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BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. OFFICE OF THE SECRETARY

In the Matter of) GEN Docket No. 90-314
) ET Docket No. 92-100
)
Amendment of the) RM-7140, RM-7175, RM-7617,
Commission's Rules to) RM-7618, RM-7760, RM-7782,
Establish New Personal) RM-7860, RM-7977, RM-7978,
Communications Services) RM-7979, RM-7980
)
) PP-35 through PP-40, PP-79
) through PP-85

To: The Federal Communications Commission

REPLY TO OPPOSITIONS TO SOUTHWESTERN BELL CORPORATION'S PETITION FOR RECONSIDERATION

Southwestern Bell Corporation ("SBC") files these comments on behalf of itself and its operating subsidiaries in reply to certain oppositions to its Petition for Reconsideration of the Federal Communications Commission's Second Report and Order herein, issued September 23, 1993 ("Broadband PCS Order").

Many of the decisions made by the Commission in its Broadband PCS Order were not consistent with the positions urged by SBC. In preparing its Petition for Reconsideration, however, SBC concentrated its efforts on only one issue--the build-out requirements to be applied to 10 MHz Basic Trading Area ("BTA") licenses. A number of other matters, including especially the size of the licensed service territories and the amount of spectrum to be allocated to each, were of extreme importance to SBC. SBC was disappointed in the Commission's decisions on these matters and believes that the proposals SBC urged would serve the public interest better than the scheme the Commission adopted.

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It seems clear, however, that what the infant personal communications service ("PCS") industry needs most right now is finality and clarity as to the framework for the initial offerings. Therefore, SBC limited its Petition for Reconsideration to one issue--one which can be resolved without disrupting the outline of the industry adopted by the Commission yet will bring added benefits to multitudes of consumers. In its Petition, SBC urged the Commission to relax the build-out requirements for non-aggregated 10 MHz BTA licenses to make it economically feasible to use this spectrum for wireless access loops.¹

The Commission's own decision reveals the precarious viability of the non-aggregated 10 MHz licenses. Commissioner Barrett's dissent makes the point.

I strongly believe that 4/10 MHz BTA allocations provided today are uneconomic as a matter of public policy, even if they allegedly provide feasible technical alternatives for ancillary services by LECs and cellular companies.... I also cannot support this allocation for technical reasons. I do not believe the record sufficiently addresses the technical utility of minuscule 10 MHz BTA allocations above 2 GHz, in a myriad of tiny markets around the country.

Dissent of Commissioner Andrew Barrett, Broadband PCS Order

("Dissent"), pp. 5-6, 7. SBC agrees with Commissioner Barrett's assessment that 10 MHz of spectrum is not likely to support widely available broadband applications that are competitive with the 20 and 30 MHz PCS offerings. The extensive internal analysis

¹SBC proposes that aggregated 10 MHz licenses in the same service area be governed by the more stringent rules adopted in the Broadband PCS Order.

SBC has done, however, indicates that 10 MHz will support an economic development of wireless access to the public switched telephone network IF and ONLY IF the build-out requirements are relaxed as SBC suggested in its PFR herein.² As Commissioner Barrett notes, only two of the several hundred commenters in this proceeding supported 10 MHz allocations and then only for data uses. See, e.g., Dissent, p. 7, n.10.

NYNEX expresses sympathy for the SBC concept but does not support it. In its Opposition to Petitions for Reconsideration, NYNEX instead suggests that companies like Southwestern Bell Telephone Company that may be interested in obtaining 10 MHz allocations for wireless drops should adjust their bids to reflect the lessened economic value of a license with the current build-out requirements attached. NYNEX fails to acknowledge that the 10 MHz blocks are not economically viable for wireless drops at ANY bid price if the current build-out requirements are retained. Adjustment of bid ranges, therefore, will not make the spectrum more attractive.

NYNEX fears that adjustment of build-out requirements will result in many consumers failing to have access to PCS service. If the requirements for all spectrum bands were relaxed, SBC would share the concern. SBC suggests the change only for the precarious non-aggregated 10 MHz allocations,

²SBC suggested that the Commission consider changes such as allowing ten percent coverage within five years and 15 percent coverage within seven years and supported a maximum coverage requirement of 25 percent by the end of the license period, i.e., ten years.

however. The build-out requirements for the 20 MHz and 30 MHz licenses would remain unchanged. Therefore, a wide variety of PCS services should be available in the near term to most consumers. Additionally, if the 10 MHz blocks were to have relaxed build-out requirements, even more varied services would likely be available to the public. To refuse to acknowledge that the 10 MHz service capability is technically limited could result in the underutilization of this spectrum and diminish the availability of PCS services overall.

SBC and Commissioner Barrett are not alone in their fear that the 10 MHz licenses may be uneconomic. See, e.g., Opposition of Bell Atlantic, p. 6, n.11, citing a study filed with its own Petition for Reconsideration, indicating that such licensees would have a 26 percent cost disadvantage as compared to a 20 MHz licensee, "which will make it very difficult for a PCS provider with only 10 MHz of spectrum to be competitive." Id. BellSouth points out in its Petition For Reconsideration, (pp. 7-8) that the build-out obligations run counter to encouraging a wide range of services and technical approaches forcing PCS services and systems into "the same mold." SBC submits that the best solution to these problems, given the aggressive timetable set for the Commission by the legislature, is not to attempt to overhaul an obviously difficult decision, but instead to tailor the specialized performance requirements to the likely applications.

As GTE notes in its Opposition to Petitions For

Reconsideration (p. 9), smaller carriers are concerned that without changes like relaxation of the build-out requirements, partitioning of spectrum or a change in the geographic boundaries of the service territories, they will not be able to participate successfully in PCS. Of course, many of these carriers will qualify for the 20 MHz allocations set aside for rural telephone companies, women- and minority-owned businesses. Even so, one of the most obvious uses of PCS spectrum for local exchange carriers, particularly those located in remote areas, is the wireless drop. Thus SBC's modest proposal would help to solve the problem foreseen by these companies without requiring major restructuring of the framework adopted by the Commission.

Citizens Utilities addresses the problems of rural carriers in another way. Citizens supports the proposal of National Telephone Cooperative Association ("NCTA") to adopt a waiver standard and to relax construction requirements for providers in rural areas. But adopting a waiver standard at the outset is tantamount to revising the rules and therefore subject to abuse. In any event, the need for different construction requirements for the 10 MHz licenses is not limited to rural providers. All potential service providers that envision niche service options stand to benefit from SBC's proposed relaxation of build-out obligations.

The Commission's Broadband PCS Order ensures widespread availability of PCS services that utilize the larger spectrum blocks. Build-out obligations on those larger blocks further

ensure that licensees cannot warehouse these valuable airwaves. The services delivered using the larger spectrum blocks will introduce diversity and increase competition in the existing wireless services market. The small 10 MHz licenses offer the promise of diversity in mobile services. Limited in channel capacity, potential users of 10 MHz licenses are required to create new and innovative applications that may not be offered through larger spectrum blocks. This imaginative plan can be feasible only if the Commission modifies its build-out requirements to enable niche services and niche markets to be served through the niche spectrum. Otherwise, it will lay fallow and consumers may be denied the Commission's intended benefits of more competition and service diversity

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January 13, 1994

CERTIFICATE OF SERVICE

I, Martha R. Kiely, hereby certify that copies of the foregoing Reply To Oppositions To Southwestern Bell Corporation's Petition For Reconsideration have been postage prepaid, on the parties listed in the attached.


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