

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

In the Matter of)
)
Application for Review of Columbia Capital)
Corporation of Action Taken Pursuant)
to Delegated Authority)

MEMORANDUM OPINION AND ORDER

Adopted: August 4, 1999

Released: August 5, 1999

By the Commission:

1. The Commission has before it an Application for Review¹ filed by Columbia Capital Corporation ("Columbia") seeking to set aside a Public Notice released by the Wireless Telecommunications Bureau ("Bureau") on May 29, 1998 ("*Auction Public Notice*").² The *Auction Public Notice*, among other things, announced procedures and filing deadlines for Auction No. 18, the Phase II 220 MHz Service auction. Columbia had requested that the Bureau set aside the *Auction Public Notice* and postpone the auction filing dates and start date until the United States Court of Appeals for the District of Columbia Circuit (the "Court") resolves Columbia's appeal of orders modifying the 220 MHz Service rules.³ Because Auction No. 18 has been completed, and the Court has decided Columbia's appeal, we dismiss Columbia's Application for Review as moot.

2. In a 1992 order, the Commission adopted rules for licensing the 220 MHz Service.⁴ Columbia applied for nationwide, non-commercial, non-Government use licenses in the 220 MHz Service under these rules.

¹ Columbia Capital Corporation Application for Review of Action Taken Pursuant to Delegated Authority, filed June 29, 1998.

² See Auction of the Phase II 220 MHz Service Licenses; Auction Notice and Filing Requirements, *Public Notice*, 13 FCC Rcd 16445 (1998) ("*Auction Public Notice*").

³ Columbia's appeal was consolidated into *PLMRS Narrowband Corp., et al.*, Case No. 92-1432, United States Court of Appeals for the District of Columbia Circuit (filed September 18, 1992).

⁴ Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, PR Docket No. 89-552, *Report and Order*, 6 FCC Rcd 2356 (1992).

In a subsequent *Memorandum Opinion and Order*, the Commission modified its 220 MHz licensing rules.⁵ Columbia, along with PLMRS Narrowband Corporation, filed petitions for review of these modified rules. These two companies also filed notices of appeal and petitions for review of the Commission order further amending the rules⁶ to implement the Omnibus Budget Reconciliation Act of 1993, which created a new regulatory scheme and granted the Commission authority to assign licenses by competitive bidding.⁷

3. In the May 29, 1998 *Auction Public Notice*, the Bureau announced that an auction of Phase II 220 MHz Service licenses would begin on September 15, 1998. Columbia filed a petition for stay of this auction with the Commission on June 29, 1998. On July 30, 1998, Columbia proffered the same arguments in a motion for stay of the 220 MHz auction filed with the Court.⁸ On August 14, 1998, the Court denied the motion for stay, stating that Columbia did not satisfy the stringent standards required for a stay pending court review.⁹ On similar grounds, the Bureau dismissed Columbia's petition for stay.¹⁰

4. Auction No. 18, the Phase II 220 MHz auction, opened on September 15, 1998 and closed on October 22, 1998.¹¹ Moreover, on July 16, 1999, the Court denied Columbia's appeal, upholding the Commission's decision to assign 220 MHz Service licenses by auction.¹² Therefore, Columbia's Application for Review of the *Auction Public Notice*, which effectively requested that the auction be postponed, is moot.

⁵ See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, PR Docket No. 89-552, *Memorandum Opinion and Order*, 7 FCC Rcd 4484 (1992).

⁶ See Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, PR Docket No. 89-552, *Third Report and Order; Fifth Notice of Proposed Rule Making*, 12 FCC Rcd 10943 (1997). The appellate proceedings were consolidated into *PLMRS Narrowband Corp.*, *supra* note 3.

⁷ Pub. L. No. 103-66, Title VI, §§ 6002(b)(2)(A)-(B), 107 Stat. 312, 392 (1993). See 47 U.S.C. §§ 332 and 309(j).

⁸ The Commission filed an Opposition to Motion of Columbia Capital Corporation for Stay Pending Judicial Review with the Court on August 7, 1998.

⁹ See *PLMRS Narrowband Corp. v. FCC*, No. 92-1432 (D.C. Cir. Aug. 14, 1998) (order denying motion for stay).

¹⁰ See Request of Columbia Capital Corporation for Stay of the 220 MHz Service Application and Auction Schedule, *Order*, 13 FCC Rcd 17863 (1998).

¹¹ See Phase II 220 MHz Service Auction Closes; Winning Bidders in the Auction of 908 Phase II 220 MHz Service Licenses, *Public Notice*, 14 FCC Rcd 605 (1998).

¹² See *PLMRS Narrowband Corp., et. al. v. FCC*, No. 92-1432 (D.C. Cir. July 16, 1999) (denying petitions for review).

5. 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), that Columbia Capital Corporation's Application for Review of Action Taken Pursuant to Delegated Authority filed on June 29, 1998, IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary