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FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

28 OCT 1993

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IN REPLY REFER TO:

Honorable Pete V. Domenici
United States Senate
247 Dirksen Senate Office Building
Washington, DC 20510

93-253

RECEIVED

DEC 6 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Senator Domenici:

This in reply to your letter of July 27, 1993, on behalf of your constituents expressing concern about the impact of recent legislation on a variety of radio services for which applications have already been accepted for filing. Your letter was referred to me because the Office of Plans and Policy is responsible for implementing the competitive bidding provisions of the Budget Act.

On August 10, 1993, President Clinton signed the Omnibus Budget Reconciliation Act of 1993 (Budget Act). Under the Budget Act, the Commission must subject all initial mutually exclusive applications for subscriber-based radio services to a system of competitive bidding rather than lotteries. In addition, the Budget Act, signed August 10, 1993, provided the Commission with 210 days from its date of enactment, or March 8, 1994, to issue final rules concerning competitive bidding. Accordingly, the Commission recently initiated a rule making proceeding to implement the competitive bidding provisions of the Budget Act. Notice of Proposed Rule Making (Notice), ~~PP Docket 93-253~~ (released October 12, 1993). In the Notice, the Commission, pursuant to the legislative criteria, proposed to subject auction essentially all mutually exclusive applications in subscriber-based services. With this in mind, the Commission proposed to subject to auction personal communications services, cellular radio unserved areas, the interactive video and data service (IVDS), and the 220-222 MHz land mobile service, among other services. The Budget Act, however, permits the Commission to either conduct a lottery or an auction for mutually exclusive applications received prior to July 26, 1993. Therefore, for example, the Commission conducted a lottery on September 15, 1993, of the first nine IVDS markets because the subject applications were received prior to July 26, 1993. With respect to applications in other services subject to the grandfather clause, the Commission asked the public for comment in the Notice concerning whether to conduct an auctions or lotteries.

The public, including your constituents, are invited to submit comments to this proceeding by November 10, 1993, and reply comments by November 24, 1993. I can assure you that the Commission will give full consideration to all comments filed in the competitive bidding rule making proceeding.

Sincerely,



Robert Pepper
Chief
Office of Plans and Policy

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List A B C D E

PETE V. DOMENICI
NEW MEXICO

CCB
CELL-RURAL

COMMITTEES:
BUDGET
APPROPRIATIONS
ENERGY AND NATURAL RESOURCES
BANKING
INDIAN AFFAIRS

United States Senate

WASHINGTON, D.C. 20510

July 27, 1993

3145

Lauren J. Belzin
Federal Communications Commission
1919 M Street, NW
Room 808
Washington, D.C. 20554

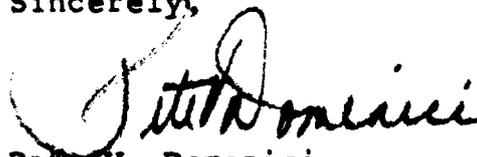
Dear Lauren:

I am contacting you in regard to concerns voiced by several of my constituents about the process of awarding Federal Communications Commission (FCC) licences for unserved cellular communications regions.

While I understand that the auction system for the granting of these licences will provide a significant source of income, I am concerned that the method and timing of the change from the lottery system to that of an auction should take into account those individuals already heavily involved in the process. It is my sincere hope that all parties involved in these efforts are treated fairly and adequately.

I would appreciate your review of the enclosed documents bearing this in mind. Thank you for your time and consideration.

Sincerely,



Pete V. Domenici
United States Senator

PVD/kbn
Enclosure

625 Silver, SW
Suite 120
Albuquerque, NM 87102
(505) 766-3481
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(505) 988-6133 FAX

Senate Dirksen Building
Room 427
Washington, DC 20510
(202) 224-6821
(202) 224-7371 FAX



Contact
New Mexico

JUL - 6 AM 9:00

July 1, 1993

Honorable Pete V. Domenici
U. S. Senate
434 Dirksen Senate office Bldg.
Washington, DC 20510

Re: S. 335 FCC Spectrum Auction Authority

Dear Senator Domenici:

I am a tentative selectee for an FCC license for facilities in the new 220-222 Mhz Radio Service allocation. I am writing to urge you to rectify discriminatory language in the S. 335 spectrum auction proposal that will be included in the Senate Budget Bill. Section 408 of S. 335 would prohibit issuance of my 220-222 MHz license and require me to bid competitively for a facility for which I was designated to receive a license in October 1992. I feel certain that the subcommittee did not intend to discriminate against tentative selectees chosen by the Commission nine months ago, who simply have not received a physical license due to administrative inefficiencies. But the wording of S. 335 as reported out of the Commerce Committee would do just that.

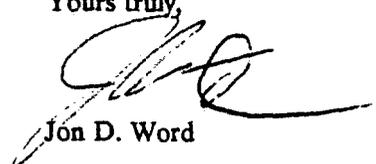
The FCC began issuing 220 Mhz licenses in January 1993 and in six months only 900 or so of the 3600 licenses have been issued to the tentative selectees. The 220 MHz Radio Service was established by the FCC in May of 1991 and in over two years it has not been fully implemented because of administrative delays. To have federal legislation derail this nascent Radio Service would be an enormous disservice to the public interest.

It would be fundamentally unfair and perhaps unconstitutional for the FCC to discriminate among the selectees in the 220-222 MHz Radio Service solely on the basis of whether the FCC happened to issue a license before the new fiscal year begins: litigation is certain to be pursued and will not doubt result in a judicial stay of the auction process. Further, returning all of the pending applications and filing fees will be an unnecessary bureaucratic morass, particularly since its hard to imagine how the FCC could raise as much money in auctioning 220-222 Mhz spectrum as it received in application fees that will have to be refunded.

As you can see, if enacted as currently drafted, this legislation would have a major adverse impact on the 220-222 MHz industry. Because it would unreasonably discriminate against certain lottery winners, it would subject the entire 220-222 MHz licensing procedure to litigation. Even the process of adopting auction procedures alone will take well over a year. This delay and uncertainty in the licensing procedure will impede construction of facilities and implementation of 220-222 MHz service to the public. It will certainly have a very negative impact on the industry's ability to attract interest in further developing narrowband technology.

The auction legislation has already been passed by the House and has been voted out of the full Commerce Committee in the Senate. We understand that it is scheduled for vote in the Senate shortly. Your assistance in ensuring that existing Radio Services such as 220-222 MHz are exempted from the FCC's auction process is urgently needed. Thank you for your attention to this matter as it is of great importance to my business.

Yours truly,


Jon D. Word

10820 Central Avenue SE Albuquerque, New Mexico 87123 (505) 275-4600 Fax (505) 275-4688

JAW
7-1-93

July 8, 1993

1993 JUL 12 AM 9:00

The Honorable Pete Domenici
U.S. Senate
Washington, D.C. 20510

Re: S.335 - Subtitle A

Dear Senator Domenici:

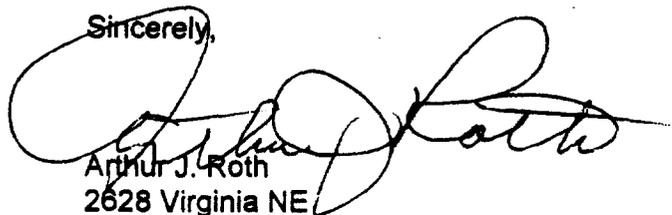
I hereby petition the Senate to amend Subtitle A of S.335 to limit the requirement of auctioning spectrum by the Federal Communications Commission ("FCC") to new technologies such as personal communications services ("PCS"), 28 GHz cellular video, and the emerging technologies band which have not yet been allocated specific spectrum blocks by the FCC.

I oppose auction requirements for services such as cellular rural service areas, cellular unserved areas, multiple address service, interactive video and data services, 220 MHz and wireless cable. For those services, the FCC has finished allocating spectrum and has either (1) accepted applications, held lotteries and is in the process of issuing licenses, (ii) accepted applications and is about to hold lotteries, or (iii) accepted applications for some markets and is about to hold lotteries for those markets and accept applications for the remaining markets.

To switch from lotteries to auctions at this late date would result in considerable delays in licensing by the FCC, which, in turn, would delay service to the public and delay the implementation of many new jobs that would be offered by the new companies providing such services. In the cases of IVDS and 220 MHz, it would also allow foreign manufacturers time to catch up to the small U.S. manufacturers who now lead the field and could dominate sales if licenses were awarded promptly.

Far more than the mandated 7.2 billion dollars could be raised from speedy implementation of auctions for PCS and other new technologies. It is estimated that auctioning the top 20 major markets for PCS alone would raise at least 9 billion dollars. ***Please do not jeopardize this opportunity by mandating auctions for applications already on file.*** This will lead to litigation that could delay auctions for years.

Sincerely,



Arthur J. Roth
2628 Virginia NE
Albuquerque, NM 87110
(505)299-2825

c.r.c.senatr



J. Phelps White III

P.O. Box 874

Roswell, New Mexico 88201
(505) 822-5701

June 23, 1993

Senator Patu Domenici
Senate Office Building
Washington, D. C. 20510

Post-It™ brand fax transmittal memo 7671		# of pages :
To: SENATOR DOMENICI	From: J. Phelps White	
Co: US SENATE	Co: Roswell, NM	
Thru: Wash. DC.	Phone: (505) 622-5701	
Fax: (202) 264-7371	Fax: (505) 623 2141	

Dear Pete:

As an investor in ventures making application for FCC cellular telephone and interactive TV licenses through a federal lottery system, I have been informed that the present pending legislation will convert these lottery programs to federal auctions.

A considerable amount of money and time has been expended to this point in preparation of engineering and legal requirements in anticipation of participating in the present federal system. While not arguing one way or the other on the concept of changing the system, I do ask you to seek compromise which will protect the private sector investments made to this point. It would seem unfair to make this legislation retroactive, thus eliminating any hope of return through no fault of private investors acting within present FCC guidelines. I would greatly appreciate your attention and consideration in this matter.

With best personal regards,

Yours truly,

J. Phelps White, III

JPWITT:llis

Max Sklower

9744 COLONIAL CIRCLE NE • ALBUQUERQUE, N.M. 87111 • PH: 505-822-8864 • FAX: 505-822-8879

~~6/24/93~~

By Fax Page one of one

Honorable Senator Pete Dominici
Washington, DC

Dear Pete:

Re: Omnibus Reconciliation Act of 93
as it affects FCC licenses

You probably remember me. Im sure you do!

I ran KOAT-TV for 29 years and retired in 1987 to go to Texas to help a friend run two television stations in Texas. In early 1992 I retired there and moved back to Albuquerque.

Since then I have had some investments.

One of the investments was to apply for some unserved area Cellular licenses. I complied with the existing FCC rules and at considerable engineering expenses tendered several applications for a lottery.

The legislation referred to above includes amending the Communications Act of 1934 to provide the FCC with authority to utilize competitive bidding to select applicants for spectrum licenses.

As drafted, the ACT would subject to auction not only future applications but also those applications for frequencies which have previously filed for and in many cases are already subject to lottery processes. Amendments will be introduced on the floor of the Senate to amend the ACT to (1) exempt pending applications from the auction process and (2) grant the Federal Communications Commission discretionary authority to allocate existing and new communication services (other than for Personal Communications Services) by a method other than competitive bidding. I am writing to urge very strongly your favorable consideration of those amendments.

While I am sympathetic to the Government's desire to raise money through spectrum auctions, it would not be fair to apply the auction process to pending applications. I have invested thousands of dollars in legal, engineering and FCC filing fees to file for wireless communications licenses. I am not a speculator. I intend to construct and operate these facilities.

Had I known Congress could change the rules in the middle of the stream I would not have made the applications. If these changes are made there will be endless litigation and this will ultimately delay service to the public.

The purpose of lottery selection of licensees was to encourage diversity of ownership. With straight bidding the giants such as the Regional Bell Operating Companies or other well funded giants will sop up all the licenses. If money is to be raised, why not raise the license fees for lottery winners?

Senator, I strongly urge you to support the amendments to be introduced on the floor which would apply the new auction authority only to new services and allow the FCC discretion to award licenses for existing or new services by a method other than competitive bidding. Thanks for listening, Pete.

Max Sklower

1993 JUL -1 AM 3:00

June 28, 1993

Dear Senator: *Domenici,*

Later this week, the Senate will be voting on the Omnibus Reconciliation Act of 1993. Included in that legislation will be provisions amending the Communications Act of 1934 to provide the Federal Communications Commission with authority to utilize competitive bidding to select from among mutually-exclusive applicants for spectrum licenses. As drafted, the Act would subject to auction not only future applications but also those applications for frequencies which have been previously filed for and in some cases already subject to lottery processes. Amendments will be introduced on the floor of the Senate to amend the Act to (1) exempt pending applications from the auction process and (2) grant the Federal Communications Commission discretionary authority to allocate existing and new communication services (other than for Personal Communications Services) by a method other than competitive bidding. I am writing to urge very strongly your favorable consideration of those amendments.

While I am sympathetic to the Government's desire to raise money through spectrum auctions, it would not be fair to apply the auction process to pending applications. I have invested thousands of dollars in legal, engineering and FCC filing fees to file for wireless communications licenses. I am not a speculator. I intend to construct and operate these facilities.

I believe that the public would best be served if all applications already on file with the FCC were processed pursuant to existing procedures rather than an auction. Changing procedures mid-stream will disrupt the orderly licensing of radio services, subject the licensing procedure to endless litigation, and ultimately delay service to the public.

I strongly urge you to support the amendments to be introduced on the floor which would apply the new auction authority only to new services and allow the Federal Communication Commission discretion to award licenses for existing or new services (other than for PCS) by a method other than competitive bidding.

*I thank you for your consideration
on this matter.*

*Sincerely,
Dennis J. Smith
414 E. 23rd St. #28
Roswell, N.M. 88201*