

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

In re Application of)	
)	
U S West Communications, Inc.)	File Nos. 01940-CWL-97, et. al.
)	
For Facilities in the Broadband Personal)	
Communications Systems in the)	
D and E Blocks)	

ORDER

Adopted: September 29, 1999

Released: September 29, 1999

By the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. On July 28, 1997, Western Wireless Corporation (Western) filed an Application for Review of the Wireless Telecommunications Bureau's June 26, 1997 Order, denying Western's Petition to Condition or Deny 48 of U. S. West Communications, Inc.'s (U.S. West) 53 applications for the D and E Block personal communications service licenses.¹ In its Application for Review, Western argues that the Order violates Section 309(d)(2) of the Communications Act of 1934, as amended, 47 U.S.C. § 309(d)(2), because it failed to address with specificity each of the allegations raised in Western's original petition and ignored the record evidence.²

2. On October 21, 1998, Western filed a motion requesting the withdrawal of its Application for Review.³ Western stated that, following the filing of its Application for Review, the Commission promulgated Section 20.20 of its rules, 47 C.F.R. § 20.20, which imposed competitive safeguards on incumbent local exchange carriers such as U.S. WEST.⁴ According to Western, the safeguards are similar to the relief sought in its Petition to Condition or Deny and it had decided to rely on these safeguards.⁵ Attached to Western's motion was the declaration of Western's Executive Director of Regulatory Affairs, Gene A. DeJordy, certifying that Western's action was taken unilaterally and no consideration was promised or received by Western for withdrawing the

¹ Application of U.S. West Communications, Inc. for Various D and E Block Broadband PCS Licenses, *Memorandum Opinion and Order*, 13 FCC Rcd 4173 (1997). Western filed its original Petition to Condition or Deny on March 2, 1997, U.S. WEST opposed the Petition on April 3, 1997, and Western filed its reply on April 14, 1997. Following issuance of the Order, Western filed its Application for Review on July 28, 1997, U.S. WEST opposed the Application on August 12, 1997, and Western filed its reply on August 27, 1997.

² See Western Application for Review at 2, 20.

³ See Letter to Magalie Roman Salas, Secretary, FCC from Louis Gurman, Counsel for Western Wireless Corporation, dated October 21, 1998.

⁴ *Id.*

⁵ *Id.*

pleading.⁶

3. The Policy and Rules Branch of the Commercial Wireless Division has reviewed the withdrawal of the Application for Review and finds that it raises no substantial or material questions of fact under Section 309 of the Commissions Act, as amended, 47 U.S.C. § 309. We therefore grant Western's request to withdraw its Application for Review

4. Accordingly, IT IS ORDERED, pursuant to delegated authority under Section 0.331 of the Commission's Rules, 47 C.F.R. § 0.331, that the request for withdrawal of the Application for Review, filed by Western Wireless Corporation, IS GRANTED and this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Paul D'Ari
Chief, Policy and Rules Branch
Commercial Wireless Division
Wireless Telecommunications Bureau

⁶ *Id.*, Declaration of Gene A. DeJordy