facilities of occupants in the 2 GHz band to higher frequency bands or alternative media. As PCNS-NY has demonstrated by its unmatched willingness to negotiate with existing users as an experimental licensee and to address their concerns, relocation proposals can be appropriately structured to satisfy the existing user's needs.[37] Based on its parent company, LOCATE's recognized expertise in designing and engineering microwave networks and, its discussions with existing users, PCNS-NY believes that the only way to guarantee interference protection that is acceptable to existing users and PCS subscribers is to relocate existing users from the 1850-1990 MHz band to higher frequencies that are already allocated for microwave use.[38]

PCNS-NY does not share the view of several other PCS proponents that sharing or co-primary use of the 1850-1990 MHz band is a long term spectrum management solution for existing users or for PCS.[39] LPPC's contention that all PCS entrepreneurs believe that few, if any, microwave users will have

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[37] In its initial comments, PCNS-NY described, in detail, the process it has used in negotiating relocation agreements with existing users. See PCNS-NY Comments at 9-15.

[38] Relocation of existing users of the 1850-1990 MHz band through market-based negotiations with new licensees will also eliminate the need for the Commission to establish technical interference standards satisfactory to existing and new occupants of the 1850-1990 MHz band.

[39] PCNS-NY has experimented with sharing technologies, however, PCNS-NY does not believe that these technologies can permit the immediate and full roll out of PCS and guarantee complete interference protection that will be accepted by existing users.

to relocate is incorrect.[40] PCNS-NY believes that relocation of existing users is in the best interests of existing users and future users of the 1850-1990 MHz band. PCNS-NY's experimental efforts and accomplishments, that have produced successful negotiations with numerous users of the 1850-1990 MHz band, distinguish it from other PCS proponents. PCNS-NY's commitment to these users also demonstrates its willingness to "foot the bill" for the costs of relocation.[41]

Despite the concrete benefits of relocation that can be gained by existing users of the 1850-1990 MHz band through negotiated agreements with new licensees, some existing users have proposed that the Commission modify its proposal to cement their continued occupancy of the 2 GHz band rather than facilitate their transition to higher frequencies. The opponents of the Commission's proposal have proposed a variety of protections: primary use of the band, co-primary use of the band and grandfathering all existing users.[42] Although cast in a variety of terms, all of the proposals would lead to the same result -- indefinite occupancy of the band (and possibly expanded use of the band) by existing users with priority over new licensees including PCS licensees.

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[40] LPPC Comments at 5-6.

[41] LPPC Comments at 43; see also AAR Comments at 44.

[42] See, e.g., Comments of UTC at 70-75; Sunflower Electric Power Co. at 2; Basin Electric Power Cooperative at 3; Sho-Me Power Electric Cooperative at 3; Atlantic City Electric Company at 10; American Gas Association at 10; Central Maine Power Company at 4.

Co-primary use of the band by existing microwave users and PCS will not benefit existing users nor will it benefit PCS. Motorola and Northern Telecom agree that co-primary use of the 2 GHz band and spectrum sharing are not long term solutions for existing users or PCS.[43] These major telecommunications equipment manufacturers strongly support, as the best solution for existing microwave users and the introduction of new wireless technologies, the Commission's proposal to relocate existing users to higher frequencies.[44] Motorola rejects spectrum sharing as a spectrum solution on the grounds that spectrum sharing will increase the interference potential to existing OFS microwave systems, greatly restrict the potential growth of existing microwave systems and severely limit PCS growth.[45] Accordingly, Motorola endorses the reaccommodation of microwave systems to alternative bands as the appropriate approach to allocating spectrum in the 2 GHz band to emerging technologies such as PCS.[46] Northern Telecom reached a similar conclusion. Specifically, Northern Telecom concludes that spectrum sharing

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[43] Motorola at 17-20; Northern Telecom at 9. NTIA endorses the Commission's proposal as "an innovative and desirable way to meet future needs of new service users as well as the important current needs of incumbents." NTIA Comments at 8.

[44] See Motorola Comments at 17-19; Northern Telecom Comments at 9; see also NTIA Comments at 2; U.S. West Comments at 12-13.

[45] Motorola Comments at 19.

[46] Id.

will result in inefficient use of the spectrum and constrain PCS growth.[47]

Continued, indefinite occupancy of the 1850-1990 MHz band by existing users will restrict PCS to secondary operation on a limited amount of spectrum. Secondary status will translate into service interruptions and a degradation in service. The quality of service provided by PCS providers will be critical to customer acceptance. Customers will no longer tolerate a wireless service that does not offer wireline quality services or that is subject to blocked calls or interference.[48] Spectrum sharing will also increase the cost of PCS to the American people. PCS is targeted to address the market for reasonably-priced wireless services that are within the grasp of a broad range of consumers, including consumers outside the business community. The technology for PCS equipment, including handsets, will be more affordable if it can be manufactured for spectrum that is allocated exclusively to PCS and does not have to incorporate the capability to coordinate frequency use with other non-PCS users such as private point-to-point microwave services.

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[47] Northern Telecom Comments at 9.

[48] In a cellular telephone performance survey performed by PCNS-NY as part of its experimental operations, PCNS-NY found that within its test area 40% of the calls attempted with a cellular phone were not successfully completed. See PCNS-NY Progress Report, Experimental License No. 1734-EX-AL-90, dated June 28, 1991, at Exhibit I.

B. Technical Arguments Against Relocation Are Unfounded

Government and non-government users currently operate extensive microwave facilities on frequencies above 3 GHz that provide critical, reliable communications services. Despite the wealth of evidence to the contrary, opponents of the Commission's proposal have attempted to cast their opposition to the Commission's proposal and relocation to higher frequencies as a technical argument. The broad sweeping argument and allegations of technical infeasibility and reduced reliability are not substantiated by any credible evidence.[49] Motorola's analysis of microwave facilities operating in higher frequency bands confirms that networks engineered to operate on frequencies above 3 GHz can provide equivalent, or improved, reliability to systems operating in the 2 GHz band. In its analysis of the 4 and 6 GHz band, Motorola found that these frequency bands can support the path length requirements of existing 2 GHz facilities. Motorola's system outage calculations showed no significant difference when a 24 mile path was relocated from the 1.9 to 6.6 GHz band.[50]

Even more persuasive is the fact that existing users who disavow any possible use of frequencies other than the 1850-1990 MHz band and many federal agencies make extensive use of microwave frequencies above 3 GHz for critical communications

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[49] See Motorola Comments at 14; NTIA Comments at 3; PCNS-NY Comments at Exhibit F.

[50] See Motorola's Comments at 14 and Appendix B.

services. According to NTIA, the Federal Aviation Administration, that depends on the reliability of its communications network to protect human lives, operates 94% of its paths at 8 GHz; seventy percent of the Tennessee Valley Authority's microwave paths are at 8 GHz; and the Bonneville Power Administration operates 86% of its microwave paths at 8 GHz.[51] These and other federal government agencies operate fixed microwave links in the 8 GHz band for high-reliability uses to support power distribution networks and other critical uses.[52] As Thomas J. Sugrue recently advised Congressman Edward J. Markey, based on extensive information available in the technical literature on designing reliable microwave systems and the current extensive and growing use of the 6 GHz, and higher frequency bands, to provide reliable communications, with few exceptions, equal or greater reliability to the 2 GHz band can be achieved on the higher frequencies.[53] NTIA further indicated that it is committed to working with the FCC to provide

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[51] Testimony of Thomas J. Sugrue, Acting Assistant Secretary of Commerce for Communications and Information, before the U.S. Senate Subcommittee on Communications, Committee on Commerce, Science and Transportation, June 3, 1992; Letter to Congressman Edward J. Markey, from Thomas J. Sugrue, Acting Assistant Secretary of Commerce for Communications and Information, June 12, 1992.

[52] NTIA Comments at 3.

[53] Letter to Congressman Edward J. Markey, from Thomas J. Sugrue, Acting Assistant Secretary of Commerce for Communications and Information, June 12, 1992, at 6-7.

satisfactory alternatives for those few exceptions where higher frequencies are found unsuitable.[54]

Adequate spectrum is available in the 6 GHz band to accommodate current occupants of the 2 GHz band. Comsearch's analysis of the available capacity in the 6 GHz band in Houston and Los Angeles, two of the most congested microwave areas, confirms that sufficient capacity exists in this band alone to relocate almost all of existing 2 GHz users. Opponents of the Commission's proposal cautiously state that, if the common carrier bands are excluded, there would be insufficient capacity in the higher frequencies to relocate existing users.[55] The Commission's proposal does not exclude common carrier bands above 3 GHz. Specifically, the Commission has proposed to:

> make available all fixed microwave bands above 3 GHz, both the common carrier and the private bands, for reaccommodation of fixed microwave operations currently licensed in the 1.85-2.20 GHz spectrum.[56]

PCNS-NY supports modification to the Commission's technical rules, to the extent necessary, to facilitate the use of these bands by all microwave facilities that are relocated as a result of the Commission's proposal.[58] The Commission's proposal also contemplates use of all bands above 3 GHz allocated to microwave

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[54] Id. at 3; NTIA Comments at 20-21.

[55] See, e.g., UTC Comments at 49; LPPC Comments at 38.

[56] See Notice at ¶ 20 (emphasis added).

[58] See UTC Petition for Rulemaking (filed March 31, 1992); PCNS-NY Comments at 21.

services not merely the 6 GHz band. These bands provide ample capacity for the relocation of all existing users in the 2 GHz band and will promote the large and effective use of the frequencies.

IV. EACH STEP OF THE THREE STEP TRANSITION PLAN IS ESSENTIAL TO MARKET-BASED NEGOTIATIONS OF RELOCATION AGREEMENTS

As indicated in its initial comments, each of the elements of the Commission's proposed three step transition plan have been, and will remain, critical to relocation negotiations between existing users of the 1850-1990 MHz band and future PCS licensees. The Commission's decision to grant new licenses for facilities in the 1850-1990 MHz band on a secondary basis combined with the transition of the existing facilities of existing users to secondary status after a fixed time have provided the incentive for existing users to respond to PCNS-NY's initial inquiries concerning relocation. Without these components of the transition plan, PCNS-NY believes its attempts at negotiation would have been futile. In order for market-based negotiations to work, each component of the Commission's proposed transition plan must be retained.

Several commentors have suggested that the Commission adopt protections that would permit existing occupants to continue to operate in the 2 GHz band indefinitely on a co-primary basis and support voluntary negotiations. Voluntary negotiations without a mandatory transition period and a limit on

the filing of new applications for the 1850-1990 MHz band -- the first two components of the Commission's transition plan -- will not provide adequate spectrum for PCS. As recognized by NTIA, the Commission's transition plan as proposed provides a carrot-and-stick approach that is necessary to provide the spectrum needed for new services to fully develop.[59] NTIA has analyzed the use of market based incentives in spectrum management and strongly supports the adoption of a fixed period at the end of which existing users would transition to secondary status; NTIA does not support co-primary use of the band indefinitely.[60]

As indicated by the majority of comments filed by existing users of the 2 GHz band, if existing users are granted co-primary use of the band indefinitely, many users will elect not to negotiate with new licensees to relocate their facilities to higher frequencies. With Commission protection, these users will firmly stand by their use of the band and could even expand their network facilities in the band. PCNS-NY's own experience in attempting to negotiate with existing users demonstrates the need for the first two components of the Commission's transition plan. Soon after adoption of the Notice by the Commission, PCNS-NY approached one existing user of the 1850-1990 MHz band. This existing user submitted an application for a new microwave facility just prior to the Commission's adoption of the Notice on January 16, 1992. The existing user refused to enter into

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[59] NTIA Comments at 12, 14.

[60] NTIA Comments at 13.

negotiations with PCNS-NY citing its right to primary use of the band for its existing and newly licensed facilities. In its comments, McCaw indicated that it is actively seeking new licenses for facilities in the 2 GHz band despite the Commission's decision to grant new licenses on a secondary basis only.[61]

Without a transition plan, existing users who hold the key to use of frequencies allocated to a new service could exercise "monopoly-like" control over access to the spectrum for these new services. Consistent with PCNS-NY's experience in the market place, NTIA predicts that, if given an indefinite ability to use the band, some users will elect to hold out for all the economic value of the new licenses while others will refuse to negotiate at all thus limiting or prohibiting the development of the new service.[62]

Several commentors have urged the Commission not only to permit indefinite co-primary operation of current, licensed facilities in the 1850-1990 MHz band but further have suggested that the Commission reinstate its approval of licenses for new facilities and all modifications in the 2 GHz band on a primary basis.[63] If adopted, the mere timing of these proceedings and the authorization of new services would permit existing users to monopolize the frequencies in the 1850-1990 MHz band. If the ban

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[61] McCaw Comments at n. 22.

[62] NTIA Comments at 14.

[63] See, e.g., UTC Comments at 70.

on primary licensing of new facilities and certain modifications is eliminated and existing occupants of the band are granted co-primary status in their use of the band, existing users of the 2 GHz band will be able to immediately proceed to obtain new licenses and modifications for additional spectrum in this band and obtain priority over future licensees.[64]

By contrast, prospective PCS licensees are not in a position to secure primary use of frequencies in the 1850-1990 MHz band. The Commission has not yet issued a notice of proposed rulemaking for PCS. This proceeding is merely the precursor to a separate proceeding for allocation of spectrum and licensing of new services, such as PCS.

The undeterred efforts of existing users of the 1850-1990 MHz band will be fostered by any window for filing new and modified applications for additional microwave facilities to the detriment of new technologies and services such as PCS. If new services, such as PCS, are seen as a competitive threat to the existing services operating in the 2 GHz band, licensees of new services can assume that there will be little, if any, spectrum available in the 2 GHz band for their use on a primary basis.

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[64] UTC has requested that the Commission define co-primary to grant the licensee first-in-time, first-in-right priority use of the band over subsequent licensees. UTC Comments at 71.

V. THE FLEXIBILITY PROVIDED BY MARKET-BASED NEGOTIATIONS SHOULD BE PRESERVED AND WILL BEST MEET THE NEEDS OF EXISTING USERS

Flexibility to meet the unique spectrum needs of each user is best preserved through reliance on market forces not FCC rules that prescribe the structure and contents of relocation negotiations and agreements.[65] The network requirements of each existing user is unique. The best relocation strategies vary with the users' individualized communications needs. Even UTC recognizes that it is difficult to generalize on the network requirements of existing users.[66] This difficulty points to the precise need for individualized negotiations.

Several commentors have urged the Commission to adopt specific rules and regulations that would circumscribe negotiations and transform the process from market-based negotiations into Commission proceedings.[67] The success of PCNS-NY's negotiations with existing users demonstrates that this is unnecessary. Even prior to any indication that PCNS-NY will receive a license to provide PCS, PCNS-NY has expended the resources and efforts necessary to alleviate the concerns of existing users and to demonstrate its commitment to meeting their needs for reliable, effective communications services. The expertise of PCNS-NY's parent company, LOCATE, in the design of

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[65] See PCNS-NY Comments at 19-20; U.S. West Comments at 12.

[66] UTC Comments at 46.

[67] See, e.g., APPA Comments at 20; EEI Comments at 23.

microwave networks has permitted PCNS-NY to design replacement facilities that resolve all of the technical issues associated with relocation.

Flexibility in negotiations will permit existing users to define the important elements of relocation. For example, space diversity can be incorporated into the design of 6 GHz to address fading concerns that may be an issue for a particular user.[68] In proposals PCNS-NY has submitted to existing users, it has addressed a range of issues including many of those cited as problematic by existing users in their comments such as the need for new towers and zoning issues.[69] In addition, market-based negotiations permit existing users to select the media under this approach. Existing users will not be forced to move to fiber, satellite or common carrier networks unless they elect this media.[70] From the comments filed by current occupants of the 2 GHz band, it is clear that the issues that will need to be addressed in each relocation agreement will be identified by existing users at the negotiating table. The commitment and enthusiasm of new PCS licensees and their need for dedicated spectrum to successfully introduce PCS, provides these new licensees with a direct and adequate incentive to pay the reasonable costs of relocation.

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[68] See PCNS-NY Comments at Exhibit F; McCaw Comments at 34.

[69] See APPA Comments at 12; EEI Comments at 14.

[70] See APPA Comments at 3-6; McCaw Comments at 14.

VI. ALLOCATION OF SPECTRUM TO AN EMERGING TECHNOLOGIES BAND THAT CAN BE USED AS A SOURCE OF SPECTRUM FOR PCS IS IN THE PUBLIC INTEREST

Several opponents of the proposals in the Notice contend that the Commission has not properly evaluated the public interest in creating its framework to reallocate spectrum to an emerging technologies band and to relocate existing users to higher frequencies on terms and conditions favorable to those users.[71] Other commentors claim that the Commission is required, and has failed, to perform a cost/benefit analysis of the reallocation proposal.[72] The Commission's analysis in its study of the spectrum[73] and the proposals in the Notice specifically address the alleged failures cited by the commentors.

The Notice aptly describes the public interest benefits of allocating spectrum to an emerging technologies band to foster, and provide an incentive for, the development of new technologies and services.[74] The creation of an emerging technologies band

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[71] UTC Comments at 5.

[72] LPPC at 12.

[73] See FCC Study n. 31, supra.

[74] See Notice at ¶¶ 4-8. UTC claims that it is inconsistent for the Commission to establish the band for the development and growth of new services and to facilitate the development of equipment. As an experimental licensee, PCNS-NY has found that equipment manufacturers are reluctant to manufacture significant quantities of equipment until the spectrum allocation is known even when the technologies are readily available. The development of adequate amounts of equipment and new services

(continued...)

is directly related to and fulfills the Commission's mandate to encourage the provision of new technologies and services to the public and to encourage the larger and more effective use of radio in the public interest.[75] The proposal does not diminish the importance or value of the communications needs of existing users of the 1850-1990 MHz band. The proposal, through its three step transition plan, permits a cost-free relocation to higher frequencies that have sufficient capacity to adequately accommodate the needs of these users for reliable communications systems.[76]

LPPC contends that the Commission must perform a comparative cost-benefit analyses between new services, such as PCS, and current use of the 2 GHz band. This position ignores the innovative and creative nature of the Commission's proposal that permits a "win-win" situation for existing users, new service providers and the American people. Under the Commission's proposal, there is no need for comparative cost benefit analyses because there is no cost component in the equation for existing users.[77] Relocation to higher

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[74] (...continued)
based on those technologies will both be fostered by the creation of an emerging technologies band. See Section IIA, supra.

[75] 47 U.S.C. §§ 157 and 303(g) (1988).

[76] See generally, NTIA Comments; Motorola Comments; Comsearch Comments at Appendix B (demonstrating available capacity in the 6 GHz band).

[77] Commentors cite varying figures as the potential costs for relocation. See, e.g., Atlantic City Electric Company Comments (continued...)

frequencies imposes no financial cost on the existing user (only to the new licensee). In addition, the availability of reliable systems at higher frequencies eliminates any cost for reduced reliability.

VII. THE EXCEPTION FOR STATE AND LOCAL GOVERNMENTS SHOULD BE NARROWLY CONSTRUED

In the Notice, the Commission proposes to exempt state and local governments from the mandatory transition period.[78] Applications submitted by state and local governments after the adoption of the Notice will be granted only on a secondary basis subject to the limited exemption. Several commentors have encouraged the Commission to expansively construe this exception to extend to all electric utilities that use the 2 GHz band.[79] PCNS-NY does not believe that there is a need for the exception. If an exception is adopted, the Commission should narrowly define that exception to include only those state and local government agencies involved in the direct provision of police, fire and other public safety services.

PCNS-NY, in an effort to maximize the spectrum available for PCS, has initiated relocation discussions with state and local government public safety organizations. Public safety

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[77] (...continued)
at 5; Western Resources, Inc. Comments at 2-3; Virginia, Maryland and Delaware Associations of Electric Cooperatives' Comments at 2. These costs will be paid by PCS licensees.

[78] Notice at ¶ 25.

[79] See, e.g., LPPC Comments at 31-32.

users have been particularly receptive to PCNS-NY's proposal because of budget constraints and the fiscal difficulties of many state and local governments. The budgets for communications networks for many state and local government users had removed from reach the goal of maintaining state-of-the-art telecommunications networks. These users have recognized the true value that the Commission's proposal offers to existing users -- new microwave facilities at no cost to the taxpayer. The comments of the City of San Diego, who opposed the Commission's proposal prior to discussions with PCNS-NY are particularly insightful:

> The City is an active member of the Associated Public Safety Communications Officers (APCO) and have recently supported their opposition to proposals to reallocate this spectrum to other services for emerging technologies. However, the City can accept reallocation to other frequencies providing there is offsetting compensation.[80]

The value of the Commission's proposal to state and local government public safety organizations demonstrates that the exception is unnecessary.

Several commentors have sought to expand the exception to apply to all electric utilities operating microwave facilities in the 1850-1990 MHz band.[81] This unwarranted expansion of the exception would in essence result in co-primary use of the spectrum by all existing users of the 1850-1990 MHz band. The exception is unnecessary because there is adequate, reliable

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[80] City of San Diego Comments at 1.

[81] See, e.g., LPPC Comments at 31-32.

spectrum available above 3 GHz for use by these facilities. The viability of use of this spectrum to facilitate power distribution is unequivocally established by the use of these higher frequency bands for this very use today.[82]

VIII. THE NOTICE APPROPRIATELY SOLICITS PUBLIC COMMENT ON THE SELECTION OF FREQUENCIES FOR THE EMERGING TECHNOLOGIES BAND

The primary opponents of the Commission's proposal have raised procedural challenges to the Commission's Notice of Proposed Rulemaking and attempted to transform it from a proposal to a "fait compli." As demonstrated by the comments filed by these very parties, however, the Commission's Notice has provided commentors with adequate notice and an opportunity to comment on the Commission's proposals to reallocate portions of the spectrum to an emerging technologies band and the issues arising from this proposed reallocation. The Commission, in the Notice, specifically solicits comments on the spectrum study that forms the basis of the Notice and the possible use of government spectrum.[83] Parties have also freely proposed alternative spectrum for consideration by the Commission.

The Commission initially announced its intention to allocate spectrum from the 1.8 to 2.2 GHz band for PCS in its

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[82] NTIA Comments at 3; Testimony of Thomas J. Sugrue, Acting Assistant Secretary of Commerce for Communications and Information before the U.S. Senate Subcommittee on Communications, Committee on Commerce, Science and Transportation, June 3, 1992.

[83] Notice at n.10, ¶ 21.

policy statement on PCS.[84] In response to the policy statement, a number of utilities submitted letters to the FCC requesting that frequencies in the 1850-1990 MHz band not be used for PCS or be allocated for PCS only on the condition that: (1) adequate replacement spectrum is made available to fixed microwave users in close proximity to the 1850-2200 MHz band; (2) adequate time is allowed to procure and construct replacement facilities; and (3) the total cost for any relocation is paid for by the PCS provider.[85] As reflected by these letters many utilities had commented on the use of these frequencies for one emerging technology, PCS, even prior to the Commission's issuance of the Notice.

The Communications Act and the Administrative Procedure Act do not require the Commission to issue a notice of inquiry as a prerequisite to the issuance of a notice of proposed rulemaking to allocate spectrum. With the PCS proceeding as a guide, a notice of inquiry would have delayed the allocation of spectrum by creating a preliminary procedural step and comment cycle that is unnecessary. The Commission's proposal to reallocate spectrum to an emerging technologies band is based on a reasonable and rational approach and the application of five broad based factors

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[84] Policy Statement at ¶ 4.

[85] See e.g., Comments of the Public Service Company of Oklahoma (Gen. Docket No. 90-314) (filed Dec. 19, 1991); Southern California Gas Company (Gen. Docket 90-314) (filed Dec. 18, 1991).

on which it has specifically requested comment.[86] Further the Notice and the FCC Study incorporate a reasoned analysis of why alternative spectrum for emerging technologies, such as the broadcast auxiliary band and spectrum allocated to MDS, were not proposed for reallocation.[87] Without a reasonable basis for determining that alternative spectrum will better serve emerging technologies, which has not been established by the commentors, inclusion or substitution of this spectrum for the spectrum proposed by the Commission in the Notice is unnecessary especially when there is spectrum available for private microwave use at higher frequencies.

IX. CONCLUSION

The need for a prompt allocation of exclusive spectrum for PCS that is compatible with those allocations already made by other countries and internationally is clear. The future of PCS hinges on the choices and decisions made by the Commission in this proceeding. Existing users of the 1850-1990 MHz band who have negotiated with PCNS-NY have recognized that the Commission's proposal provides them with an opportunity to make significant improvements in their communications networks at no

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[86] See Notice at ¶ 10. Several parties have chosen to comment on the evaluative factors identified by the Commission. See, e.g., UTC Comments at 12-15.

[87] Notice at ¶¶ 14-18; FCC Study at 9-11.

cost to their ratepayers or taxpayers and will not endanger the reliability of their communications networks.

Effective use of the spectrum by existing users and PCS through market-place negotiations will only be ensured by adoption of each step of the Commission's three step transition plan. New services, such as PCS, cannot be implemented efficiently if they must fight with existing services for small slivers of spectrum on a co-primary basis. Allocating the band on a co-primary basis will simply defer the battle for control of the band because ultimately either the new or the existing services will have to be relocated to resolve interference problems. Accordingly, the decision should be made now to conserve Commission and industry resources and to expedite the efficient and economical introduction of new services to the public through relocation rather than sharing. The letters submitted by the Suffolk County Police Department, Long Island Lighting Company, San Diego Gas & Electric and the City of San Diego provide the best evidence of the viability of the Commission's proposal and firmly establish that existing users,

new services and the American people will all "win" if the Commission's transition plan is adopted as proposed.

Respectfully submitted,

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July 8, 1992

CERTIFICATE OF SERVICE

I, Eileen G. Seaman, a secretary with the law firm of Swidler & Berlin, Chartered, hereby certify that on this 8th day of July, 1992, a copy of the attached comments was hand-delivered to the following:

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