



Federal Communications Commission
Washington, D.C. 20554

DA 08-614
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UNREDACTED

William A. Gaylord
Chief Operating Officer
COLI, Inc.
7280 Rapid City Road
Rapid City, MI 49676

Re: COLI, Inc. – Request for Waiver of Section 1.2105(a) of the Commission’s Rules
Redacted Version Released January 23, 2008, as DA 08-97

Dear Mr. Gaylord:

This letter responds to the request for waiver, submitted January 7, 2008 on behalf of COLI, Inc. (“COLI”) along with a request for confidential treatment.¹ COLI requests a waiver of the deadline for filing a short-form application (FCC Form 175) to participate in Auction 76. COLI seeks confidential treatment for its Waiver Request because the Waiver Request discusses COLI’s bidding information, the disclosure of which would violate the Commission’s procedures for anonymous bidding in Auction 73 and the anti-collusion rule.² COLI’s Waiver Request will be accorded confidential treatment in accordance with our rules and procedures. Accordingly, this letter will not be publicly disclosed in full by the Commission until the Commission discloses all non-public information relating to Auction 73. For the reasons described below, we are holding COLI’s Waiver Request in abeyance.

Auction 73 is an auction of 1099 spectrum licenses in five blocks (Blocks A – E) of the 700 MHz Band, which is scheduled to start on January 24, 2008.³ Auction 76 is the designation for a contingent subsequent auction of alternative licenses in Blocks A, B, C, and/or E of the 700 MHz Band that will be held promptly after Auction 73 if the reserve price established for any of these four license blocks is not satisfied by the results of Auction 73.⁴ If the reserve price established for the D Block of the 700 MHz Band is not satisfied by the results of Auction 73, the

¹ COLI’s Request for Waiver (“Waiver Request”) and Request for Confidential Treatment were submitted electronically via the Commission’s Auction 73 email account and have been associated with its FCC Form 175 filed for Auction 73. *See* Short-Form Application (FCC Form 175) of COLI, Inc. (filed Nov. 30, 2007), as amended. *See* 47 C.F.R. § 0.459.

² Request for Confidential Treatment at 1.

³ *See generally*, “Auction of 700 MHz Band Licenses Scheduled for January 24, 2008; Notice and Filing Requirements, Minimum Opening Bids, and other Procedures for Auctions 73 and 76,” *Public Notice*, 22 FCC Rcd 18,141 (“*Auction 73/76 Procedures Public Notice*”).

⁴ *See Auction 73/76 Procedures Public Notice*, 22 FCC Rcd at 18,143-44, 18,146, 18,212 ¶¶ 1, 7-9, 271-73.

Commission may decide to re-offer that license subject to the same service rules or reconsider the rules applicable to that block.⁵

Consistent with direction from the Commission, the Wireless Telecommunications Bureau (“Bureau”), under its delegated authority, announced on October 5, 2007, the procedures for Auction(s) 73 and 76. More specifically, the Bureau announced procedures, among other things, for anonymous bidding (under which disclosures of auction-related information are limited until after the close of bidding in Auction 73 and Auction 76, if the latter becomes necessary), for aggregate reserve prices for each spectrum block of license(s), and for other aspects of the auction process such as requirements and deadlines for applications and upfront payments to purchase of bidding eligibility, as well as for the design and structure of the bidding itself. The procedures require that any applicant that wishes to qualify to bid in Auction 76, if that auction becomes necessary, must select any license(s) on which it may wish to bid in Auction 76 by the deadline for filing its Auction 73 short-form application. Applicants were required to select those licenses by submitting a separate short-form application to participate in Auction 76. The abbreviated Auction 76 application was required to be filed together with the applicant’s standard application for Auction 73.⁶

We find that we need not at this time address the merits of COLI’s Waiver Request. Because we do not know at this time whether the Auction 73 results will satisfy the applicable block-specific aggregate reserve prices, it is unclear whether Auction 76 will be necessary. Accordingly, we are holding COLI’s Waiver Request in abeyance until after the close of bidding in Auction 73, when we will know whether it has been rendered moot. At that time, we can address the merits of COLI’s Waiver Request.

This action is taken under delegated authority pursuant to Section 0.331 of the Commission’s rules.⁷

Sincerely,

Margaret W. Wiener, Chief
Auctions and Spectrum Access Division
Wireless Telecommunications Bureau

⁵ *Id.* at 18,146 ¶ 7; *see also id.* at 18,212-13 ¶¶ 271, 275, 276 (providing for possible re-auction of D Block in Auction 76).

⁶ *Id.* at 18,146 ¶ 8.

⁷ 47 C.F.R. § 0.331.