



FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

DA 01-1803

July 26, 2001

Mr. Thomas Gutierrez, Esq.
Lukas, Nace, Gutierrez & Sachs
1111 Nineteenth Street, N.W.
Suite 1200
Washington, DC 20036

Re: Request for Grace Period for Payment of Installment Obligations

Dear Mr. Gutierrez:

This letter responds to the letter filed on behalf of your client, Instapage Network, Ltd. ("Instapage"),¹ requesting a grace period pursuant to the then applicable installment payment rules. For the reasons set forth below, we dismiss Instapage's request as moot.

Under the former grace period rule, a licensee was permitted to request a three to six month period during which no installment payments needed to be made.² Although the Commission in the *Part 1 Third Report and Order*³ modified the installment payment grace period and late payment fee provisions of its rules, it determined that late payment and automatic cancellation provisions of amended Section 1.2110 would not apply to licensees with properly filed grace period requests until the Bureau addressed the grace period requests.⁴ Accordingly, the Wireless Telecommunications Bureau ("Bureau") released a *Public Notice* indicating that pending grace period requests for installment payments due prior to March 16, 1998 would be processed under the former grace period rule, Section 1.2110⁵ of the Commission's rules.⁶ In

¹ Letter from Thomas Gutierrez, Lukas, Nace, Gutierrez & Sachs, to Ms. Kathleen O'Brien-Ham, Chief, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, Federal Communications Commission, dated June 27, 1997.

² 47 C.F.R. § 1.2110(e)(4)(ii)(1997).

³ Amendment of Part 1 of the Commission's Rules – Competitive Bidding Procedures, Allocation of Spectrum Below 5 GHz Transferred from Federal Government Use, 4660-4685 MHz, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd 374 434-42 ¶¶ 103-113 (1997) ("*Part 1 Third Report and Order*").

⁴ *Part 1 Third Report and Order*, 13 FCC Rcd. at 441-442, ¶ 113.

⁵ See 47 C.F.R. § 1.2110(e)(4)(ii)(1997).

⁶ See Wireless Telecommunications Bureau Provides Guidance on Grace Period and Installment Payment Rules, *Public Notice*, DA 98-1897 (1998).

this instance, Instapage's grace period request was timely filed; however, as explained below, it is now moot.

On July 20, 2001, the Bureau's Commercial Wireless Division ("CWD") released an *Order* indicating that Instapage's license⁷ had terminated automatically due to its failure to meet the construction notification requirement and the minimum coverage benchmarks pursuant to Sections 1.946(c)⁸ and 1.955(a)(2)⁹ of the Commission's Rules.¹⁰ In light of the automatic termination of the license, Instapage's license term is ended and it is no longer eligible to pay the outstanding amount of its winning bid obligation with installment payments.¹¹ Accordingly, Instapage's grace period request is dismissed.

This action is taken pursuant to sections 1, 4(i), 4(j), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303(r), 309(j) and the authority delegated pursuant to section 0.331 of the Commission's Rules, 47 C.F.R. § 0.331.

Sincerely,

Margaret W. Wiener
Chief, Auctions and Industry Analysis Division
Wireless Telecommunications Bureau

⁷ Narrowband PCS license identified by call sign KNKV222, and granted on January 23, 1995.

⁸ 47 C.F.R. § 1.946(c).

⁹ 47 C.F.R. § 1.955(a)(2).

¹⁰ In the Matter of Instapage Network, Ltd., *Order*, DA 01-1722 (rel. July 20, 2001).

¹¹ 47 C.F.R. §§ 24.321(d); 1.2110(g).