



Federal Communications Commission
Washington, D.C. 20554

DA 03-411

March 3, 2003

David Deitch, Esquire
General Counsel and Senior
Vice President
R/L DBS Company, LLC
200 Jericho Quadrangle
Jericho, NY 11753

Re: Application of R/L DBS Company, LLC to Modify Existing DBS Authorization to Add Channels 23 and 24 at 61.5" W.L., File No. SAT-MOD-20020703-00102.

Dear Mr. Deitch:

Upon our review of R/L DBS Company, LLC's (R/L DBS) above-referenced application, we are dismissing the application, without prejudice. For the reasons set forth below, we conclude that the application is unacceptable for filing.

In 1995, the Commission adopted competitive bidding rules for the Direct Broadcast Satellite (DBS) service.¹ The competitive bidding rules applicable to DBS are currently set forth in Parts 1 and 25 of the Commission's rules.² Pursuant to these rules, parties interested in applying for DBS licenses to use channels at any of the eight orbital locations assigned to the United States by international agreement must file short-form applications on FCC Form 175 during a filing window established by public notice.³ Because a filing window for the submission of short-form applications has not been opened with respect to the DBS channels R/L DBS seeks to use, R/L DBS's application is premature. Moreover, the application does not meet other requirements of Section 1.2105(a), which provides, *inter alia*, that applications must be filed electronically on FCC Form 175.

As indicated above, R/L DBS's application is being returned without prejudice. Therefore, R/L DBS may file a FCC Form 175 short-form application for the DBS licenses in which it is interested once a short-form filing window for an auction is established. We note that today the Commission has issued a public notice announcing the auction of DBS service licenses scheduled for August 6, 2003.⁴

¹ The Commission's decision was upheld by judicial action in 1997. See Revision of Rules and Policies for the Direct Broadcast Satellite Service, 11 FCC Rcd 97 12 (1995), *aff'd DIRECTV v. FCC*, 110 F.3d 8 16 (D.C. Cir. 1997).

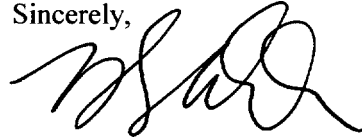
² See 47 C.F.R. §§ 1.2101-1.2113, 25.148(d) & (e). We note that the Commission recently revised the DBS rules in Part 100. See Policies and Rules for the Direct Broadcast Satellite Service, *Report and Order*, 17 FCC Rcd 1133 1 (2002); see also Amendment of Parts 1, 21, 22, 24, 25, 26, 27, 73, 74, 80, 90, 95, 100, and 101 of the Commission Rules - Competitive Bidding, *Order*, 17 FCC Rcd 6534 (2002) (modified by Erratum, 17 FCC Rcd 11146 (2002)).

³ See 47 C.F.R. § 1.2105(a).

⁴ Auction of Direct Broadcast Satellite Service Licenses Scheduled for August 6, 2003, Comment Sought on Reserve Prices or Minimum Opening Bids and Other Auction Procedures, *Public Notice*, FCC 03-40 (released

This action is taken pursuant to the Commission's rules on delegated authority, 47 C.F.R. § 0.261(4) and 47 C.F.R. § 0.331.

Sincerely,



Donald Abelson
Chief, International Bureau



John B. Muleta
Chief, Wireless Telecommunications
Bureau

cc: Benjamin J. Griffin, Esquire
Mintz Levin Cohn Ferris Glovsky & Popeo, PC
70 1 Pennsylvania Ave., NW
Suite 900
Washington, D.C. 20004

March 3, 2003).