

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In re Application of)
Telephone and Data)
Systems, Inc.)
For facilities in the Domestic)
Public Cellular Telecommunications)
Radio Service on Frequency Block B,)
in Market 715, Wisconsin 8 (Vernon),)
Rural Service Area)

CC Docket No. 94-11
File No. 10209-CL-P-715-B-88

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APR 25 1994

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

To: The Review Board

APPEAL OF ORDER DENYING INTERVENTION

Townes Telecommunications, Inc. (TTI), by its attorneys, pursuant to §1.301(a)(1) of the Rules, hereby appeals the Presiding Judge's Order, FCC 94M-270, released April 18, 1994, which denied TTI's request for leave to intervene in the captioned proceeding. In support whereof, the following is respectfully submitted:

1) On March 15, 1994, within the period for filing for leave to intervene, TTI filed a Motion for Leave to Intervene which provided that

in various cellular markets in which TTI, has or will have ownership interests, TDS or its affiliated companies are in a position to acquire controlling interest. Thus, TTI has a direct and concrete interest in this proceeding and the Commission's decision in the captioned case could have a significant impact upon TTI. Motion, pp. 1-2.

2) The Presiding Judge denied TTI's request for leave to intervene because

TTI is not a member of the class specifically invited by the Commission to participate in this proceeding in its

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Hearing Designation Order (FCC 94-29), released on February 1, 1994. In addition, Movant had failed to show either that it has a tangible economic interest in the outcome of the instant proceeding, or that its participation will assist the Commission in the resolution of the issues at hand. Order, p. 2.

3) With all due respect to the Presiding Judge, TTI's request for intervention plainly stated that a decision in the instant case could have a significant impact upon TTI in those markets in which TDS is positioned to acquire a controlling interest. The statement was properly certified by an officer of TTI. Thus, TTI's request for leave to intervene demonstrated that it was a party in interest. Therefore, the Presiding Judge should have granted TTI's intervention request pursuant to §1.223(a).

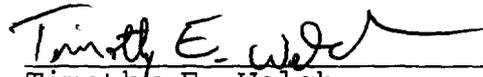
4) TTI's economic interest was clarified in its March 25, 1994 Reply to Oppositions to Motion for Leave to Intervene. Attached hereto is a copy of the Commission's August 20, 1993 Consent to Assignment of Common Carrier Radio Station Construction Permit or License (File No. 03750-CL-AL-93).¹ TTI's subsidiary Electra Telephone Company is a one-third owner of the Assignor and

¹ The attachment hereto was provided to the Presiding Judge in a reply filing for which a motion for leave to file was made. The Order also denied TTI's Motion for Leave to File Reply. TTI filed the Reply to clarify TDS's misleading assertion in its March 24, 1994 Oppositions to Motion for Leave to Intervene that TTI had no cognizable interest in the outcome of the instant proceeding. TDS had full knowledge of the conditional "La Star" language contained in the grant under File No. 03750-CL-AL-93, as well as knowledge of TTI's subsidiary's ownership interest in that market.

will possess an ownership interest in the Assignee upon consummation.²

5) The assignment authorization itself provides that the assignment grant is conditioned upon "any subsequent action the Commission may take concerning the issues raised in La Star." (Emphasis added.) The instant proceeding will resolve the "La Star issues" and constitutes "any subsequent action the Commission may take concerning the issues raised in La Star." Accordingly, TTI's interest in the instant proceeding is concrete and intervention is required pursuant to §1.223(a) of the Rules.

Respectfully submitted,
TOWNES TELECOMMUNICATIONS, INC.


Timothy E. Welch

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April 25, 1994

Its Attorney

² The assignment remains unconsummated as of the filing of the instant pleading. The fact that Electra Telephone Company's ownership interest in the Assignor is a limited partner interest is irrelevant to the question of whether the instant proceeding will impact upon TTI's interests. Where the assignment authorization was conditioned upon "any subsequent action the Commission may take," where the instant proceeding was called to take action in the La Star matter, and where such action clearly implicates TTI's subsidiary's ownership interest in TX RSA #5-B1, TTI's interest in the instant proceeding is manifest.

UNITED STATES OF AMERICA
 FEDERAL COMMUNICATIONS COMMISSION
 WASHINGTON, D.C. 20554

CONSENT TO ASSIGNMENT OF COMMON CARRIER RADIO STATION CONSTRUCTION PERMIT OR LICENSE

From (Assignor): TEXAS RSA NO. 5 (NORTH) LIMITED PARTNERSHIP C/O USCC, 8410 WEST BRYN MAWR CHICAGO IL 60631		To (Assignee): TEXAHOMA CELLULAR LIMITED PARTNERSHIP C/O USCC, 8410 WEST BRYN MAWR CHICAGO IL 60631	
Nature of Service: DOMESTIC PUBLIC CELLULAR RADIO TELECOMMUNICATIONS SERVICES		Class of Station: CELLULAR	
Call Sign(s)	In Various Locations in the State(s) of	Authorization Number(s)	
KNKQ333	0656 B 1 TEXAS 5 - HARDEMAN We make no finding in these cases concerning the issues raised in footnote 3 of <u>La Star Cellular Telephone Company, 7 FCC Rcd 3762 (1992)</u> . Therefore, these grants of transfers/assignments are conditioned on any subsequent action the Commission may take concerning the issues raised in <u>La Star</u> .		

Under authority of the Communications Act of 1934, the consent of the Federal Communications Commission is hereby granted to the assignment of the above described authorization from the above named assignor to the above named assignee.

The Commission's consent to said assignment is based on the representations made by the assignor and/or assignee that the statements contained in, or made in connection with, the application are true and that the undertakings of the parties upon which this assignment is authorized will be carried out in good faith.

The actual assignment of the authorization(s), including delivery of said authorization(s) to the assignee, shall be completed within 45 days from the date hereof; and notice in letter form thereof shall forthwith be furnished the Commission by the assignee showing when the acts necessary to give effect to the assignment have been completed. Upon furnishing the Commission with such written notice, assignee is authorized to begin the construction or operation of the station in accordance with all terms and conditions of said authorization(s). This consent shall not authorize the construction nor operation of said station by assignee unless such notification has been forwarded to the Commission.

It is hereby directed that this consent, when effective, be attached to the above-described authorization(s), posted as required by the Commission's Rules and Regulations.

GRANT DATE: July 30, 1993

DATE OF ISSUE: August 20, 1993

FEDERAL
 COMMUNICATIONS
 COMMISSION



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CERTIFICATE OF SERVICE

I hereby certify that I have this 25th day of April, 1994 sent a copy of the foregoing Appeal of Order Denying Intervention by first class United States mail, postage prepaid, to the following:

The Review Board*
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Washington, D.C. 20554

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