

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

In the Matter of)	
)	
Implementation of the Commercial Spectrum)	
Enhancement Act and Modernization of the)	WT Docket No. 05-211
Commission's Competitive Bidding Rules and)	
Procedures)	

SECOND ORDER ON RECONSIDERATION OF THE SECOND REPORT AND ORDER

Adopted: March 24, 2008

Released: March 26, 2008

By the Commission:

1. In this Second Order on Reconsideration, we formally deny a Petition for Expedited Reconsideration ("Petition") filed in this proceeding by Council Tree Communications, Inc., Bethel Native Corporation, and the Minority Media and Telecommunications Council (collectively, the "Joint Petitioners").¹

2. The Petition sought reconsideration of various decisions we made in the *Second Report and Order* released on April 25, 2006, which modified our Part 1 competitive bidding rules governing designated entities, including rules on eligibility for benefits and unjust enrichment.² The *Second Report and Order* was published in the Federal Register on May 4, 2006.³ Joint Petitioners filed their Petition on May 5, 2006. On June 2, 2006, prior to the deadline for filing petitions for reconsideration of the *Second Report and Order*,⁴ we released, *sua sponte*, an *Order on Reconsideration*, which considered and rejected

¹ Petition for Expedited Reconsideration, filed by Council Tree Communications, Inc., Bethel Native Corporation, and the Minority Media and Telecommunications Council, dated May 5, 2006 (the "Petition").

² Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission's Competitive Bidding Rules and Procedures, *Second Report and Order and Second Further Notice of Proposed Rule Making*, 21 FCC Rcd 4753 (2006) ("*Second Report and Order*"). "Designated entities" are small businesses, businesses owned by members of minority groups and/or women, and rural telephone companies. See 47 C.F.R. § 1.2110(a). Unless otherwise noted, when referring to "designated entities," we include as a subgroup "entrepreneurs" eligible to bid for "set-aside" broadband Personal Communications Service licenses offered in closed bidding. See *id.* §§ 1.2110(a), 24.709.

³ 71 Fed. Reg. 26,245 (May 4, 2006).

⁴ See 47 C.F.R. §§ 1.4, 1.429.

the arguments included in the Petition without formally denying the Petition.⁵ The *Order on Reconsideration* was published in the Federal Register on June 14, 2006.⁶

3. In a July 2006 letter to the Commission, Joint Petitioners stated that the Commission had already decided the merits of the Petition and that the Joint Petitioners were no longer seeking reconsideration.⁷ Accordingly, they ask that we formally dispose of their Petition in order to take “the *de jure* action” we had already “taken *de facto*.”⁸ We agree with Joint Petitioners that we already decided the merits of the Petition in the *Order on Reconsideration*. As Joint Petitioners have stated, the *Order on Reconsideration* “was . . . a conclusive rejection of Petitioners’ legal arguments,”⁹ and, as such, we need go no further here.

4. Accordingly, IT IS ORDERED that pursuant to Sections 4(i), 5(b), 5(c)(1), 303(r), and 309(j) of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 155(b), 155(c)(1), 303(r), and 309(j), the Petition is hereby DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵ Implementation of the Commercial Spectrum Enhancement Act and Modernization of the Commission’s Competitive Bidding Rules and Procedures, *Order on Reconsideration of the Second Report and Order*, 21 FCC Rcd 6703 (2006) (“*Order on Reconsideration*”). Subsequent to adoption of the *Order on Reconsideration*, we received two additional timely petitions for reconsideration of the *Second Report and Order*. See Petition for Partial Reconsideration and/or Clarification, filed by the Blooston Rural Carriers, dated June 2, 2006; Petition for Reconsideration and Clarification, filed by Cook Inlet Region, Inc., dated June 5, 2006.

⁶ 71 Fed. Reg. 34,272 (June 14, 2006).

⁷ Letter, filed by Dennis P. Corbett and S. Jennell Trigg, Counsel for the Joint Petitioners, to Marlene H. Dortch, Secretary, Federal Communications Commission, dated July 24, 2006.

⁸ *Id.* at 2.

⁹ Petition for Writ of Mandamus, *In re Council Tree Communications, et al.*, 07-4124, at 20 (3d Cir. filed Oct. 23, 2007).