

advantage (since these arrangements will be available to all on a non-discriminatory basis).

A review of the purposes of private and common carriage in comparison to the services offered by cellular carriers and the services expected from PCS licensees supports a "non-dominant" common carriage classification. Three of the four cornerstone values of PCS cited in the NPRM include "universality", "diversity of services", and "competitive delivery". NPRM at para. 6. In no manner can those values fit the cramped mold of a private carriage classification without destroying the concept completely.

In the end, whatever the Commission's choice, it must ensure that parity in regulatory treatment exists for today's cellular providers and tomorrow's intended PCS competitors. If private carriage status ends up providing a significant advantage to the new PCS entrants (because they would avoid anti-discrimination and interconnection requirements, as well as potential state regulation), the equilibrium necessary to let the marketplace define success is destroyed. Regulatory interdiction, not competition, could control commercial success. The Commission must assure that neither cellular, nor PCS, nor other wireless licensees obtains some competitive advantage for service substitutes because of a mismatched regulatory classification.

Part 22 cellular and PCS Tier 1 and 2 licensees should be at parity for regulatory classification purposes. Cellular licensees must also be classified as non-dominant common carriage and be subject to no greater federal, state, and/or local regulation than their PCS counterparts/competitors. Thus, should the FCC conclude that PCS licensees are private carriage (whether or not wireline

interconnection may be sold at a profit), then the Commission must also conclude that cellular licensees also provide private carriage.

B. Preemption of Inconsistent State Regulation

Assuming PCS (and SMR and Part 22) providers are held to be common carriers, the Commission should be quick to preempt any state or local regulation which, for example, restricts provision of FCC authorized services, imposes service or area limitations inconsistent with those promulgated by the Commission, or initiates traditional rate regulation upon these competitive mobile services. The foregoing actions, and others, will simply increase the cost of delivery services, delay their introduction, or otherwise severely impinge upon the four values underlying the service, thus thwarting FCC policy.

C. Part 22 (Current Cellular) Rule Reform

1. General Cellular Provisions. Since the NPRM seeks to make certain PCS services competitive substitutes for current cellular services, the Commission must maintain regulatory parity for both and, to the extent possible, impose parallel responsibilities and rights. When necessary, the Commission should amend its Part 22 regulations now governing cellular carriers, to match its proposals for PCS providers. Some more obvious modifications include:

a. Section 22.930 (Section 22.301 (d) of the cellular rewrite codification) should be clarified to allow current cellular providers to provide PCS type services

within their spectrum allocation without any prior notification to the Commission as is now necessary.¹¹

There should be no mandated PCS interoperability requirements and cellular licensees should not be required to provide AMPS (analog) service beyond December 31, 1999. Cellular licensees and PCS Tier 1 and 2 providers have sufficient independent business incentives to operate their systems on a basis compatible with new and current technologies employed by other licensees. At some point, just as the introduction of cellular services affected the usefulness of IMTS, digital technology will diminish the usefulness of AMPS. It would be against the public interest to maintain spectrally inefficient uses such as AMPS in the face of these emerging technologies unless a market need were present, something best decided by the customers themselves.¹²

c. In like manner, the Commission should declare that no equal access requirements or "long distance" restrictions should apply to PCS (and Part 22) two-way service licensees. The record in RM-8012 demonstrates, among other things, that imposing landline-based restrictions on wireless services serves only to impede the delivery of new services and affects the prices consumers pay. The market (including its scope) must be allowed to develop based on customer needs over time and not on recreating restrictions drawn from landline services.

¹¹ The provision would read as follows: "Cellular system licensees may employ alternative cellular technologies and may provide auxiliary common carrier services including personal communications services (as defined in S. 99.3 of Part 99 this chapter, except for the frequency ranges specified therein) on their assigned cellular spectrum (other than that designated for cellular control channels), provided that interference to other cellular systems is not caused."

¹²With a current useful life of a phone under five (5) years, an FCC decision on this issue in 1993 will allow customers and carriers to make an informed decision. Roaming will be effected for AMPS users in 2000 and beyond if one or more systems totally converts from AMPS, although it is easy to conceive that major markets could retain some AMPS spectrum for some time after the requirement passed, again if customer demand so dictated.

2. Structural Separation Rules. The Commission also asked whether the current set of separate subsidiary requirements placed on cellular carriers should be maintained. There is no value in maintaining these rigid rules. The choice of what type of structural entity a company may choose as the operations vehicle for its various enterprises should be a business, not regulatory, decision. The competitive anxieties which drove the Commission to fashion its "separate subsidiary" edicts of past decades are more than adequately addressed by the operation of its non-structural safeguards. To promote efficient resource utilization and fair competition between PCS and cellular service providers, the Commission needs to eliminate its cellular structural separation requirements.¹³

a. Regulatory Parity. The Commission envisions that PCS will be "highly competitive" with cellular service. NPRM at para. 94. To achieve true competition between PCS and cellular, as noted before, regulatory parity must be maintained. The rules cannot be skewed to favor some competitors over others.

Under current regulations, to be eligible to provide cellular services, BOCs must establish a fully separated corporate entity and must comply with strict rules governing how they do business. 47 C.F.R. 22.901.¹⁴ PCS providers will not be

¹³Ameritech addressed the need to eliminate the structural separation requirement from the cellular rules in the November 5, 1992 reply comments of Ameritech Mobile Communications, Inc. in the Part 22 re-write proceeding. Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services, CC Docket No. 92-115.

¹⁴For example, each BOC cellular subsidiary must, among other things: (1) maintain its own books of account, (b) have separate officers, (c) utilize separate operating, marketing, installation, and maintenance personnel, and (d) utilize separate computer and transmission facilities in the provision of cellular services. 47 C.F.R. 22.901 (C) (2). Other requirements include prohibition against each BOC parent: (a) selling or promoting cellular service on behalf of the separate entities, (b) making transmission facilities for landline services available to separate entities except on a compensatory, arms-lengths basis, or (c) providing any customer proprietary information to the separate entities unless it is publicly available. 47 C.F.R. 22.901 (D)(1)-(2). finally, each

subject to any of these structural separation requirements. The correct rule for the Commission is to promote competition, not particular groups of competitors. To do that here, the Commission must either lift the structural separation requirement from the BOCs or impose full structural separation requirements on PCS providers. The obvious choice -- given the costs and inefficiencies of structural separation -- is to eliminate that requirement.

b. Structural Separation Means Economic Inefficiencies. Structural separation imposes economic burdens on BOCs providing cellular service. It entails construction and maintenance of duplicative facilities and a separate corporate entity staffed with completely separate employees. As the Commission has already found in its Computer Inquiry III decision, these burdens prevent carriers from taking full advantage of economies of scale and scope. Indirect costs of structural separation, including loss of network efficiencies, stifle development and delivery of new services, all of which ultimately negatively impact the customer.

c. Structural Separation Is No Longer Necessary. The Commission originally imposed structural separation on the BOCs in order to protect against cross-subsidization and discrimination. The Commission was concerned that the BOCs would subsidize their non-regulated (competitive) businesses by shifting costs to their regulated (non-competitive) businesses. This concern is no longer

BOC and separate subsidiary must comply with the following: (a) any research or development for the separate or development for the separate entity must be done on a compensatory basis; (b) any transaction between the separate entity and the BOC which involves the transfer of money, personnel, resources, other assets or anything of value must be reduced to writing and must be kept available for inspection; and (c) any arrangement to interconnect with landline network exchange and transmission facilities must be filed with the Commission. 47 C.F.R. 22.901(C)(2),(3).

relevant. First, as discussed below, since its invention of "separate subsidiaries" for mobile and enhanced services, the Commission has reconsidered the effectiveness of such regulation and found it wanting. The Commission has firmly decreed that structural safeguards better satisfy the public interest. Second, price cap regulation at the federal level has been substituted for rate of return regulation. As recognized in the proceedings which gave rise to that change, price cap regulation significantly inhibits the ability and motivation to cross subsidize.

Third, the local exchange market is becoming increasingly competitive, causing the BOCs to experience significant market-share erosion amongst their largest volume customers. If the BOCs attempt to subsidize their non-regulated businesses by allocating costs to their local exchange subsidiaries, the local exchange market it will become even more attractive to alternative local exchange carriers -- and the BOCs will become even less effective competitors. The concerns which led to the imposition of structural separation are no longer relevant.

d. Non-Structural Safeguards Provide Adequate Protection With Lower Costs. In the event the Commission determines that some safeguards are necessary, a sophisticated mix of nonstructural safeguards -- accounting, cost allocation, nondiscriminatory interconnection, and network information disclosure -- provide substantially equivalent protection to structural separation at far less cost. In the Joint Cost Proceeding and subsequent allocation manual proceedings, the Commission adopted and implemented a detailed plan for

allocating costs between a carrier's regulated and unregulated operations.¹⁵ The Commission examined non structural safeguards against cross-subsidization and discrimination -- including cost accounting safeguards, open network architecture, nondiscrimination reporting requirements, and network disclosure rules.

Since implementation of the Joint Cost rules, the trend has been to remove the structural separation requirement and rely increasingly on non structural safeguards. For example, the Commission lifted the structural separation requirements on the sale of cellular CPE, recognizing structural separation as no longer necessary in this case to prevent cross-subsidization and prevent discrimination.

More recently, the Commission engaged in a cost-benefit analysis of structural separation requirements for the provision of enhanced services by the BOCs.¹⁶ The Commission found that the "public interest is better serviced by eliminating the structural separation requirements."¹⁷ The Commission reasoned

¹⁵See Procedures for Implementing the De-tariffing of Customer Premises Equipment and Enhanced Services, Fifth Report and Order, FCC 84-547, 49 Fed. Reg. 4378 (Nov. 26, 1984); Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, Notice of Proposed Rulemaking, 104 F.C.C.2d 59 (1986) ("Joint Cost NPRM"); Report and Order, 2 FCC Rcd 1298 (1987) ("Joint Cost Allocation Order") (collectively "Joint Cost Proceeding").

¹⁶Amendment of Sections 64.702 of the Commission's Rules and Regulations (Computer III), 104 F.C.C.2d 958 (1986) ("Computer III - Phase I Order"), recon., 2 FCC Rcd 3035 (1987) ("Computer III - Phase I Reconsideration"), Further recon., 3 FCC Rcd 1135 (1988) ("Phase I Further Reconsideration Order"), second further recon., 4 FCC Rcd 5927 (1989) ("Second Phase I Further Reconsideration Order"), Phase I Order and Phase I Reconsideration Order vacated sub. nom., California v. FCC, 905 F.2d 1217 (9th Cir. 1990), on remand, 6 FCC Rcd 7571 (1991) ("Computer III - Remanded Order"); Phase II, 2 FCC Rcd 3072 (1987) ("Computer III - Phase II Order"), recon., 3 FCC Rcd 1150 (1988) ("Phase II Reconsideration Order"), further recon., 4 FCC Rcd 5927 (1989) ("Phase II Further Reconsideration Order"), Phase II Order vacated sub nom., California v. FCC, 905 F.2d 1217 (9th Cir. 1990), pet. for rev. pending, BellSouth Corp. v. FCC (9th Cir. No. 88-7290, filed April 20, 1988)

¹⁷Computer III - Order on Remand, 6 FCC Rcd at para. 98.

that the "strengthened non structural safeguards will permit the BOCs more fully to realize their potential in providing [] services to American consumers."¹⁸

Further, it found that

in light of our determination that non structural safeguards will effectively protect against BOC cross-subsidization and discrimination, that a structural separation requirement is an unnecessary government intrusion into business judgments by the BOCs regarding the most effective corporate organization for the provision of [] services. A structural separation requirement for BOC provision of [] services would instead erect unnecessary barriers impeding the responsiveness of industry to marketplace incentives that foster increasing use and advancement of the nation's telecommunications assets.

Given the Commission's determination -- based on its experience with divestiture and on the continued development of marketplace checks on the BOCs¹⁹ -- that non-structural safeguards would perform as well as structural separation, but at far less cost to the public, structural separation requirements are unnecessary.

V. Licensing Mechanisms

The Commission's principal contested licensing mechanism prior to 1982 was comparative hearings. After Congress amended the Communications Act to allow license grants by random selection,²⁰ the Commission began to use lotteries to achieve efficiencies that are absent in comparative hearings.

¹⁸Computer III - Order on Remand, 6 FCC Rcd at para. 108.

¹⁹Computer III - Order on Remand, 6 FCC Rcd at para. 108.

2047 U.S.C. ... 309(i).

Lotteries, however, have their own inefficiencies -- in particular, ever-increasing speculation. Commission rules attempting to limit speculative applications have little impact as each successive lottery has attracted more speculative applications. The Commission received hundreds of applications for each cellular RSA nonwireline market.²¹ That number reached the thousands for the land mobile service (220 MHz band) lottery where the Commission received in excess of 59,000 applications in one day. NPRM, at para. 85, Appendix D.

PCS licenses should be valuable and thus, are likely to attract even more applications -- and more speculators. NPRM at para. 84.²² Since the public interest mandates rapid implementation of PCS, the Commission must reevaluate the proper licensing mechanism to maximize efficient implementation of service.

There are three types of efficiencies that the Commission must balance in choosing a PCS licensing mechanism:

1. Processing Efficiency: The mechanism must enable the Commission to process easily applications and to choose quickly a licensee.

Processing efficiency includes: (1) selecting a licensee with the minimum use of Commission resources; and (2) discouraging post-lottery litigation.²³

²¹See, e.g., Public Notice No.. 4350 (rel. Sept. 22, 1989) (891 applications filed for nonwireline license in Maryland RSA #2.)

²²The Commission has always understood that speculation will be a problem as long as spectrum is provided to licensees at little or no charge because spectrum has a substantial market value. See, e.g., Amendment of the Commission's Rules, Order on Reconsideration, 1010 F.C.C. 2d 577, 579 (1985) ("[A] permit is awarded without payment for the valuable privilege conferred. The winner of the permit reaps a windfall. ").

²³In particular, the licensing scheme must not give any party a unique incentive to litigate the result of the selection process.

2. **Allocative Efficiency:** The mechanism must choose initially the applicant which values the license most. If the mechanism fails, allocative efficiency requires that the Commission enable the entity which values it most to acquire the license.²⁴

3. **Implementation Efficiency:** The mechanism must choose a licensee who will bring service to the public in a timely and efficient manner. If the process fails, implementation efficiency requires that the Commission not create post-selection barriers to timely implementation of service.

The NPRM requests comment on three licensing mechanisms: Auctions, comparative hearings and lotteries. While auctions would provide the greatest efficiencies, it is improbable that Congress will act to permit the Commission to use such a method. Under such circumstances, the Commission should use lotteries for PCS license distribution.

A. Auctions Maximize Efficiencies

1. **Processing Efficiency:** Auctions are easy to administer and thus, would not use substantial Commission resources during the selection process. The Commission need not review any legal, financial or engineering qualifications of the applicants prior to the auction. The number of participants will be limited.

²⁴The underlying assumption is that speculation can be minimized, but not eradicated. In the event of speculation, the public interest still requires timely implementation of PCS. Transfer restrictions will deny the public these services.

Therefore, the Commission can complete the initial selection process with minimum resource waste.

Auctions also have a low risk of post-selection litigation. The criteria for choosing a winner is objective -- price. Once a bidder is selected, that should be the end of the matter. There will be no debate over subjective criteria such as whether one bidder's proposals are more consistent with the public interest than another bidder's proposals. As long as the winning bidder is entitled to hold a license under the Commission's rules and the Communications Act, there should not be any post-selection litigation.

Finally, auctions discourage the most egregious forms of speculation. When the Commission uses a mechanism with relatively low participation costs (e.g., cellular lotteries), any entity with a few thousand dollars can participate in numerous lotteries. Indeed, there are application mills which, for a modest fee, which will file applications in every PCS lottery.

Because the auction would be driven strictly by price, the cost of speculation will be high enough to weed out many of the application mill speculators. Any successful speculator will attempt to profit by selling the license. If another entity was willing to pay above the speculator's price, however, it would have placed a bid during the auction. The risk to a speculator would simply be too great if it were to win an auction.

2. Allocative Efficiency: Auctions maximize allocative efficiency. That is the very essence of an auction: The license will always go to the person who values it most.

3. Implementation Efficiency: Once the license is in the hands of the person who values it most, it will have an incentive to maximize the value of that license by implementing the system as quickly as possible. As discussed above, the likelihood of a speculator entering the auction is low. In the event a speculator does enter and win, however, it must quickly maximize the value of its successful speculation by selling the license to an entity ready to implement a system.

Auctions maximize the three types of efficiencies outlined above. At present, however, Congress has not given the Commission the authority to assign licenses by auction. The Commission is faced with a choice: (1) Design an auction licensing scheme on the bet that Congress will enact legislation making auctions permissible; (2) Design the best licensing scheme possible using its existing tools. The risk of delay is too great if the Commission chooses auctions. Therefore, the Commission must evaluate its two other licensing options -- comparative hearings and lotteries.

B. Comparative Hearings Are Inefficient

1. Processing Efficiency: Comparative hearings decrease the number of applicants (compared to auctions or lotteries) because participants must incur substantial hearing costs -- win or lose. This does not, however, result in a corresponding increase in processing efficiency. As the Commission noted in the NPRM, comparative hearings waste valuable Commission resources due to the

time and involvement required to choose a license. NPRM, at para. 82. In addition, while comparative hearings involve huge costs for applicants, little of that money goes to the public coffers in the form of filing fees.

Comparative hearings also have a substantial risk of post-selection litigation. As the Commission found in the initial cellular hearings, it is very difficult to distinguish between the service plans of several highly qualified applicants, creating incentives for appeal. The cost of an appeal is insignificant in comparison to the cost of participating in the hearing.

2. Allocative Efficiency: Comparative hearings are effective in getting licenses into the hands of people who value them greatly. Numerous parties, however, may value a PCS license enough to incur the costs of a comparative hearing, but a comparative hearing cannot identify the applicant who desires the license most. Thus, comparative hearings do not maximize allocative efficiency.

3. Implementation Efficiency: During the hearing process, the Commission will have an opportunity to review the financial and technical qualifications of the parties, thereby decreasing speculation. This review process both promotes and denigrates implementation efficiency. A comparative hearing will ensure that the ultimate licensee can implement a PCS system. Implementation efficiency is undermined, however, by the delay in choosing a licensee.

Comparative hearings do not maximize any of the three types of efficiencies. They delay the licensing process and, as a result, they delay implementation of service to the public. The Commission should not delay the

implementation of PCS. Therefore, the Commission's best licensing option is lotteries.

C. Lotteries Are the Best Option In The Absence of Auctions

1. Processing Efficiency: Lotteries maximize processing efficiencies to the extent the Commission does not conduct a pre-lottery review of all applicants. While previous lotteries have engendered significant post-lottery litigation, the Commission can limit a recurrence of this by taking two steps: First, the Commission should require all applicants to submit a refundable deposit, a firm financial commitment and a comprehensive engineering proposal. Thus, the Commission should not use post card applications because there will be an insufficient entry cost for marginal speculators.

Second, the Commission should pick one lottery winner and not rank subsequent applicants. Ranking the results of the lottery gives the second and third place entries too much incentive to litigate. In addition, there is little incremental value in ranking applicants since conducting another lottery does not take much time. Litigating over whether another lottery is necessary will waste substantial Commission resources.

2. Allocative Efficiency: Lotteries do little to promote allocative efficiency unless the Commission sets unreasonably high application fees. As a result, it is unlikely that the Commission will be able to avoid lottery speculation. All it can do is make speculation more difficult. Therefore, the key to maximizing allocative

efficiency when using a lottery is to limit speculation to the extent possible and then promote the creation of an after-market in licenses.²⁵

3. **Implementation Efficiency:** Similar to allocative efficiency, lotteries do not ensure that a lottery winner will be the entity that will bring service to the public most quickly. Again, when using a lottery the Commission must not impede the after-market which will get the license into the hands of the party that has the greatest incentive to bring service to the public.

Lotteries have not been without problems in the past. Speculation has been rampant. Post-lottery litigation has been commonplace. Therefore, the Commission must revisit its prior lottery schemes to maximize processing, allocative and implementation efficiencies.

D. Lottery Rules To Maximize Efficiency

If the Commission uses lotteries for PCS licensing, it must develop participation criteria that minimize speculation and maximize efficiency. Specifically, the Commission should: (1) develop a market-based refundable deposit, (2) require applicants to submit a pre-filing firm financial commitment, (3) require applicants to submit a pre-filing engineering plan, and (4) implement build-out requirements. The Commission should not limit transfers of PCS licenses after grant by lottery. While transfer restrictions may have some minimal deterrent

²⁵This will result in the allocative and implementation efficiency advantages of an auction. The principal difference is that the revenue from the sale of spectrum would go to private parties rather than the public coffers.

effect on speculators, this is outweighed by the public interest requirement in the rapid implementation of licensed services.

1. Refundable Deposit with Each Application. One of the principal causes of speculation in prior lottery schemes (e.g., cellular) was the relatively low cost of entry. For a modest fee, speculators contracted with application mills to have applications filed in every cellular lottery. The mill fee gave the applicant a "lottery ticket" which included engineering, financial backing and even legal protection services in case the applicant was accused of being a speculator. If the cost of lottery participation were higher, many of the application mills' customers would not have participated.

Absent the statutory authority to increase application fees, the Commission must increase the perceived cost of lottery participation. A separate refundable deposit for each application would increase processing allocative efficiency by decreasing the incentive for speculation. In contrast, if the costs of entry are low, speculation will abound. This is contrary to the public interest because it will undermine the efficiency of the lottery process. Therefore, the Commission must establish a higher effective cost of participation in PCS lotteries. Unless the Commission obtains the flexibility to assess higher application fees, it should implement a "penny-a-POP" refundable escrow deposit with each lottery application, the funds to be held in a financial institution of the Commission's choosing from the filing date through the selection date. The deposit reflects, although indirectly, the difference in value of some BTAs over others and promotes filings by serious applicants.

2. **All Applicants Should Submit A Pre-Filing Firm Financial Commitment.** The Commission should require all applicants for PCS licenses to include with their applications an irrevocable, independent, market-specified financial commitment. The Commission had in place financial commitment requirements for initial cellular licensees. 47 C.F.R. 22.917. These requirements were not effective in deterring speculation. Therefore, the Commission must strengthen those rules to deter speculation for PCS licenses.

The Commission should require that applicants for PCS license submit a financial commitment for the cost of constructing the system and operating it for three years. This commitment should have the following features:

- a. Each financial commitment must be irrevocable. This will require financial institutions making commitments to take a much closer look at the business plans and financial viability of the applicant.
- b. Each financial commitment must be independent of any other financial commitment made by a given financial institution. In other words, if a financial institution commits funds of \$10 million to five applicants, it must be backed by \$50 million.
- c. Each financial commitment must be market-specified. This will prevent an application mill from securing an umbrella financial commitment to cover any market where one of its members is a lottery winner.

By itself, a firm financial commitment requirement will not eliminate speculation. It will, however, make speculation more costly and thereby increase the efficiency of the lottery process.

3. All Applicants Should Submit Pre-Filing Engineering Plans. The Commission should require each applicant to submit with its application a comprehensive engineering proposal for its PCS system. This plan should include a system design, service proposals and a cost estimate for the construction and operation of the system for three years.

An engineering requirement will increase the cost of speculation. As such, there are certain would-be speculators who will stay out of the lotteries. To further discourage speculation -- especially by the clients of application mills -- The Commission should presume that any entity submitting an engineering proposal which is identical to others submitted for the same lottery is a speculator. The applicant would then bear the burden of demonstrating that it is not speculating in PCS licenses.

4. All Licensees Should Initiate Service Within 12 Months. The Commission must design a licensing scheme which will facilitate the rapid introduction of service to the public. Therefore, the Commission should require all PCS licensees to initiate service to the public within one year of receiving a construction permit.

A one-year rollout requirement will promote implementation efficiency in several ways. First, any applicant applying for service must have fully developed business and engineering plans in order to bring service to the public in a one-

year time frame. Second, in the event a speculator wins the lottery, the speculator would be forced to transfer quickly the license to an entity that desires to implement service. If it does not, it will lose the license and the benefits of its successful speculation.

5. The Transfer of PCS Licenses Should Not Be Restricted. Despite the Commission's best effort to-date, it has been unable to eliminate speculation in licenses. Transfer restrictions have had no more success than other methods for deterring speculation.²⁶ There will be speculation in PCS licenses.

The Commission will maximize these efficiencies by allowing the free transferability of licenses. If the lottery winner is not a speculator, it will hold the license. In that case, the lottery had an efficient result. If the lottery winner is a speculator, the sooner the license is in the hands of an entity that wants to provide service the better. The Commission must take all steps to deter speculation prior to the lottery. Once the lottery is complete, however, the Commission's primary goal should be to implement service to the public. Therefore, it must not impede market attempts to achieve allocative and implementation efficiency.

²⁶For example, the Commission established transfer restrictions for land mobile service in the 220 MHz band. These restrictions did not prevent 59,000 parties from submitting applications in one day. NPRM, at para. 88. Similarly, the Commission initially limited the transfer of cellular licenses. The Commission has since changed its position and now allows for the free transferability of cellular licenses. 47 C.F.R. 22.920.

VI. Conclusion

The two needs identified for PCS services are best met by the two-tier licensing and service model, which will allow the prompt, efficient delivery of new competitive wireless services to the public.

Respectfully Submitted

Robert N. Reiland
for

AMERITECH

by its Attorney
Robert N. Reiland
30 South Wacker Drive
Suite 3900
Chicago, Illinois 60606