

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

In the Matter of)
)
Request of Columbia Capital Corporation)
for a Stay of the 220 MHz Service)
Application and Auction Schedule)

ORDER

Adopted: September 14, 1998

Released: September 14, 1998

By the Chief, Wireless Telecommunications Bureau:

1. On July 17, 1998, Columbia Capital Corporation (Columbia) filed a Petition for Stay and Request for Timely Consideration (Stay Petition) with the Commission requesting a stay of the short-form application date, the auction date, and other dates specified by the Wireless Telecommunications Bureau in the Public Notice released May 29, 1998, announcing the upcoming Phase II 220 MHz auction.

2. On July 30, 1998, Columbia filed a motion for stay of the 220 MHz auction with the United States Court of Appeals for the District of Columbia Circuit (Court of Appeals).¹ That motion sought a stay until judicial review of the Commission's orders that adopted licensing rules for the 220 MHz service. On August 14, 1998, the Court of Appeals denied Columbia's motion for stay stating that Columbia did not satisfy the stringent standards required for a stay pending court review.²

3. In its Stay Petition, Columbia asserts the same arguments set forth in its motion for stay filed with the Court of Appeals. Upon examination of its Stay Request, we also conclude that Columbia's arguments fail to meet the standards set forth in *Virginia Petroleum* and *Washington Metro*.

¹ The Commission filed an Opposition to Motion of Columbia Capital Corporation for Stay Pending Judicial Review with the Court of Appeals on August 7, 1998.

² See *PLMRS Narrowband Corp. v. FCC*, No. 92-1432 (D.C. Cir. Aug. 14, 1998) (order denying motion for stay). To obtain a stay, petitioner must demonstrate that: (1) it is likely to prevail on the merits of its petition for review; (2) it will suffer irreparable harm in the absence of a stay; (3) a stay will not injure other parties; and (4) a stay is in the public interest. See *Virginia Petroleum Jobbers Ass'n v. FPC*, 259 F.2d 921, 925 (D.C. Cir. 1958) ("*Virginia Petroleum*"), as modified in *Washington Metro. Area Transit Comm'n v. Holiday Tours, Inc.*, 559 F.2d 841, 843 (D.C. Cir. 1977) ("*Washington Metro.*").

4. IT IS ORDERED, pursuant to sections 1, 4(i), 4(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 303(r), and the authority delegated pursuant to section 0.331 of the Commission's rules, as amended, 47 C.F.R. § 0.331, that Columbia Capital Corporation's Request for Stay Pending Judicial Review filed on July 17, 1998 IS DISMISSED AS MOOT.

FEDERAL COMMUNICATIONS COMMISSION

Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau