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1776 K STREET, N.W.
WASHINGTON, D.C. 20006
(202) 429-7000

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(202) 429-7049
TELEX 248349 WYRN UR

WRITER'S DIRECT DIAL NUMBER

(202) 828-3155

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

Re: Notice of Ex Parte Contact
GEN Docket No. 90-314
ET Docket No. 92-100

Dear Ms. Searcy:

Wiley, Rein & Fielding hereby files an original and one copy of a notification of an ex parte contact in GEN Docket No. 90-314 and ET Docket 92-100. Between January 22 and January 25, 1993, copies of the enclosed document were distributed to the following individuals: Commissioner James H. Quello, Brian F. Fontes, Lauren Belvin, Commissioner Sherrie P. Marshall, Kathleen Q. Abernathy, Commissioner Andrew C. Barrett, Byron F. Marchant, Madelon A. Kuchera, Commissioner Ervin S. Duggan, Linda L. Oliver, John C. Hollar, Robert M. Pepper, Renee Licht, Cheryl A. Tritt, Gerald P. Vaughn, John Cimko, Jr., Thomas P. Stanley, Tom Mooring, David R. Siddall, Ralph A. Haller, and Beverly G. Baker.

If any questions should arise concerning this notification, please contact the undersigned at the above number.

Respectfully submitted

Michael K. Baker

Michael K. Baker

Enclosure

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SUMMARY OF REPLY COMMENTS NOTICE OF PROPOSED RULEMAKING ON PERSONAL COMMUNICATIONS SERVICES

GEN Docket 90-314
ET Docket 92-100

R. Michael Senkowski
Katherine M. Holden
Michael A. Lewis
Nancy J. Victory
Eric W. DeSilva
Lauren A. Carbaugh
Michael K. Baker
Nicolle R. Lipper

WILEY, REIN & FIELDING
1776 K Street, N.W.
Washington, D.C. 20006
(202) 429-7000

January 22, 1993

FOREWORD

On August 14, 1992, the FCC released a Notice of Proposed Rulemaking soliciting comment on new Personal Communications Services ("PCS").[1] The initial round of comments on the Notice were filed on November 9, 1992. The reply comments were filed on January 8, 1993, and are briefly summarized herein. The summaries are divided into three sections on licensed 2 GHz PCS (TAB A), unlicensed 2 GHz PCS systems (TAB B), and 900 MHz narrowband PCS systems (TAB C). The comments within each tab are arranged alphabetically by company or organization name.

We have done our best to represent each commenter's positions accurately on a range of issues within two pages and in a consistent format. Due to space and time constraints, however, many supporting arguments have been truncated and rephrased to conserve space. Accordingly, in all cases, it is highly advisable to review the actual commenter's text. All summaries have page references to the actual commenter's text.

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[1] Amendment of the Commission's Rules To Establish New Personal Communications Services, FCC 92-333 (Aug. 14, 1992).

TABLE OF CONTENTS

	Page(s)
Advanced Mobilecomm Technologies, Inc. and Digital Spread Spectrum Technologies, Inc.	1
Alcatel Network Systems, Inc.	2 137
Alliance of Rural Area LECs	3
ALLTEL Companies	4
American Paging, Inc.	172
American Personal Communications	5
American Petroleum Institute	7 138
American Public Power Association	9
Ameritech	10 140
Anchorage Telephone Utility	12
Andrew Corporation	141
Apple Computer, Inc.	13 142
Arch Communications Group, Inc.	14 144 173
Associated PCN Company	15 145
Association of American Railroad	17 146
AT&T	18 147
Beaver Creek Cooperative Telephone Company	19
Bell Atlantic Personal Communications, Inc.	20
BellSouth	22
Cablevision Systems Corporation	24
California, People of the State of, and the Public Utilities Commission of the State of California	26
Canby Telephone Association	27
Cellular Communications, Inc.	28
Cellular Telecommunications Industry Association	29
Celpage, Inc.	175
CELSAT, Inc.	31
Centel Corporation	32
Cincinnati Bell Telephone Company	34
City Utilities of Springfield, Missouri	35
Clear Creek Mutual Telephone Company, et al	36
Comcast PCS Communications, Inc.	38
Comsearch	40
Concord Telephone Company	41
Copper Valley Telephone Cooperative	42
Cordova Telephone Cooperative, Inc.	43
Corporate Technology Partners, et al.	44
Cox Enterprises, Inc.	46
CRICO Communications Corporation	48
dbX Corporation	49
Eagle Telephone System	50
Echo Group L.P.	177
Electromagnetic Energy Policy Alliance	51
Ellensburg Telephone Company	52
Ericsson Corporation	53 148
Fleet Call, Inc.	54

Page(s)

Freeman Engineering Associates, Inc. 178
General Communication, Inc. 56
Grand Broadcasting Corporation 179
GTE Corporation 58 149
Hewlett-Packard Company 150
Hood Canal Telephone Company 60
Horizon Cellular Group 61
Town of Hudson Light and Power Department 62
Illinois Consolidate Telephone Company 63
In-Flight Phone Corporation 180
InterDigital Communications Corp. 64
Interstate Telephone Company, et. al. 66
Lewis River Telephone Company 68
LiTel Telecommunications Corporation
d/b/a LCI International 69
Lower Colorado River Authority 70 151
McCaw Cellular Communications, Inc. 71
McCaw Cellular Communications, Inc.
The Paging Division 181
MCI Telecommunications Corporation 73
Metriplex, Inc. 182
Metrocall of Delaware, Inc. 75
Mobile Telecommunications Technologies Corporation 183
Motorola, Inc. 76 152 185
Moultrie Independent Telephone Company, et. al. 78
National Association of Business and Educational
Radio, Inc. 79 186
National Association of Regulatory Utility
Commissioners 80
National Cable Television Association, Inc. 82
National Center for Law and Deafness, et. al. 84
National Telephone Cooperative Association 85
Nehalem Telephone & Telegraph Co. 86
North American Telecommunications Association 154
Northern Telecom 87 155
Northwest Iowa Power Cooperative 156
Nushagak Telephone Cooperative, Inc. 89
NYNEX Corporation 90 157
Omnipoint Corporation 92 158
Otz Telephone Cooperative Inc. 94
Pacific Telesis Group 95 159
PacTel Paging 187
PageMart, Inc. 189
Paging Network, Inc. 191
PCN America, Inc. 97
Personal Communications Network Services of
New York, Inc. 99
PerTel, Inc. 100
Pulse Engineering Inc. 160
Pulson Communications Corporation 101

Page(s)

Rochester Telephone Corporation 102
Rock Hill Telephone Company, Fort Mill Telephone Company, Lancaster Telephone Company 104
Rocky Mountain Telecommunications Association 106
ROLM 161
Roome Telecommunications, Inc. 108
Rose Communications, Inc. 162
Roseville Telephone Company 109
Rural Independent Coalition 110
South Carolina Public Service Communication 111
Southwestern Bell Corporation 112 163
Spectralink Corporation 164
Sprint Corporation 114
Tandy Corporation 165
Teco Energy, Inc. 115
Telecom Corporation of New Zealand 116
Telephone and Data Systems, Inc. 117 166
Teleport Denver Ltd. 119
Tel/Logic, Inc. 120
Telmarc Telecommunications Inc. 122
Telocator 123 167 193
Texas Statewide Telephone Cooperative, Inc. 125
Time Warner Telecommunications 126
TRX Transportation Telephone Company 128
United States Independent Personal Communications Association 129
United States Telephone Association 130
U S West, Inc. 131 168
Utilities Telecommunications Council 133 169
Vanguard Cellular Systems, Inc. 135
Wireless Information Networks Forum 171

ADVANCED MOBILECOMM TECHNOLOGIES, INC. AND
DIGITAL SPREAD SPECTRUM TECHNOLOGIES, INC.
Reply Comments on 2 GHz Licensed PCS

Interest: Developers of PCS technologies.

Licensing policies:

- Reiterate their proposal for designating one license in each market for a "PCS-Open Architecture System." This licensee would be required to serve as host for the provision of PCS services by unlicensed PCS providers. Such an approach would create additional business opportunities for smaller entrepreneurs, promote diversity of technical approaches and service offerings, and speed deployment of service (5-9).

Technical standards:

- The scope of PCS services proposed in the comments establishes the need to broadly define PCS service and to provide PCS licensees with substantial technical flexibility in configuring their systems. Incorporating the principles of Open Network Architecture and Expanded Interconnection into PCS licensing will permit continued innovation beyond the initial licensing stage (2-4).

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1776 K Street, N.W.
Washington, D.C. 20006

ALCATEL NETWORK SYSTEMS, INC.
Reply Comments on 2 GHz Licensed PCS

Interest: Microwave telecommunications equipment manufacturer and supplier.

Technical standards:

- Contrary to the comments of Northern Telecomm, PCN America and APC, fixed microwave service and PCS cannot cohabitate in the 2 GHz band. (p. 2). Should sharing ever become feasible, then the rationale for relegating 2 GHz fixed users to secondary status will no longer exist. (p. 3).

ALLIANCE OF RURAL AREA LECs
Reply Comments on 2 GHz Licensed PCS

Interest: Coalition of local exchange carriers that seek to ensure that PCS is made available to rural areas

Service areas:

- States that, regardless of service area size adopted by Commission, there should be some mechanism in licensing process that provides an opportunity for LECs to offer PCS in rural areas. (pp. 7-8).

Local exchange carrier participation:

- States that LECs should be permitted to hold PCS licenses because benefits of competition outweigh perceived risk of anticompetitive behavior. (p. 3).

- Asserts that permitting LECs serving rural areas to provide PCS service in those areas will foster Commission goals, including rapid deployment of PCS in rural areas. (pp. 4-5).

- Supports spectrum set-aside for LECs serving rural areas in order to ensure prompt deployment of PCS in those areas. (pp. 5-7).

ALLTEL COMPANIES
Reply Comments on 2 GHz Licensed PCS

Interest: Local exchange carrier and cellular carrier

Service areas:

- Continues to support MSA/RSA licensing, citing smaller size of these areas, distinction between rural and non-rural markets, flexibility to respond to the marketplace, and consistency with existing cellular areas. (pp. 6-7).

Cellular carrier participation:

- Supports full cellular carrier eligibility for PCS licenses because diversity, competition and ubiquitous deployment will be fostered; furthermore, cellular carriers have necessary expertise and experience to bring PCS rapidly to marketplace. (p. 2).

Local exchange carrier participation:

- Supports LEC eligibility for PCS licenses within their service areas, citing experience of LECs, competitive benefits, and promotion of universal access. (pp. 4-6).

Regulatory status:

- Advocates regulating PCS and all other wireless services on equal basis; notes that such regulatory parity is especially important following the AT&T v. FCC decision, which imposes additional administrative burdens on common carriers and may restrict competitive responsiveness. (pp. 7-8).

AMERICAN PERSONAL COMMUNICATIONS
Reply Comments on 2 GHz Licensed PCS

Interest: Pioneer's preference tentative selectee and prospective new service provider

Band plan: Two licensees with 40 MHz each (2-14).

- A market with two PCS licensees is justified because it will create sufficient competition when combined with existing systems, and allocating spectrum for more providers will doom PCS to a marginal existence (11-14).

- 10 MHz for wireless local loops is unwarranted; PCS spectrum should be reserved for mobile applications (28-29).

Amount of spectrum per licensed system:

- 40 MHz allocations are supported by those that have explored implementing PCS technology and impartial and knowledgeable industry bodies (TIA & Comsearch) (2).

- Parties advocating smaller allocation fail to acknowledge the existence of microwave users (3-5).

- Arguments for smaller allocations are premised on protecting cellular incumbents (ignoring that clear spectrum for PCS is not available; cellular is converting to digital; and that a cellular licensee could double its capacity by using 15 percent of its spectrum for CDMA) or rely on mistaken potential for relocating existing licensees (ignoring that public safety users are grandfathered indefinitely; that relocation will take many years; that relocation of even 3 worst case links will not free up substantial amounts of spectrum; that PCS will serve 4-7 times the number of customers as cellular; and that the Commission could later reclaim spectrum if demand does not materialize) (5-11).

Service areas:

- Recommends MTA licensing, citing McCaw's experience in aggregating clusters, as well as GTE, Contel, Alltel, Centel, etc. (14-18).

- MSA/RSA licensing would slow PCS deployment, which is more time critical than cellular was at the time cellular was licensed (18-20).

- MTAs will have significant economies of scale (APC indicates 1 switch could serve an entire MTA at a cost of $4.5M rather than 9 MSAs & RSAs with switch costs of $40M; other efficiencies) and will facilitate roaming (20-22).

- CTIA's fears that MTAs are controversial and will require adjustment are unfounded (22).

- Opposes national licensing because it thwarts diversity; slows experimentation; and subverts the standards-setting process (23-24).

- Proposals for very small areas designed to aid small business should be rejected in favor of allowing franchising of larger areas (25-27).

Licensing policies:

- Agrees with commenters that licenses should be selected by expedited comparative hearings (27-28).

Plan for relocation of existing users:

- Opposes WINForum repacking plan as requiring two moves, thus causing extensive disruption, but indicates further comments will be forthcoming in ET proceeding (29).

Other issues:

- Cover letter discusses cellular competition, overlap proposal, and that cellular carriers appear to be attempting to marginalize PCS through inadequate spectrum allocations, large numbers of licensees, and fractionalized licensing plans (Cover letter at 1-5).

- Attachment A -- supplemental filing of J. Barclay Jones/Moffet, Larson & Johnson, Inc. responding to technical showings of CTIA on digital conversion of cellular; spectrum availability under 40 MHz, 30 MHz, and 20 MHz PCS licensing scenarios; and APC's 10 MHz transitional scenarios.

- Attachment B -- supplemental filing of Martin Cohen responding to OPP paper with regard to spectrum allocations and cellular entry.

AMERICAN PETROLEUM INSTITUTE
Reply Comments on 2 GHz Licensed PCS

Interest: National trade association representing companies involved in oil and gas industries.

Amount of spectrum per licensed system:

- Supports allocation of three licenses of 20 MHz each as providing adequate spectrum for PCS and minimizing potential interference problems (13-14).

Plan for relocating existing users:

- All incumbent migration costs must be assumed by the PCS licensees seeking to displace existing users; this includes engineering and planning costs as well as equipment costs (17-18).

- The Commission should establish a mechanism to resolve disputes over actual relocation costs and comparability of replacement facilities (18-19).

- Agrees with numerous other commenters that the transition plan must ensure secure and reliable handoff of incumbent operations. The Commission should establish a minimum 5 year period for voluntary relocation followed by an involuntary relocation period. During both these time frames, microwave users should retain primary status (19-20).

Technical issues:

- Supports Commission's proposal to modify the TIA 10E standard to take into account the mobile nature of PCS operations. API is concerned that some PCS proponents misunderstand the need for reliability and dependability by supporting interference criteria that reflect microwave system designs engineered for a particular "reliability level" rather than for a fixed fade margin. API does not completely disagree with this approach so long as the reliability level is such to maintain reliability throughout a multi-hop microwave system and an adequate fade margin is engineered for analog paths (4-9).

- Active avoidance techniques, such as space diversity, should not be relied upon until further tested and quantified (9-10).

- Opposes any attempt to insert a factor into the interference analysis for how "critical" the operation of the microwave system may be (10).

- Opposes the use of "statistical models" for calculating path

losses for PCS mobile units. Rather, interference calculations must provide "worst case scenario" protection (11-12).

- For purposes of interference calculations, all potential PCS mobile units planned for operation in a given area must be presumed to be operating simultaneously. In "special events" locations, an extra factor should be entered into the analysis to take into account the high concentration of PCS transmitters in a confined area (12).

- Supports proposed power limit of 10 watts EIRP for base stations and 2 watts EIRP for mobiles (13).

- Finds proposed 300 foot maximum antenna height to be excessive since this height coupled with the proposed output power levels would establish a standard cell size of 2000 square miles (13).

- Agrees with other commenters that the Commission should adopt uniform technical rules and standards to ensure interoperability (20-21).

AMERICAN PUBLIC POWER ASSOCIATION
Reply Comments on 2 GHz Licensed Devices

Interest: National association of publicly owned electric utilities.

Licensing policies:

- Supports proposal of City Utilities of Springfield to set aside 10 MHz of spectrum for PCS use by utilities. PCS offers a promising means of establishing "last mile" communications links with individual residences to allow the monitoring and management of utilities usage (e.g., by shutting off certain applicances), remote meter reading, etc. Wire, cable and microwave facilities cannot provide this service as economically or reliably; there are also various problems associated with leased circuits. Without a reserved allocation, utilities will not have a realistic opportunity to test and deploy PCS (2-8).

AMERITECH
Reply Comments on 2 GHz Licensed PCS

Interest: Regional Bell operating company.

Band plan:

- Advocates adoption of "Two-Tier" proposal (set forth in opening comments and in reply comments, Attachment A) because such a band plan supports the introduction of new services as well as additional competition to current mobile radio services. (pp. 2-3).

- The FCC should not establish any set-asides. At the same time, MCI's proposal for negative preferences in the licensing process is best ignored. (p. 5).

- The Two-Tier proposal retains 20 MHz in reserve for future disposition. Many commenters also acknowledge the benefits of reserving some spectrum for future needs. (p. 8).

Amount of spectrum per licensed system:

- Spectrum allocations should favor more licensees, rather than fewer. Proposals that seek 40 MHz per provider or more, such as APC's proposal, would give a licensee who has cleared its spectrum an unfair capacity advantage over other wireless providers, and discourage the licensee from using its spectrum efficiently. (p. 7).

Service areas:

- National or LATA-based licenses will not speed deployment of PCS and are not appropriate. (pp. 10-11).

Local exchange carrier participation:

- The OPP Paper, as well as a diverse group of commenters, recognizes that the economies of scope and scale that a LEC would bring to PCS warrant LEC eligibility. (pp. 4-5).

- Mandatory interconnection would eliminate the need for competitive restrictions such as LEC ineligibility. (p. 5).

Regulatory status:

- A significant number of commenters recognized that regulatory parity among PCS providers is essential. Given interconnection safeguards, all PCS, cellular and SMR licensees should be treated as non-dominant common carriers. (p. 6).

- Interconnection among and between all FCC licenses should be required. (pp. 10-11).

Other:

- If PCS spectrum is used as a fixed service substitute in the local loop, no non-structural safeguards are necessary based on the identity of the wireless local loop provider (contrary to the comments of Cox). (p. 9).

- Attachment A: Brief summary of Ameritech's Two-Tier proposal.

- Attachment B: Rule changes necessary to implement the Two-Tier proposal.

ANCHORAGE TELEPHONE UTILITY
Reply Comments on 2 GHz Licensed PCS

Interest: Local exchange telephone company

Cellular carrier participation:

- The OPP study demonstrates that cellular carriers should be permitted to offer PCS based on economies of scale (1-2).

Local exchange carrier participation:

- The OPP study demonstrates that LECs should be permitted to offer PCS based on economies of scale (1-2).
- Only Telmarc has provided any argument to the contrary approaching the objectivity and rigor of the OPP study, and Telmarc's conclusions are based on "marginal pricing" of switching services -- which contravenes the principles underlying the FCC's requirements and procedures for allocating LEC joint and common costs (2-3).

APPLE COMPUTER, INC.
Reply Comments on 2 GHz Licensed PCS

Interest: Manufacturer of Data-PCS equipment.

Band plan:

- The FCC's band plan proposals for PCS assume that licensed PCS will use frequency division duplexing ("FDD") technology, with transmit and receive channels separated by 80 MHz. Plans based on this technology waste spectrum, make it more difficult to allocate spectrum for unlicensed devices, obstruct interoperability between licensed and unlicensed PCS, and discourage international compatibility among PCS systems. (pp. 7-8).

Amount of spectrum per licensed system:

- Comments in this proceeding have confirmed that licensed PCS will require 40 MHz or more in order to co-exist with microwave users until the band can be cleared for exclusive PCS use. The FCC should focus on creating an effective means of clearing the frequencies, rather than allowing inefficient use of spectrum that could otherwise be allocated to unlicensed PCS. (pp. 7-8).

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Washington, D.C. 20006

ARCH COMMUNICATIONS GROUP, INC.
Reply Comments on 2 GHz Licensed PCS

Interest: Paging company; potential 900 MHz narrowband PCS provider; existing 2 GHz microwave licensee

Plan for relocation of existing users:

- FCC has not fully explored the possibility of permitting incumbent 2 GHz microwave users to retain their channels indefinitely if they elect to devote them to PCS uses. (pp. 13-15).

Other:

- FCC must exhaustively address the health implications of wideband PCS in the Report and Order so that an adequate record is developed in regard to potential health safety issues. (pp. 15-16).

ASSOCIATED PCN COMPANY
Reply Comments on 2 GHz Licensed PCS

Interest: Experimental PCS licensee.

Band plan:

- The FCC should limit the number of PCS providers in each market to two, each with 40 MHz. (p. 15)

Amount of spectrum per licensed system:

- 40 MHz allocations are necessary to permit each PCS licensee to offer the full range of PCS services and avoid interference with existing 2 GHz users because 40 MHz of shared spectrum yields, on average, 25.7 MHz of available spectrum; this is approximately the minimum amount needed to provide PCS using current technology according, to the Telocator Study. (pp. 3-4).

- 20 MHz is an insufficient allocation because it will be difficult, and in some areas impossible, to find usable frequencies. Commenters advocating 20 MHz allocations ignored this fact. (pp. 5-6).

- 20 MHz is not sufficient to implement a low cost PCS system; the comments of AT&T and Bell Atlantic underestimate the hardware costs of systems that must operate on such a small block of spectrum. Reliance on consolidation of licenses to increase spectrum is misplaced because consolidation will raise the cost and delay the provision of PCS. (pp. 7-8).

- The FCC must ensure that each PCS licensee in a particular market has access to an equal amount of usable spectrum. (pp. 8-9).

Licensing policies:

- One of the two licenses in each market should be assigned to an entity that has conducted a PCS experiment in that market for at least one year. If more than one entity is eligible for such a set-aside, then an expedited comparative hearing could be held. (p. 15).

- A minimum initial license period of 10 years is necessary to attract investment in a new and unproven industry like PCS. (pp. 15-16).

- High filing fees for PCS applicants should be waived for experimental licensees, based on their investment in experimentation. (p. 16).

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- The FCC should require PCS applicants to make a financial qualification showing based on a dollar amount per person in a given market. (pp. 16-17).

- The FCC should not grant a nationwide license because interoperability goals can be attained through simple technical standards. (pp. 17-18).

Regulatory status:

- PCS providers must be able to interconnect directly with all other systems. (pp. 9-10).

- If PCS, landline telephone and cellular are to compete as true co-carriers, it is mandatory that "calling party pays" service (e.g., a landline caller pays to call a cellular telephone) be available to every service provider. (pp. 10-14).

- A transmit/receive separation of 80 MHz should not be rigidly applied because (1) 25% of all microwave paths in the 1850-1990 MHz band use channel pairs that do not adhere to an 80 MHz separation, thereby diminishing the ability of a PCS operator to coordinate with existing 2 GHz users, and (2) a rigid 80 MHz separation would inhibit the development of services that require differing transmit/receive frequency schemes such as systems employing Time Division Duplex. (pp. 14-15).

Technical standards:

- Supports the adoption of EIA/TIA TSB10-E as a reference guideline for frequency coordination. (pp. 2-3).

Other:

- The public safety issues raised in this docket -- including how PCS will interface with 911 systems -- should be addressed by a consortium of manufacturers, users and other service providers under the auspices of the FCC. (p. 19).

- WINForum's proposal for the expansion of the unlicensed band to as much as 65 MHz is detrimental to the establishment of licensed PCS. (p. 18).

ASSOCIATION OF AMERICAN RAILROADS
Reply Comments on 2 GHz Licensed PCS

Interest: Railroads (relying on fixed microwave systems)

Plan for relocation of existing users:

- Opposes redesignating microwave licensees to secondary status due to reliability concerns; if displaced from the 2 GHz band, they must be guaranteed a reliable alternative. (p. 9).

Technical standards:

- Reiterates support for ensuring microwave licensees interference protection equivalent to Standard 10-E; existing standard has served public interest by providing essential interference protection to private microwave systems used for critical operations and safety applications. (p. 2).

- Recognizes that applying interference standard developed for fixed-to-fixed systems to PCS systems requires modification; however, changing Standard 10-E to correspond with a different source of interference--mobile services--does not require changing threshold level of interference protection. (p. 3).

- Supports proposal that microwave licensees be permitted to request that PCS licensees recalculate interference levels at specified time periods to ensure compliance with final standard; also supports requirement that PCS applicants and licensees file with Commission sufficient technical information to enable microwave licensees to address potential interference problems. (p. 5).

- States that it is illogical for Commission to guarantee Standard 10-E protection for displaced 2 GHz microwave licensees and not for those remaining in the band. (p. 6).

- Advocates adoption of PCS power and antenna height limits consistent with microcellular service. (pp. 6-7).

AT&T
Reply Comments on 2 GHz Licensed PCS

Interest: Common carrier long distance telephone company; possible provider of PCS services.

Band plan:

- The majority of commenters supports licensing five PCS providers, each with an allocation of 20 MHz. (pp. 6-9).
- Commenters, such as APC, who claimed that more than 20 MHz must be allocated to each provider due to the presence of fixed microwave users, failed to recognize other procedures that address this problem: the FCC should encourage relocation negotiations, establish a brief transition period, and allow the combining of PCS licenses. (pp. 9-13).
- The FCC should adopt a cap of 45 MHz on the amount of spectrum available to a licensee for the provision of PCS in a service area. This limit should also apply to cellular carriers. (p. 13).

Amount of spectrum per licensed system: 20 MHz.

Service areas:

- Although AT&T advocated the use of LATA boundaries for PCS service areas in its opening comments, the majority of commenters has persuasively argued that MSA/RSA boundaries might be the most appropriate choice for PCS. (pp. 16-18).
- The FCC should clarify that a decision to use MSA/RSA boundaries will not relieve PCS operators of any future obligations to implement customer choice requirements requiring reconfiguration of networks. (pp. 18-19).

Cellular carrier participation:

- The majority of commenters favors allowing cellular carriers to hold PCS licenses within their service areas. (p. 14).

Licensing policies:

- Many commenters agreed with AT&T that, in the absence of legislation from Congress authorizing the use of lotteries, the FCC should implement a modified lottery proceeding, including significant entry requirements, construction deadlines and proof of financial ability. (pp. 2-6).

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BEAVER CREEK COOPERATIVE TELEPHONE COMPANY
Reply Comments on 2 GHz Licensed PCS

Interest: Small, rural local exchange carrier

Other:

- Supports comments filed by Clear Creek Mutual Telephone Company, et al. (establish smaller license areas for rural PCS; refrain from restricting the eligibility of LECs to provide PCS in rural areas or exempt rural telcos servicing areas of 10,000 or less from any general LEC restrictions; impose minimal regulation on PCS providers; and permit cooperative rural telephone companies to elect private carrier status for their PCS offerings) (1).

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