

Entity. To prevent "fronting", it suggests the establishment of rules to require that a small business retain de jure and de facto control over its enterprise in the event a consortium is formed. But "fronting" is a fundamentally different issue when applied to small businesses than when applied to women and minorities. The reason that small businesses receive a preference is directly linked to the difficulties these firms face because of their size. If a small business can successfully increase its competitiveness and access to financing and other market resources by joining with other organizations, then it should receive no further preferences to compensate for the disadvantages of being "small."

33. Minorities businesses, on the other hand, have a more difficult time surviving and establishing alliances with larger companies.^{47/} And even when such contacts are established, these groups face continuing hurdles in capital formation, market access and other fundamental aspects of business life as long as they are identified as businesses run by women and minorities.^{48/} Size presents a fundamentally different barrier because it is one which can be managed and changed by the entity itself. Race, on the other hand, is an immutable, unchangeable characteristic. Success in overcoming race and

^{47/} The SBAC Report notes that "there are often similarities between small business and minority businesses indicating that capital access is a problem across the board, but minorities will have additional problems." SBAC Report at 4 - 5.

^{48/} See e.g. Windsong Communications Comments at Appendix.

gender discrimination frequently depends on forces largely outside the control of the entity. There is therefore a greater need to provide institutional assistance and incentives to these groups.

34. In sum, though there are some similarities, there are also substantial and fundamental differences between the barriers facing small business and minority firms. It would be counter-productive to construct rules which treated these Designated Entities as if they were the same. Therefore, consortia arrangements which are acceptable when applied to minority firms, present increased risks of "unjust enrichment" when applied to small business.

Conclusion

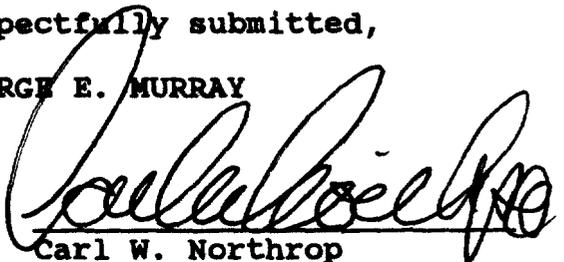
A. As Cook Inlet Region points out, the Commission has been directed to "ensure that ... minority groups and women are given the opportunity to participate in the provision of spectrum

based services."^{49/} To create equality of opportunity as required by Congress, the Commission must design policies that enhance the bidding power of minority groups as opposed to other Designated Entities.

Respectfully submitted,

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^{49/} Budget Act at Section 309(j)(4)(D).

CERTIFICATE OF SERVICE

I, Yvette Omar, hereby certify that I have this 30th day of November, 1993, caused copies of the foregoing to be delivered by hand, courier charges prepaid, to the following:

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