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Before The
Federal Communications Commission
Washington, DC 20554

FEDERAL COMMUNICATIONS
COMMISSION
OFFICE OF THE
SECRETARY

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In the matter of)
Review of the)
Pioneer's Preference Rules)

ET Docket No. 93-266

Comments of
Personal Communications Network Services of New York
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Comments to
The Notice of Proposal Rule Making

Personal Communications Network Services of New York, Inc. (PCNS-NY), one of the earliest innovators in and contributors to the development of PCS, hereby submits the following comments:

In adopting the pioneer's preference rules, the Commission intended to "reduce the risk and uncertainty innovating parties face in the existing rule making and licensing procedures and therefore encourage the development of new services and new technologies.¹ PCNS-NY has assumed the risk required by performing PCS experiments and to date has expended nearly \$4 million in research and development. PCNS of NY has relied on the Commission's commitment to reduce that risk through the pioneer preference rule making by its award of preferences. PCNS-NY now agrees that the establishment of competitive authority creates a new dynamic for the assignment of licenses and that through its bidding efforts (an innovator) would primarily control whether it obtains the desired license."²

This may or not be the case unless a innovator is able to raise the monies necessary for a winning bid. PCNS-NY believes that simple designation of it as a pioneering party in a report and order establishing a new service would enhance its abilities with financial institutions to raise needed financing. PCNS-NY proposes that a PCS developer category be established by a bright line defined as a PCS experimental licensed company whose pioneer preference application was accepted by OET and who has spent at least \$1 million in the experimentation and development of PCS in its experimentally licensed area. PCNS-NY also agrees with the auction discount proposal suggested by the Commission. However, it believes the percentage discount should be 35% to enable the PCS innovator to bid approximately 50% higher on any bid it would submit. Dominant carriers such as AT&T, the Regional Bell Operating Companies

¹Pioneers Preference Report and Order, 6 FCC rd at 3492

²NPRM paragraph 7, page 3.

and those cellular carriers whose service areas cover 10 percent or more of a PCS service area population should be excluded from the PCS Developer category.

PCNS-NY, and its long suffering investors, believe we have worked hard and contributed to the birth and development of the PCS baby. We now must face the challenge of determining whether we value the license most highly. We face a predicament and need help.

The predicament is like that of an absent and non supportive father who after the passage of the formative years of his child is allowed to contest for custody. He wins on the basis that he has the financial resources to afford a better lifestyle and environment for the child. The long suffering mother, who raised and developed the child and who now can not afford the expenses of college, etc., is economically unable to compete with the father. To the court, it would seem that the father is the parent that now values the child most. The mother is perhaps not even considered a participant in the case.

A solution to the predicament would be to reward those who contributed to the development of PCS through the suggested bright line test. Merit can be relevant in the award of licenses even in the auction process. There must be a direct connection between innovation and spectrum licensing to encourage the continued development of new services and technologies by American service producers and manufacturers.

Respectively submitted
PCNS-NY

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Dated: November 15, 1993