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NOV-15 1993

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FCC MAIL ROOM

November 11, 1993

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W.
Room 222
Washington, DC 20554

DOCKET FILE COPY ORIGINAL

RE: Notice of Proposed Rule Making, PP Docket 93-253 for
license applications subject to the grandfather clause

Dear Mr. Caton:

I am writing to oppose retroactive auctions as they might apply to cellular unserved areas and disqualified cellular RSA markets, 220 MHz, MAS and additional IVDS markets if appropriate under the recent Budget Act. I believe any auctions which the FCC wishes to mandate should be restricted to the issuance of future spectrum licenses such as PCS, 28 GHz video cellular and other new technologies. Even at that it appears that auctioning will be a much less democratic process giving a distinct advantage to large well financed telecommunication companies. A retroactive change would result in sizeable economic hardship to thousands of individuals and small businesses which have already spent considerable time and made substantial investments in related engineering, business, and financial plans based on lotteries which have already been held or are in the process of being held. In some cases the filing deadlines were years ago.

Those of us who have previously won lotteries and developed systems have either built and operated systems or developed them in conjunction with sales to adjacent operators in accordance with FCC guidelines. In either case, the services and new jobs have been provided promptly. When licenses were sold to a company which enjoyed greater efficiencies and economies of scale, the government has received tax revenues on any capital gains. Incidentally, if license auctions had been held instead of the early cellular lotteries, a few of the large telecommunication companies would have bought those licenses at prices which would have been considered "Steals" just a few years later as the technology and usage evolved. Certainly the revenues derived from taxes on the sale of these systems has far exceeded the auction revenues the government would have received at the time of initial licensing. Moreover such auctions would have deprived thousands of individual investors and small businesses from having any opportunity to participate in this industry.

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My associates and I have already spent a considerable amount of time studying telecommunication system operations and invested substantial amounts of money in legal and engineering costs as well as FCC filing fees. It seems very unfair to me for the FCC to return our applications without giving us a chance to win the lotteries especially after Congress has specifically given you discretion to do so. Especially since such a change in mid stream will require the FCC to delay the new services and jobs these licenses will create while it returns lottery applications, filing fees, develops new auction rules and gets bogged down in the legal challenges that retroactive auctions will involve.

I strongly oppose retroactive auctions where lottery filings have already been made or are in process. As you know, thousands of applications were made for MAS in December 1991 and for Unserved Cellular Areas in March 1993, while the original applicants for disqualified RSA Cellular markets have been on file since June 1988. As you know, in some cases, such as 220 MHz (filed with filing fees paid in April 1991), the lotteries were held years ago. The winners have been selected, but only some of us have been officially notified. Mid-stream auctions now for 220 MHz would mean notified lottery winners would own licenses, while those winners who have been drawn and selected but not notified would be deprived of their win while their licenses revert to some future auction which will undoubtedly be delayed by legal challenges.

Cordially,


Darwood S. Chase, Jr., CIC
President

DSC/swh