



Federal Communications Commission
Washington, D.C. 20554

DA 03-410

March 3, 2003

Ms. Antoinette Cook Bush
Vice President
COMPASS SYSTEMS, INC.
One Harbour Place
Suite 475
Portsmouth, N.H. 03 80 1

Re: Application of Compass Systems, Inc. for Authority to Construct an International Direct Broadcast Satellite System, File No. SAT-MSC-20020325-00054, filed March 20, 2002.

Dear Ms. Bush:

Upon our review of Compass Systems Inc.'s (CSI) 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 licenses for the DBS channels CSI seeks, CSI'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.

We note further that CSI's application contains a request for authority to operate an "integrated terrestrial platform" using the same spectrum on which it seeks to provide DBS service. This request also fails to comply with the Commission's rules. In 2002, the Commission adopted service and licensing rules, including competitive bidding rules, for the Multichannel Video Distribution and Data Service

¹ The Commission's decision was upheld by judicial action in 1997. See Revision of Rules and Policies for the Direct Broadcast Satellite Service, *Report and Order*, 11 FCC Rcd 97 12 (1995), *aff'd DZRECTV v. FCC*, 110 F.3d 816 (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).

(MVDDS), a terrestrial service that will use the same spectrum as DBS (the 12.2-12.7 GHz band).⁴ The competitive bidding rules applicable to MVDDS are set forth in Parts 1 and 101 of the Commission's rules.⁵ As is the case with DBS, parties interested in applying for MVDDS licenses must file short-form applications on FCC Form 175 during a filing window established by public notice. The Wireless Telecommunications Bureau, acting pursuant to delegated authority, has issued a public notice announcing that an auction of MVDDS licenses (Auction No. 53) will begin on June 25, 2003, and that short-form applications for that auction must be filed by May 12, 2003. This Public Notice also seeks comment on specific procedures for the auction.⁶ Once comments have been received and reviewed, a further public notice will provide additional details on filing and auction procedures. Because the filing window has not yet been opened, CSI's application for terrestrial authority using DBS frequencies is premature. In addition, it fails to meet other requirements of Section 1.2105(a), which, as noted above, provides that applications must be filed electronically on FCC Form 175.

As indicated above, CSI's application is being returned without prejudice. Therefore, CSI 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, 2003.⁷ CSI may also file an FCC Form 175 short-form application for any MVDDS licenses in which it is interested during the short-form filing window for Auction No. 53.

⁴ See Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range; Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2- 12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide Fixed Service in the 12.2- 12.7 GHz Band, *Memorandum Opinion and Order and Second Report and Order*, 17 FCC Rcd 96 14 (2002).

⁵ 47 C.F.R. §§ 1.2101-1.2113, 101.1427, 101.1429.

⁶ Auction of Multichannel Video Distribution and Data Service Licenses Rescheduled for June 25, 2003, *Public Notice*, DA 03-286 (released Jan. 30, 2003).

⁷ 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 March 3, 2003).

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: Tom Davidson, Esq.
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