

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

In the Matter of	)	
	)	
SINTRA CAPITAL CORPORATION	)	
	)	File No. 9507387
To Provide 39 GHz Point-to-Point Microwave	)	
Service in Anchorage, AK	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: August 24, 2000**

**Released: September 8, 2000**

By the Commission:

1. The Commission has before it an Application for Review filed by Sintra Capital Corporation (Sintra) on May 11, 2000. Sintra requests review of an April 11, 2000, *Order on Reconsideration* by the Public Safety and Private Wireless Division dismissing the above-captioned application for authorization to provide service in the 38.6 to 40.0 GHz (39 GHz) band.

2. We have analyzed the Application for Review and find that the Commission staff properly decided the matters raised. The Commission has established and affirmed a processing policy concerning 39 GHz channels that includes the dismissal of (a) applications that failed to meet the thirty-day public notice requirement as of November 13, 1995; (b) all new applications, major modification applications and amendments filed on or after November 13, 1995; and (c) applications whose mutual exclusivity was not resolved by December 15, 1995 and amendments resolving mutual exclusivity that were filed on or after December 15, 1995.<sup>1</sup> In addition, the Commission's Rules provide for the dismissal of mutually exclusive applications and late-filed competing applications.<sup>2</sup>

3. Commission staff dismissed Sintra's application for authorization to provide service in the 39 GHz band because, as of December 15, 1995, it was mutually exclusive with an application filed by WinStar Wireless, Inc. to provide the same type of service.<sup>3</sup> Therefore, we uphold the staff decision for the

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<sup>1</sup> See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Report and Order and Second Notice of Proposed Rulemaking*, ET Docket No. 95-183, 12 FCC Rcd 18600, 18639-45 ¶¶ 83-97 (1997), *aff'd*, Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Memorandum Opinion and Order*, 14 FCC Rcd 12428, 12440-51 ¶¶ 19-44 (1999).

<sup>2</sup> See 47 C.F.R. § 21.31(b)(2)(i) (1995); 47 C.F.R. § 101.45(b)(2)(i) (disposition of mutually exclusive applications). See also 47 C.F.R. § 1.934 (dismissal of defective applications).

<sup>3</sup> Therefore, Sintra's claims (Application for Review at 5-6) that its application for authorization did not violate the 60 day cut off for filing mutually exclusive applications is inapposite.

reasons stated therein. There is no reason to disturb it.

4. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 5(c)(5) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c)(5), and Section 1.115(g) of the Commission's Rules, 47 C.F.R. § 1.115(g), the Application for Review filed by Sintra on May 11, 2000, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas  
Secretary