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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

R. E. Sigmon
Vice President - Regulatory Affairs

January 8, 1993

Ms. Donna R. Searcy, Secretary
Federal Communications Commission
1919 M Street, N. W., Room 222
Washington, D. C. 20554

In the Matter of:)	GEN Docket No. 90-314,
)	ET Docket No. <u>92-100</u> ,
Amendment of the Commission's)	
Rules to Establish New Personal)	RM-7140, RM-7175, RM-7617,
Communications Services)	RM-7618, RM-7760, RM-7782,
)	RM-7860, RM-7977, RM-7978,
)	RM-7979, RM-7980

Dear Ms. Searcy:

Enclosed for filing is the original and six copies of Cincinnati Bell Telephone Company's Reply Comments in the above-referenced matter.

Please date stamp and return the enclosed duplicate copy of this letter as acknowledgement of its receipt. Questions regarding this filing should be directed to Mrs. Debbie Davidson at the above address or by telephone on (513) 397-1333.

Sincerely,
Robert E. Sigmon

Enclosures

No. of Copies rec'd 276
List A B C D E

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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REPLY COMMENTS OF CINCINNATI BELL TELEPHONE COMPANY

Cincinnati Bell Telephone Company ("CBT"), by its attorneys, hereby submits its Reply Comments addressing certain positions propounded by other commenters in response to the Commission's Notice of Proposed Rulemaking in the above-styled matter.^{1/} Many of the commenters support CBT's position that local exchange carriers ("LECs") and entities with non-controlling interests in cellular carriers should be permitted to provide personal communications services ("PCS") in their existing operating territories. CBT herein responds to those commenters which oppose CBT's position, and also indicates its support for the proposals of certain other commenters to the extent not precluded by CBT's own proposals.

^{1/} Amendment of the Commission's Rules to Establish New Personal Communications Services, 7 FCC Rcd 5676 (1992) ("NPRM").

I. CBT's Position

CBT is a mid-sized LEC whose holding company, Cincinnati Bell Inc., holds a non-controlling interest in a cellular carrier. In its comments, CBT urged that LECs should be permitted to provide PCS, particularly in their own service areas. In addition, CBT explained why entities with non-controlling interests in cellular carriers should not be prohibited from providing PCS, even in their own service areas. CBT proposed that PCS be licensed on an MSA/RSA basis, with five 10 MHz bands (four licensed, one unlicensed) for narrowband PCS. CBT noted that comparative hearings would yield the best-qualified applicants, but stated that lotteries would be an acceptable alternative, if such a licensing scheme incorporated strict application standards and other mechanisms to discourage speculators from entering the licensing process.

CBT believes that the regulatory structure which it has proposed will meet the Commission's goals for PCS: universality, speed of deployment, diversity of services and competitive delivery. CBT continues to encourage the Commission to adopt rules that permit a great deal of flexibility in order to ensure efficient and effective deployment of PCS in a manner which will best serve the public interest.

II. LEC Participation in PCS

As a mid-sized LEC with a single geographic service territory, CBT's primary focus remains the ability to

participate in the PCS market in its own service territory. CBT believes that it should not be precluded from providing PCS by artificial restraints which would arbitrarily bar or limit LECs from providing such services. Also, as a non-controlling equity participant in a cellular provider, CBT believes that it should not be precluded from participating fully in providing PCS.^{2/}

CBT is not opposed to any proposal which permits LECs and entities with non-controlling interests in cellular carriers to participate equally with other PCS providers. CBT does not seek to prevent others from participating; rather, it seeks to ensure that CBT has opportunities equal to those of other potential PCS providers, including equal amounts of spectrum.

CBT strongly opposes those commenters which argue against full, immediate LEC participation in PCS in their existing service areas,^{3/} or which argue that even de minimus participation in providing cellular service amounts to a "taint" which should preclude an entity with any cellular interest from providing PCS on a basis equal with that of any other qualified provider. These commenters generally contend,

^{2/} As CBT noted in its comments, if such non-controlling participants were required to divest themselves of such interests in order to participate in PCS, such interests likely could not be easily divested since they carry no control or participation in the affairs of the provider.

^{3/} See, e.g., Comments of Teleport Denver Ltd. and Comments of Cox Enterprises, Inc.

without substantiation, that LECS will cross-subsidize their PCS offerings and thereby handicap competitors' abilities to provide PCS. Such commenters also generally maintain, directly or indirectly, that if LECs are permitted to participate in offering PCS, then structural safeguards must be imposed by the Commission if its goals for PCS are to be achieved.

Such arguments are flawed. As CBT and others already have demonstrated, LECs are ideally situated and indeed are essential to implementing PCS in a timely and efficient manner.^{4/} Indeed, the recent study of the cost structure of PCS by the Commission's Office of Plans and Policy reached a similar conclusion.^{5/} If LECs are to participate in PCS at

^{4/} See, e.g., Comments of the Chief Counsel for Advocacy of the United States Small Business Administration at 21-23; Comments of the United States Department of Justice at 30; Comments of the United States Telephone Association at 7-19; Comments of the New York State Department of Public Service at 8-11; Comments of Interdigital Communications Corporation at 12-17; Comments of the Illinois Commerce Commission at 9-10; Comments of Hughes Network Systems, Inc. at 7-9; and Comments of Telocator at 5-6.

^{5/} Davis P. Reed, Putting It All Together: The Cost Structure of Personal Communications Services, OPP Working Paper Series No. 28 (November 10, 1992) ("OPP Study") at 56 ("... this analysis shows that substantial benefits could be realized by allowing [telephone companies] to offer PCS on an integrated basis with telephone services.") CBT disagrees with the OPP Study recommendation that LECs which also operate a cellular system should have limited spectrum in their cellular service areas. Since many LECs have non-controlling minority interests in cellular systems in their own service areas, the OPP Study recommendation would limit unnecessarily LEC participation in PCS, thus limiting the "substantial benefits" which the OPP Study envisions from LEC participation.

all, common sense dictates that they participate as equals in the full range of PCS provisioning. Given the costs involved to establish PCS, four or five potential providers will provide ample competition in any market, regardless of who the competitors may be. Further, with regard to the wholly speculative concerns raised by certain commenters involving the potential for anti-competitive behavior, CBT submits that adequate safeguards currently exist to address such concerns.^{6/} In the event that the Commission determines that additional safeguards are desirable to address any perceived abuses in the future, those should be addressed when and if that need arises. Imposing arbitrary and artificial restraints on those most logically equipped to provide the service does not serve the public interest or the Commission's specific goals.

III. Other Proposals

CBT's comments posited a licensing structure which would allow and encourage full, equal participation in PCS by all qualified entities and discourage participation by unqualified ones. Other comments which suggested licensing structures that also may accommodate such qualified participants merit consideration by the Commission as well. To the extent that

^{6/} CBT has a Cost Allocation Manual ("CAM") which has been reviewed, modified, and approved by the Commission. CBT's CAM contains provisions dealing with cross-subsidization.

any other proposed structures do not artificially limit participation by otherwise qualified entities, CBT does not oppose such proposals.

CBT has proposed four licensed band pairs, with a fifth unlicensed pair, for PCS providers. Assuming that each licensed provider would be granted an equal amount of spectrum, CBT believes that such an allocation would stimulate competition. Other proposals which call for a greater number of band pairs may create a distinction without a difference; four or more licensed band pairs would provide a high level of competition, which is one goal of the Commission.

CBT suggested licensing on the basis of MSA/RSA territories, similar to existing cellular licensing. That proposal, which was advanced in a number of other comments, is attractive from a regulatory standpoint because of the existing use of MSA/RSA areas. It also reflects economic reality because few potential PCS participants have sufficient financial capability to seek or operate a larger license.

Some commenters suggest nationwide licensing, with local participation in such licenses.^{7/} CBT does not oppose such a

^{7/} See, e.g., Comments of Bell Atlantic Personal Communications, Inc. at 15-28; Comments of CELSAT, Inc. at 13-14; Comments of Communications Satellite Corporation; Comments of dbx Corporation at 2-4; Comments of Interdigital Communications Corporation at 17-19; Comments of PowerSpectrum, Inc. at 5-6; Comments of Time Warner Telecommunications at 7-10; and Comments of the Manager of the National Communications System at Attachment B, p. 5.

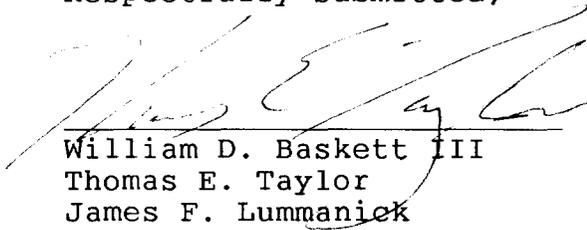
scheme if one or two properly structured national licenses could be issued to highly-qualified consortia of PCS providers. However, CBT would oppose such a scheme unless it provided for local participation in such licenses. CBT also would oppose such a scheme if it excluded any qualified participants, including LECs and entities holding non-controlling interests in cellular licenses. If properly structured, one or two national licenses could provide significant economies of scale, early development of a common technical standard, quicker buildout and other potential advantages to the public. An additional benefit would be the sharing of infrastructure, such that improvements that already have been developed by larger LECs could be efficiently made available to customers in the service areas of smaller LECs. Such national licenses would not necessarily conflict with (and could enhance) the provisioning of PCS by LECs and others at the MSA/RSA level.

CBT believes that both nationwide and MSA/RSA licensing can co-exist to the benefit of the public. The potential demand for diverse PCS services appears large enough to accommodate both types of licenses. Furthermore, a dual licensing structure would not utilize any more band width than a series of individual licenses at the MSA/RSA level, but would allow LECs and other participants on the MSA/RSA level to do what they do best: tailor service offerings to the needs of consumers in their own regions.

IV. Conclusion

CBT opposes those comments which seek to preclude LECs and entities with non-controlling interests in cellular systems from providing PCS on an equal footing with other PCS providers. CBT recognizes that there are many proposals which support such full participation, and encourages the Commission not to foreclose any such structure.

Respectfully submitted,



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I, Debbie L. Davidson, hereby certify that the persons listed below have been served with a copy of the Reply Comments of Cincinnati Bell Telephone this 8th day of January, 1993.

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