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May 21, 1992

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Federal Communications Commission
Office of the Secretary

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, D.C. 20554

Re: In the Matter of Redevelopment of Spectrum
to Encourage Innovation in the Use of New
Telecommunications Technologies, ET Docket
No. 92-9

Dear Secretary Searcy:

The New York State Department of Public Service (NYDPS or Department) submits this letter in response to the Commission's proposal to reallocate spectrum in the 1850-2200 MHz band for emerging telecommunications technologies.

The NYDPS supports the Commission's proposal to make spectrum available for new technologies, such as personal communications services (PCS). In proposing PCS policy principles to the New York Public Service Commission in October 1991,^{1/} the NYDPS supported PCS because of its potential to offer consumers new services, improve upon the provision of basic exchange service by local exchange carriers, and enhance the potential for local exchange competition.

The Department also supports the Commission's decision to allow "public safety communications" to be allowed to continue to operate on the extant frequencies indefinitely. Electric utilities use the spectrum for similar purposes (e.g., communications during outages) and, we suggest that the Commission clarify that utility uses of the spectrum fall within

^{1/} A copy of the NYDPS' report on PCS was sent to the Commission to be included in the record of GEN Docket No. 90-314, "In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services," November 4, 1991.

Ms. Donna R. Searcy

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the "public safety" class of uses that are exempt from the rules. In any event, the utilities should not bear the costs of any relocation: just as the Commission properly suggests that citizens should not bear the costs of having police or fire uses relocated, so too should they not bear the costs of having utility use of the spectrum changed. In both instances, customers had no effective choice and should not be burdened with the costs of a competitive business use of the spectrum.

Respectfully submitted,



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