, the Commission may reject the request. If we reject the offer of compromise, and the debtor fails to make payment, the debts are delinquent and we may immediately refer the debts to the Department of Justice for enforced collection.¹¹

If, after reviewing the provisions discussed above, Debtor desires further consideration of possible compromise of one or more debts, it should submit an appropriate request to the Managing Director with all required supporting financial documentation and justification within 15 days of the date of this letter.

⁷ 31 C.F.R. § 902.1 and 47 C.F.R. § 1.1915.

⁸ 31 C.F.R. § 902.2(a)(1) – (4); 47 C.F.R. § 1.1915.

⁹ 47 C.F.R. § 1.1915.

¹⁰ 47 C.F.R. § 1.1915; 31 C.F.R. § 902.2.

¹¹ 47 C.F.R. § 1.1917.

Because this Request is returned without action, the collection action is no longer suspended. If the Debtor fails to make full payment within 15 days of the date of this letter, the Commission will transfer the full amount of the outstanding debt to the United States Department of Treasury for debt collection. Pursuant to statute,¹² because the debt was not paid by the demand date, interest and penalties continued to accrue from the demand date.

Sincerely,

Rita Cookmeyer
Financial Policy Analyst
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

¹² 31 U.S.C. § 3717.