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**(FEB 17 1994)**

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February 17, 1994

HAND DELIVER

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW #222  
Washington, DC 20554

Re: GEN Docket No. 90-314  
Ex Parte Presentation

Dear Mr. Caton:

Pursuant to Section 1.1206 of the Commission's rules, this letter is to advise you that in their capacity as participants in PCS Action, Inc., a coalition of companies to promote the deployment of PCS services, the following individuals met yesterday afternoon with Commission Chairman Reed E. Hundt; Karen Brinkmann, special assistant to the Chairman; and Don Gips, Office of Plans and Policy telecommunications policy analyst:

Patrick Butler (American Personal Communications/The Washington Post Co.)  
Lisa Hook (Time Warner Telecommunications)  
William Berkman (Associated PCN Company)  
Douglas Smith (Omnipoint Corporation)  
Ronald Plessler (Piper & Marbury)

During this meeting, the above members of PCS Action discussed PCS Action's position with respect to the Commission's reconsideration of its Second Report and Order in the above-referenced proceeding and prior positions submitted by PCS Action. Copies of the enclosed PCS Action "Position on Reconsideration of Docket No. 90-314" were provided to Chairman Hundt at this meeting.

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In accordance with the Commission's rules, I am hereby submitting one original and one copy of this letter and its enclosure for the above-referenced proceeding.

Sincerely,

A handwritten signature in black ink, appearing to read "Ronald L. Plesser". The signature is fluid and cursive, with a large initial "R" and "L".

Ronald L. Plesser

RLP/kap

Enclosures

cc: Chairman Reed E. Hundt  
Ms. Karen Brinkmann  
Mr. Don Gips

## **PCS ACTION, INC.**

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### **PCS Action's Position on Reconsideration of Docket No. 90-314**

PCS Action urges the Commission to reject changes to the key elements of its PCS *Second Report and Order*, and to adopt such rules as are necessary to permit the aggregation of 40 MHz within the 1850 to 1970 MHz band.

PCS Action consistently has held that licenses of 40 MHz with large service areas are essential if PCS is to be implemented expeditiously and if it is to reach its full potential as a large-scale voice and data service available to a mass market. PCS Action also has argued that a reasonable restriction on the eligibility of cellular telephone companies to hold in-region PCS licenses is necessary to encourage new competition in mobile communications.

The Commission's plan for 30 MHz major trading area ("MTA") PCS licenses is a critical step toward a vibrant and competitive marketplace. Using these "big vision" PCS licenses, our members will introduce much-needed competition to cellular (which operates on 25 MHz of clear spectrum and in large, regional areas). These licenses will permit PCS to introduce wireless competition to wired local loop monopolies. Using these licenses, we will build an industry that will employ 300,000 Americans, strengthen our national economy, and contribute significantly to the Federal treasury. If PCS is limited to mere 20 MHz blocks and basic trading areas ("BTAs"), as the cellular interests argue, cellular will continue to have no effective competition and the local exchange will remain impenetrable.

The Commission recognized the need for 40 MHz by permitting these necessary 30 MHz blocks to be aggregated with upper band 10 MHz blocks. A slight variant on this plan -- permitting aggregation with a portion of the lower band 20 MHz block -- would have leave the FCC's plan largely intact, yield economically viable aggregation, and enable disadvantaged licensees to participate more fully in the development of PCS. Cellular industry efforts to convince the Commission to switch to a plan that would -- in theory -- permit "aggregation" of two 20 MHz licenses are a cynical sham tactic designed to stop a competitive PCS industry. Bidders would have no assurance of obtaining two 20 MHz blocks that could work together; blockbusters and after-market speculators, knowing that one 20 MHz block is useless without its mate, would have every incentive to stop bidders from obtaining 40 MHz of spectrum. The plans advocated by CTIA and its front-groups should be rejected, and the essential elements of the Commission's plan should be maintained.

On reconsideration of the broadband PCS rules, however, existing mobile service providers advocate (1) separating all the spectrum into small blocks, which would delay deployment; (2) limiting the size of all the geographic markets, which would increase costs and cause additional delays; and (3) relaxing eligibility restrictions for cellular firms and consortia. Their proposals would limit the viability of an independent, competitive PCS industry and undermine the four objectives that the Commission sought to optimize in its rulemaking. The impact of their petitions, if granted, would provide them access to a very large share of the PCS spectrum or, alternatively, delay the deployment of PCS by new entrants.

PCS Action urges the Commission to ensure large allocations for PCS that will encourage the rapid implementation of a competitive PCS market at minimum cost to the consumer. Specifically, PCS Action:

- Opposes proposals to reduce the size of spectrum allocation blocks to 20 MHz or less. Rapid deployment of PCS can only be accomplished by operators sharing spectrum with existing incumbent microwave users; PCS service in the shared spectrum can only be accomplished through large spectrum blocks.
- Opposes proposals to reduce the MTA service areas. The efficiencies of an MTA size market provide the best hope that PCS operators will be able to introduce services quickly and at a low cost to the consumer. Fragmenting the MTA markets would slow the deployment and raise the cost of initial PCS service making the service far less attractive to consumers.
- Opposes proposals to relax the in-region cellular eligibility restrictions. In-region cellular interests are entering the PCS era with 25 MHz of spectrum clear of microwave incumbents and with the ability to bid for an additional 10 MHz of the PCS spectrum in their cellular markets. Given the spectrum currently available to these cellular firms and given the Commission's concern that PCS provide competition to cellular service, there is good reason to apply restraints on cellular eligibility in PCS.

In addition, PCS Action urges the Commission to permit flexible aggregation of 40 MHz of spectrum in the lower band (1850 to 1890 MHz and 1930 to 1970 MHz). Under the PCS Action proposal any lower-band licensee could voluntarily lease or otherwise contract for use of its spectrum with another lower-band licensee. Flexible lower-band aggregation has been widely acclaimed by parties in the PCS proceeding because it:

- Allows for easier aggregation of 40 MHz of spectrum. Large allocation blocks, in turn, mean that service will not be blocked for years by microwave incumbents.
- Avoids the scarcity and expense of dual-band equipment. Aggregation under the Commission's current scheme would require use of both the upper and lower band frequencies, yet no reasonably priced equipment will be available in the near future to handle operation in both bands. Flexible aggregation will allow use of 40 MHz with the current lower-band equipment.

Of all the parties involved in the PCS reconsideration process, only one -- GTE -- filed in opposition to PCS Action's flexible aggregation proposal. Many parties filed in support of flexible aggregation, including Advanced Mobilcomm, CTIA, Digital Spread Spectrum Technologies, McCaw, and PCIA (formerly Telocator). Further, public interest and designated entity groups, such as the American Wireless Communications Corporation and the National Association of Telecommunications Executives & Companies, support flexible aggregation.