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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

March 24, 1994

EX PARTE

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

RE: Gen Docket No. 93-252
Regulatory Treatment of Mobile Services

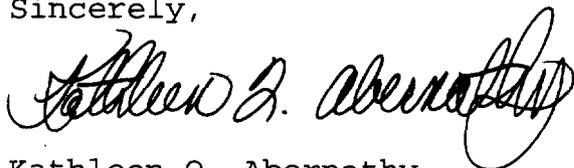
Dear Mr. Caton:

On Thursday, March 24, 1994, on behalf of PacTel Corporation, David Gross and I met with Greg Vogt, Chief of the Common Carrier Bureau's Tariff Division, and his staff regarding the above-referenced proceeding. We discussed the above referenced proceeding and the attached materials were distributed.

Two copies of this notice were submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me at 202-293-4960 should you have any questions or require additional information concerning this matter.

Sincerely,



Kathleen Q. Abernathy
Managing Director

cc: Greg Vogt
Barbara Esbin
Judy Argentieri

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CMRS REGULATION AS COMPARED TO REGULATION OF THE BOCS

- Most of the regulatory restrictions imposed on the BOCs arose from the Modified Final Judgment (MFJ) and were later supplemented by the FCC.
- Regulations were designed to prevent the discriminatory, anti-competitive actions that the BOCs, with monopoly control of bottleneck, local exchange switches, could exercise.
- The FCC has always recognized that mobile services are not natural monopolies and that there is not such concept as a monopoly franchise in the mobile services arena.
- The BOC regulatory model, which includes such regulatory protections as equal access obligations and open network architecture, is wholly inappropriate as applied to the competitive, mobile services marketplace because it will unnecessarily increase costs, diminish competition, and reduce service innovations among mobile service providers
- The FCC must independently analyze the mobile services market to determine the regulatory scheme that best ensures high quality, cost competitive services to consumers.

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WIRELESS EQUAL ACCESS

- The mobile services market is competitive; there is no bottleneck at the mobile switch. With PCS, ESMRS, Satellites etc., Mobile Services are becoming more competitive.
- Non-BOC cellular companies often do not offer customers pre subscription to a long-distance carrier; [they either subscribe to cut-rate long distance services or install their own long distance facilities on high traffic routes.] Instead, Non-BOC cellular carriers often use creative packaging of long-distance services to attract cellular customers.
- If customers objected to the packaging of air time and long distance services (as well as other ancillary services) they would only take service from the BOC wireline companies; clearly that is not the case.
- Customers [actually benefit from the creative packaging of services; they like lower cost, one-stop shopping and one bill, seamless networks.
- The only reason to deny customers this benefit is if countervailing regulatory concerns mandate the imposition of equal access; but there are no such concerns.
- There are multiple services providers to choose from in the mobile arena and the numbers will be increasing.
- The absence of rate regulation of mobile services eliminates any incentive either to cross-subsidize or to inefficiently limit interconnection with providers of ancillary services.
- To the contrary, the increasingly competitive nature of these services requires that mobile service providers offer lower cost, innovative services with broad coverage areas and numerous ancillary services.

IMPLEMENTATION OF WIRELESS EQUAL ACCESS

- It would be extremely difficult to define a local calling area and could end up with different service areas once PCS is available.
- Impossible to implement equal access in the satellite arena where the entire U.S. is the service area. Satellites will be increasingly competitive with other types of mobile services in the near future.
- In the mobile context would have to develop equal access obligations to cover calls originated by the mobile subscriber; call delivery/ call hand-off; and interchange data link which complicates the requirements and gently increase costs.
- Additional costs would be imposed on customers for education and regulatory oversight and customers would be denied the innovations and competitive benefits of packaging air time and long distance.
- Even without presubscription, however, a choice of long distance providers could still be made available to wireless subscribers for mobile-originated calls and that best balances the need for customer choice in a competitive environment.
- Ultimate conclusion must be that in light of implementation, difficulties, substantial costs, and decreasing ability to have competitively beneficial service innovations, as well as a lack of consumer benefits, cellular equal access should not be required.

WIRELESS TO WIRELESS INTERCONNECTION

- Interconnection obligations should not be imposed on carriers unless there are no other service providers. Cellular probably has market power.
- Mandatory PSTN interconnection is needed because LECs are virtually "sole providers" and control access to bottleneck facilities.
- Mobile service providers do not have market power and do not control access to a bottleneck switches.
- The marketplace has worked; cellular carriers routinely enter into mutually beneficial interconnection agreements in order to facilitate seamless hand-off and roaming.
- FCC would not want to discourage mobile service providers from building out networks but that would be the result if a competitor is allowed to gain selective access to another competitor's infrastructure.
- Broader concept of unbundling of wireless networks is similarly inappropriate because it is unnecessary in a market where there are not monopoly service providers, where it would be technically inefficient, and when it would involve complex cost allocations that do not even work well in traditional rate regulated environments. In a non-rate regulated environment such as faced by mobile service providers today, the cost issues will only result in substantial litigation and controversy for the FCC and Carriers alike, with the public receiving no benefit.

TARIFFING OF LEC INTERCONNECTION

- Current FCC policy, requiring that LECs negotiate interconnection rates and terms in good faith, has been extremely effective in the mobile services market.
- Cellular carriers negotiate better interconnection terms and rates without tariffing and benefits can be passed along to customers.
- Wireless systems are unique, with differing interconnection requirements, cost structures, strategies, and system advances. Standard terms and conditions would not reflect acknowledge these unique needs.
- Individually negotiated arrangements encourage wireless carriers to develop systems in an efficient manner and to differentiate themselves in the market. Promotes service innovations.