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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules to Establish New Personal Communications Services	)))	GEN Docket No. 90-314

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

TO: The Commission

CONSOLIDATED REPLY TO OPPOSITIONS TO PETITION FOR RECONSIDERATION

1. Advanced Cordless Technologies, Inc. ("ACT") hereby submits its Consolidated Reply to the responses filed by American Personal Communications ("APC"), Cox Enterprises, Inc. ("Cox"), Omnipoint Communications, Inc. ("Omnipoint") and PCS Action, Inc. ("Action") relative to ACT's Petition for Reconsideration in the above-referenced matter. [1] In their various submissions, APC, Cox and Omnipoint spend considerable energy criticizing ACT's allegations and offering up wholly conclusory, self-serving assertions of their own innocence. [2] The available facts, however -- which APC, Cox and Omnipoint understandably choose not to address in any detail -- provide

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[1] Cox and Omnipoint filed pleadings entitled "Oppositions", APC filed "Comments", and Action filed a one-paragraph letter. In addition, on May 4, 1994 APC filed "Comments" on the Cox and Omnipoint Oppositions. By ACT's calculation, replies to the Omnipoint and Cox pleadings and the Action letter would normally be due on May 5, 1994, a reply to the first APC pleading would be due May 6, 1994, and a reply to the most recent APC pleading would be due no earlier than May 16, 1994. Since a single consolidated reply is required by Section 1.45(b) of the Commission's Rules, ACT is submitting the instant Consolidated Reply on the deadline for responding to APC's *de facto* opposition pleading.

[2] In addition to the general, quasi-substantive arguments advanced in common by APC, Cox and Omnipoint, APC also suggests that ACT does not have standing to challenge the Commission's decision. APC Comments at 2, n.3. That suggestion, however, is flatly inconsistent with *Portland Audobon Soc. v. Endangered Species*, 984 F.2d 1534, 1537-1538 (9th Cir. 1993) (a party has standing "if for no other reason than that [it] allege[s] procedural violations in an agency process in which they participated"; "[i]f an agency fails to adhere to the ban on ex parte communications in a proceeding to which the prohibition applies, a participant in the agency's decisional processes is actually and particularly injured by the agency's disregard of its statutory duty not to engage in ex parte communications"). Since ACT is alleging ex parte violations in the proceedings involved here, it clearly has standing.

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convincing evidence that violations of the *ex parte* rules have indeed occurred with astonishing regularity in this case.

2. A preliminary line of defense staked out by APC, Cox and Omnipoint is that it was the Commission, and not they as private parties, who determined initially that various restricted and non-restricted matters could properly and practically be intermingled as they have been. According to APC/Cox/Omnipoint, they have simply played by the rules which the Commission set up. See APC Comments at 2-5; Cox Opposition at 4-5; Omnipoint Opposition at 5-6. Indeed, Omnipoint goes so far as to claim that the various issues "could easily be separated, both intellectually and conceptually", Omnipoint Opposition at 5, while Cox assures us that, for its part, Cox "rigorously observed the distinction between non-restricted and restricted proceedings", Cox Opposition at 5.

3. ACT stands by its view that the merits of the pioneers preference matter, on the one hand, and the technical standards for PCS, on the other, ***cannot*** be separated intellectually or practically. After all, a pioneer preference award cannot be made unless the awardee's proposal is accommodated by the substantive technical rules adopted by the Commission. *See, e.g., Tentative Decision and Memorandum Opinion and Order*, 7 FCC Rcd 7794, 7806, ¶29 (1992). By their very nature and design, these issues are thus inextricably intertwined, and any efforts to persuade the Commission relative to one aspect of the case must perforce influence the ultimate disposition of the other aspect. While it ***might*** have been possible to segregate the preference issues and the technical issues by first resolving, with full finality, the technical issues, and ***then*** addressing the preference issues, the Commission did not do that. Instead, the Commission tried to consider and resolve both sets of issues simultaneously, in a single proceeding, with one set of issues supposedly subject to *ex parte* restrictions while the other was not. [3/]

[3/] To make matters worse, the Commission also sought to break the proceeding down into further technical categories involving narrowband and broadband matters. The net result was a series of multiple moving targets, all of them tethered to the same point, but all of them moving at different speeds and in different directions. (continued...)

4. That exercise was not and is not intellectually or legally sustainable. Virtually any comment directed to the technical, non-restricted aspect could, and likely would, have an impact on the preference aspect, and vice versa. The Commission could repeat as much as it likes that the preference phase was really separate and apart from the technical phase, and the Commission might even have meant it -- but the Commission could also have stated with equal conviction and equal effect that black is white, or that the sun rises in the west. The fact is that neither happens to be true, and a mere statement to the contrary by the Commission does not change the facts.

5. In any event, the result of the Commission's efforts was predictable. Lobbying (to characterize it politely) abounded. Neither APC, nor Cox, nor Omnipoint denies this. To the contrary, they all acknowledge their own substantial efforts, on and off the record, to influence the Commission in this matter. [4]

6. Which brings us to the main point of the arguments presented by Team APC/Cox/Omnipoint. According to each of them, each fully and completely complied with the *ex parte* rules. But that's all we have from them -- bare statements that they complied, with no explanation or description or supporting evidence [5], just flat, conclusory denials of wrongdoing.

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[3](...continued)
Indeed, the Commission's odd balkanization of this proceeding made it difficult, if not impossible, to determine how, when and in what order the Commission actually intended to resolve the particular matters before it. Thus, it was not until the release of the *First Report and Order ("Narrowband Decision")*, 8 FCC Rcd 7162 (1993), that it became apparent that the Commission might have deemed itself to have already acted on ACT's own preference proposal. The claims advanced by Cox and Omnipoint (and seconded by APC in its May 4 Comments) relative to the supposed untimeliness of ACT's efforts to obtain reconsideration are plainly meritless in view of the fact that the Commission itself chose to consider the various aspects of this proceeding in a disjointed and confusing manner.

[4] Amusingly, APC and Cox point to the impressive overall level of lobbying activities as a kind of defense. *See* APC Comments at 6; Cox Opposition at 6-7. They seem to be arguing that, since other parties were engaged in the same kind of active lobbying as APC and Cox, it was acceptable conduct. Such an excuse is more appropriate -- although certainly no more valid -- in an elementary school playground ("he started it", "he did it, too", "did not", "did too") than in a formal proceeding before a Federal administrative agency.

[5] Each pleading contains obviously factual (albeit terse and unilluminating) representations concerning what really happened (or, more accurately, what supposedly did ***not*** happen) in the various *ex parte* contacts, but the only support for these representations seems to be the signatures of counsel for each of the parties subscribing the
(continued...)

These tell us virtually nothing.

7. What ***do*** we know about their various contacts? We know that there were a lot of them. While Cox and Omnipoint quibble over the numbers somewhat, they both agree that they engaged in multiple contacts. And, of course, APC is in no position to deny that it did so, too -- indeed, APC must be credited with far and away the most *ex parte* contacts of all three. Team APC/Cox/Omnipoint all defend themselves on this point with the common argument that the number of *ex parte* contacts is irrelevant, apparently because there is no rule limiting the number of *ex parte* contacts any party can make. *See* APC Comments at 6; Cox Opposition at 6; Omnipoint Opposition at 4. Right they are -- as long as the contacts are proper *ex parte* contacts.

8. The trouble here is that we don't really know whether their contacts were proper or not. Sure, APC, Cox and Omnipoint (or at least their counsel) all claim that none of their contacts were impermissible, meaning, presumably, that none involved discussion of matters not previously covered by written presentations which had been formally included in the docket of the proceeding. *See* APC Comments at 6; Cox Opposition at 5; Omnipoint Opposition at 5-6. But since neither ACT, nor its counsel, nor any other disinterested person (as far as we know) happened to participate in these contacts, we really have no way of knowing for sure. [6]

9. And what facts we ***do*** know strongly suggest that APC, Cox and Omnipoint are being less than candid and forthright here. Included herewith as Attachment A is a set of tables derived from

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[5](...continued)
pleading. This lack of supporting statements from any principals of APC, Cox or Omnipoint -- or any other non-attorney -- is somewhat surprising. Rule 3.7 of the D.C. Rules of Professional Conduct generally prohibits an attorney from acting as an advocate when that attorney is a necessary witness offering testimony on a contested issue. To be sure, that rule refers specifically to a "trial" context. But it is hard to imagine anything much closer to trial testimony than that which the parties seem to be offering here. It may well be that counsel for APC, Cox and/or Omnipoint are the only persons in a position to clarify the facts surrounding the *ex parte* contacts. But if that is the case, they should offer such clarification as witnesses, not as advocates.

[6] One of the more noteworthy problems with oral *ex parte* contacts is that it is difficult, if not impossible, to reconstruct them after the fact with any degree of completeness and/or reliability. *See, e.g., Amigos Broadcasting v. FCC*, 696 F.2d 128, 52 R.R.2d 1553 (D.C. Cir. 1982).

information obtained from the *ex parte* notices available in the Commission's records. These tables provide listings of the dates of each *ex parte* contact with each Commission staffmember in Gen. Docket No. 90-314 and ET Docket No. 93-266 by either APC, Omnipoint, Cox or Action. These contacts are a matter of fact.

10. We also know that APC, Cox and Omnipoint, and their respective counsel, all have admirable command of the written word, as evidenced by the eloquent (and numerous) pleadings which they are able to create. We also know that APC, Cox and Omnipoint all took great pains to present their substantive positions on the merits in writing in a timely fashion in the relevant dockets. And yet, we also know that, despite the opportunity to set down their positions clearly, definitively, and in writing for all to see, APC, Cox and Omnipoint all felt it necessary to visit with Commission staffmembers over and over and over to discuss those positions. Why?

11. Now it may be that APC/Cox/Omnipoint felt that, notwithstanding the considerable drafting skills of their counsel, their positions might be subject to misinterpretation. If that were so, a single trip to the Commission to clear things up might make sense. But the record reflects a staggering number of such visits by all three. What possibly could they have been able to talk about during all those visits? After all, to hear APC, Cox and Omnipoint tell it now, each and every visit was limited to rehashing positions which had already been stated in writing, *nothing more.* [7] Didn't these conversations become massively repetitious and pointless?

12. This is especially so in view of the proximity of the dates of many of the contacts. For

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[7] APC, Cox and Omnipoint did file letters confirming their various meetings. But those letters offer not a hint of what specific subjects were covered in the meetings. Instead, the letters are nothing more than completely uninformative window-dressing. Such less-than-forthcoming letters do not comply with the letter or intent of the *ex parte* rules. *See, e.g., Ex Parte Rules*, 2 FCC Rcd 3011, 3012, 62 R.R.2d 1755, 1761-1762 (1987):

> [T]he object of the ex parte rules is simple -- to assure that the agency's decisions are based upon a publicly available record rather than influenced by off-the-record communications between decisionmakers and outside persons. [footnote omitted] This objective is grounded upon basic tenets of "fair play" and "due process" that are embodied in the Constitution and other laws and which, we believe, are indispensable to preserving the public's trust and confidence in the integrity of the Commission's processes.

example, APC met with then-Chairman Quello on September 27, 1993, and then on September 28, 1993, and then again on September 29, 1993. What legitimate purpose could possibly have been served by such meetings, especially if each was truly dedicated to a bare revisiting of positions already set out in writing? Was APC giving Commissioner Quello follow-up quizzes to make sure that he understood what had been said? Did they spend their time reading APC's pleadings aloud to one another, possibly in the hope that the then-Chairman might commit them to memory?

13. And in case then-Chairman Quello had forgotten APC's position in the intervening two months, APC was back before him on December 3 and again on December 15. And possibly in an effort to pave the way for those meetings, APC also met with then-Chairman Quello's Senior Assistant, Brian Fontes, on November 30, December 1, December 7 and December 13. And possibly to make sure that the then-Chairman's office had no further follow-up questions on APC's position (which was already a matter of written record, of course), APC met with Mr. Fontes again on December 16 and December 17. These meetings do not even come close to reflecting all of APC's contacts with then-Chairman Quello's office (let alone the rest of the Commission's staff), but they suffice to illustrate the problem here: what on earth could all of these meetings have been about, since it defies credibility that they might have been limited (as APC now self-servingly insists) to restatements of previously-submitted positions?

14. The answer to that question is suggested by consideration of the timing of the various *ex parte* contacts against the backdrop of the Commission's deliberations. Included as Attachment B hereto are a series of graphs which plot chronologically the number of *ex parte* contacts by each party; the final graph consists of a composite of all those graphs plotted on a common scale. These graphs plainly reveal that the *ex parte* efforts of each of the three parties -- APC, Cox and Omnipoint

-- ebbed and flowed in nearly identical patterns. [8] Significantly, the major flows occurred immediately prior to Commission actions in September, 1993 and December, 1993.

15. But let's think about that for a minute. The September, 1993 action involved matters which were supposedly *non*-restricted. But the December, 1993 action was supposedly completely ***restricted***. What could there have been to discuss prior to that meeting, if not restricted matters which were obviously out of bounds? We frankly can't even begin to guess -- but there must have been something to talk about, since APC, Cox, Omnipoint and Action sent their troops on foray after foray into the Commission between September 23 (*i.e.*, the date of adoption of the *Second Report and Order*, 8 FCC Rcd 7700 (1993) establishing technical standards), and December 23 (*i.e.*, the date of adoption of the *First Report and Order* relative to pioneer preferences). [9]

16. Now APC, Cox and Omnipoint all insist that the meetings in October, November and December did not involve the pioneer preference matters addressed by the Commission in December, 1993 -- those matters were, after all, restricted. Rather, Team APC/Cox/Omnipoint stick to their story that their meetings all involved simple restatements of their previously submitted position on non-restricted matters. But if that is so, why do the graphs indicate that, virtually immediately after the pioneer preference decision, the near-constant forays on behalf of APC, Cox and Omnipoint

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[8] The chronological distribution of the contacts strongly undermines the claims which Cox and Omnipoint base on the fact that the total numbers of their respective contacts were appreciably smaller than those of APC. *See* Cox Opposition at 6; Omnipoint Opposition at 4-5. So Cox and Omnipoint may have tried to be more subtle than APC -- the pattern of their conduct is not less unmistakable.

[9] For example, Mr. Fontes alone was the subject of more than 20 such visits by APC during that period, three by Omnipoint, and one by Cox. So as not to single out then-Chairman Quello's office, we should point out that, during the same period, Bryan Marchant, Commissioner Barrett's legal assistant, was visited no less than 10 times, and Randall S. Coleman, then-Commissioner Duggan's legal assistant, was visited approximately eight times. Their bosses, the Commissioners themselves, also played host multiple times during this period (Quello - 10 oral *ex parte* contacts, Barrett - 10 oral *ex parte* contacts, Duggan - six oral *ex parte* contacts), as did a wide variety of other high-level Commission staffpersons. *See* Attachment A hereto.

dwindled dramatically? [10/] Again, what possible explanation could there be for the incredibly obvious increase in contacts immediately prior to the December, 1993 action and the equally obvious cessation of contacts immediately after that action?

17. Of course, in none of their pleadings do APC, Cox or Omnipoint attempt any explanation. Rather, they intone, mantra-like, that they did not discuss anything which had not already been submitted in writing and available for all to see. ACT submits that that claim is frankly incredible. And, despite the condescending responses of APC, Cox and Omnipoint to ACT's previous arguments in this vein, it appears that others are as mystified as ACT relative to the apparent *ex parte* violations. *See* Attachment C hereto (copy of letter to William Kennard, General Counsel, from Representative John Dingell).

18. Contrary to the position which APC, Omnipoint and Cox implicitly adopt by seemingly downplaying the overall significance of the *ex parte* rules, compliance with those rules is not some trivial nicety which can be overlooked or deftly sidestepped with vacuous letters. In the words of the United States Court of Appeals for the District of Columbia Circuit:

> Surreptitious efforts to influence an official charged with the duty of deciding contested issues upon an open record in accord with basic principles of our jurisdiction, eat at the very heart of our system of government - due process, fair play, open proceedings, unbiased, uninfluenced decision. He who engages in such efforts in a contest before an administrative agency is fortunate if he loses no more than the matter involved in that proceeding.

WKAT, Inc. v. FCC, 296 F.2d 375, 383 (D.C. Cir. 1961), *cert. denied*, 368 U.S. 841 (1961), *quoted in Ex Parte Presentations*, 1 F.C.C.2d 49, 49-50, 5 R.R.2d 1681, 1684 (1965). *See also* H.R. Rep. No. 880 (Part I), 94th Cong., 2d Sess. 20-22 (1976).

19. A failure by the agency to comply with these basic notions of fundamental fairness and due process can and must have dire results. As the Court of Appeals has said,

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[10/] Cox, apparently the least chatty of the lot, fell from four contacts in November-December, 1993 to zero contacts in January and February, 1994. Omnipoint went from 11 contacts in November-December, 1993 to one contact each in January and February, 1994. And APC went from 24 contacts in November-December, 1993 to two contacts in January and three in February.

> where . . . an agency justifies its actions by reference only to information in the public file while failing to disclose the substance of other relevant information that has been presented to it, a reviewing court cannot presume that the agency has acted properly, [citations omitted], but must treat the agency's justifications as a fictional account of the actual decisionmaking process and must perforce find its actions arbitrary.

Home Box Office, Inc. v. FCC, 567 F.2d 9, 54-55 (D.C. Cir. 1977). Consistently with this principle, the Court has also observed that "[a]gency action that substantially and prejudicially violates the agency's [*ex parte*] rules cannot stand." *Sangamon Valley Television Corp. v. United States*, 269 F.2d 221, 224 (D.C. Cir. 1959). [11/]

20. In the instant case the Commission has been subject to a truly phenomenal number of *ex parte* contacts, contacts the actual substance of which has not, as far as we can tell, been fully and forthrightly disclosed. And yet the Commission has still acted in this case, and has acted favorably toward three parties who engaged in such *ex parte* contacts. As reflected in the well-established precedents quoted above, under these circumstances the Commission's decision cannot stand. All parties are entitled to the benefits of the fundamental fairness and due process which are guaranteed by the Commission's own rules, by statute, and ultimately by the Constitution. Failure to afford all parties those benefits undermines the validity of the resulting rules, and also undermines confidence in and respect for the Commission and its processes. These are clearly unacceptable results. [12/]

21. And from a more practical perspective, the Commission's failure to act properly may have the unintended effect of delaying, rather than expediting, the initiation of this important new service. After all, if the Commission decisions adopted thus far are subject to reversal because of *ex*

[11/] *See also Jacksonville Broadcasting Corp. v. FCC*, 348 F.2d 75, 80 (D.C. Cir. 1965) ("The public interest cannot be reconciled with leaving in effect grants which . . . were in significant part the result of extra-judicial representations and influences"); *PATCO v. FLRA*, 685 F.2d 547, 565, n.33 (D.C. Cir. 1982) ("If the ex parte contacts are of such severity that an agency decision-maker should have disqualified himself, vacation of the agency decision and remand to an impartial tribunal is mandatory.").

[12/] In its Opposition, Omnipoint suggests without citation to any rule or precedent that ACT's Petition for Reconsideration is an inappropriate mechanism for raising the *ex parte* question. ACT begs to differ. Where an agency action suffers serious taint, it is unquestionably appropriate to seek reconsideration, in order to permit the agency the opportunity to address that problem and undertake such proceedings as may be necessary to eliminate that taint.

parte taint, the upshot will be further administrative proceedings, further delay, and further uncertainty.

22. Accordingly, in light of all of the foregoing, ACT renews its request, set out in its Petition for Reconsideration, that the preferences of APC, Omnipoint and Cox be rescinded, set aside or otherwise vacated and that the matter of their apparent violation of the *ex parte* rules be designated for hearing in accordance with Section 1.1216 of the Commission's Rules.

Respectfully submitted,

/s/ Gene A. Bechtel
Gene A. Bechtel

/s/ Harry F. Cole
Harry F. Cole

Bechtel & Cole, Chartered
1901 L Street, N.W. - Suite 250
Washington, D.C. 20036
(202) 833-4190

Counsel for Advanced Cordless
Technologies, Inc.

May 6, 1994

ATTACHMENT A

The following table reflects the dates on which individual Commission staffmembers were the subject of *ex parte* contacts by APC, Omnipoint, Cox or Action in connection with Dockets 90-314 and/or 93-266 from March 1992 through March 1994. The sources for this information are the letters filed by each party on or about the dates of the various *ex parte* contacts. In many instances, more than one FCC employee was listed as receiving either the oral or the written *ex parte* contact. This was especially true in the cases of written submissions. In such cases, the date of the contact reflected in the following table is the date of the written submission, in the case of of written contacts, or the date of the actual oral contact.

FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Andrew Barrett - Commissioner	6/25/93 7/7/93 (W) 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 9/15/93 (W)(3) 9/16/93 (W)(2) 9/27/93 9/28/93 9/29/93 10/14/93 (W) 10/25/93 10/22/93 11/23/93 11/24/93 12/3/93 12/8/93 2/28/94	9/29/93 (W) 11/30/93	7/28/93 (W)	8/11/93 9/9/93 (W) 9/13/93 (W) 9/13/93 2/28/94
James H. Quello - Acting Chairman - Commissioner	3/18/93 3/19/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (2) 9/15/93 (W)(3) 9/16/93 (W)(2) 9/27/93 9/28/93 9/29/93 10/14/93 (W) 10/28/93 12/3/93 12/15/93	7/7/92 9/29/93 (W) 11/2/93 11/17/93 12/3/93	7/28/93 (W)	7/28/93 8/11/93 9/9/93 (W) 9/13/93 (W) 9/14/93

Note:

"(W)" denotes a written Submission to the FCC employee.
"(#)" denotes the number of contacts by that party on that day.

FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Ervin S. Duggan - Commissioner	4/22/92 7/7/93 (W) 8/6/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/15/93 (2) 9/16/93 (W) 9/29/93 10/14/93 (W) 10/29/93 12/3/93	9/29/93 (W) 11/3/93 12/3/93	7/28/93 (W) 11/3/93	9/8/93 9/9/93 (W) 9/13/93 (W)
Reed E. Hundt - Chairman	12/1/93 12/3/93 1/14/94 1/18/94 3/14/94			

Note:

"(W)" denotes a written Submission to the FCC employee.
"(#)" denotes the number of contacts by that party on that day.

FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Brian F. Fontes - Senior Advisor - Commissioner James H. Quello	3/18/93 3/19/93 6/22/93 8/16/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 9/15/93 (W) 9/15/93 (W)(3) 9/16/93 (W)(2) 9/27/93 9/28/93 9/29/93 10/14/93 (W) 10/22/93 10/25/93 10/26/93 (2) 11/8/93 11/9/93 11/16/93 11/16/93 11/17/93 11/18/93 11/30/93 12/1/93 12/7/93 12/13/93 12/15/93 12/16/93 12/17/93 (2) 2/17/94 2/21/94 2/28/94	9/28/93 (W) 11/2/93 11/17/93 12/3/93	5/20/93 8/18/93 9/28/93 (W) 11/10/93	8/11/93 8/12/93 9/9/93 (W) 9/13/93 (W) 9/14/93 3/10/94

Note:

"(W)" denotes a written Submission to the FCC employee.
"(#)" denotes the number of contacts by that party on that day.

FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Bryan F. Marchant Senior Legal Adviser - Commissioner Andrew C. Barrett	5/25/93 6/25/93 8/10/93 8/31/93 (W) 9/7/93 (2) 9/13/93 (2) 9/13/93 (W) 9/15/93 (2) 9/15/93 (W)(3) 10/14/93 (W) 10/20/93 11/8/93 12/3/93 12/8/93 12/16/93 12/17/93 2/21/94 2/28/94 3/8/94	8/16/93 9/28/93 (W) 11/2/93 11/30/93	5/25/93 8/10/93 7/28/93 (W) 9/28/93 (W) 11/3/93	5/25/93 8/9/93 8/11/93 9/9/93 (W) 9/13/93 9/13/93 (W) 2/28/94
Randell S. Coleman - Senior Adviser - Commissioner Ervin S. Duggan	6/8/93 6/27/93 8/30/93 8/31/93 (W) 9/3/93 9/7/93 (W)(2) 9/13/93 9/15/93 (W)(3) 9/15/93 (2) 9/16/93 (W)(2) 9/27/93 9/28/93 10/14/93 (W) 10/27/93 10/28/93 12/3/93	9/14/93 9/28/93 (W) 11/1/93 12/1/93 12/3/93	8/10/93 9/28/93 (W)	8/10/93 8/11/93 9/9/93 (W) 9/13/93 (W)

Note:

"(W)" denotes a written Submission to the FCC employee.
"(#)" denotes the number of contacts by that party on that day.

FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Jonathan V. Cohen - Legal Advisor - Chairman James H. Quello	8/18/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 10/20/93 11/8/93 12/15/93 12/16/93 12/17/93	9/29/93 (W)	11/4/93	9/9/93 (W)
Linda L. Oliver - Legal Advisor - Commissioner Ervin S. Duggan's Office	4/22/92 8/31/93 (W) 9/3/93 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/28/93 (W) 11/3/93	7/28/93 (W) 9/28/93 (W) 11/3/93	8/18/93 9/8/93 (W) 9/13/93 (W)
Rudolfo Lujan Baca - Acting Legal Advisor - Commissioner James H. Quello's Office	8/18/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 10/14/93 (W) 10/20/93	11/2/93 12/3/93 9/28/93 (W)		9/8/93 (W)

Note:

"(W)" denotes a written Submission to the FCC employee.
"(#)" denotes the number of contacts by that party on that day.

FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Jefferey Hoegg - Commissioner Andrew C. Barrett's office	8/8/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/29/93	9/28/93	9/9/93 9/13/93
John Heller - Commissioner Ervin S. Duggan's office	11/15/93 12/3/93 12/15/93 12/16/93 12/17/93		7/28/93 (W) 9/28/93 (W)	
Karen Brinkman - Special Assistant - Chairman Reed E. Hundt's Office	12/3/93 1/10/94 3/15/94	3/17/94	3/29/94	
Robert Branson - Commissioner Andrew C. Barrett's office	5/25/93		5/25/93	5/25/93
Lisa Smith - Legal Advisor - Commissioner Andrew C. Barrett's Office	2/10/94			
Terry Haines - Chairman Alfred C. Sikes's Office		6/22/92		
Cheryl Tritt - Chairman Alfred C. Sikes's Office	7/2/92 (W)	6/22/92		

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Robert Pepper - Chief - Office of Plans & Policy	4/8/92 7/2/92 (W) 3/18/93 6/15/93 7/8/93 8/6/93 8/24/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/13/93 9/14/93 (W) 9/15/93 (W)(3) 9/15/93 10/14/93 (W) 10/20/93 11/4/93 12/8/93 12/8/93	3/18/93 6/22/93 9/29/93 (W)	3/18/93 7/8/93 9/28/93 (W)	3/18/93 7/6/93 8/11/93 9/9/93 (W) 9/13/93 (W) 3/23/94
Thomas Stanley - Chief - Office of Engineering and Technology	3/18/93 3/18/93 3/24/93 (W) 8/27/93 8/30/93 8/31/93 (W) 9/10/93 9/7/93 (W)(2) 9/13/93 (W) 9/13/94 9/14/93 9/14/93 (W) 9/15/93 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 12/1/93 12/15/93	5/10/93 6/22/93 7/29/93 9/8/93 (W) 12/1/93	9/2/93	8/11/93 9/9/93 (W) 9/13/93 (W)

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Pedesta Associates)
Renee Licht - Acting/Deputy General Counsel	8/15/93 8/31/93 (W) 9/2/93 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 10/14/93 (W) 11/1/93 12/3/93	9/29/93 (W)		9/9/93 (W)
Ralph A. Haller - Chief - Private Radio Bureau	7/2/92 (W) 8/24/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 2/17/94	9/29/93 (W)	9/28/93 (W)	9/9/93 (W) 3/23/93
Kathleen Levitz - Acting Chief - Common Carrier Bureau	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 2/17/94	9/29/93 (W)	7/28/93 (W) 9/28/93 (W)	9/9/93
Lauren Belvin - Acting Director - Office of Legislative Affairs	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W)	9/29/93 (W)	11/4/93	9/9/93 (W)

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
Gerald P. Vaughn - Deputy Bureau Chief - Office of Operations Common Carrier Bureau	7/2/92 (W) 8/11/93 8/31/93 (W) 9/2/93 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(2) 9/16/93 (W) 10/14/93 (W) 2/17/94	9/29/93 (W)		9/9/93 (W)
David Siddall - Chief - Frequency Allocations Branch - Office of Engineering & Technology	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/15/93 (W)(3) 9/15/93 (2) 9/16/93 (W) 10/14/93 (W) 12/8/93 12/8/93 12/17/93	9/29/93 (W)	9/28/93 (W)	9/8/93 (W) 3/23/94
Beverly Baker - Deputy Chief - Private Radio Bureau	6/11/93 6/24/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/29/93 (W)	6/11/93	6/11/93 9/9/93 (W)

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Pedesta Associates)
John Cimko - Chief - Mobile Services Division - Common Carrier Bureau	8/11/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(2) 9/16/93 (W) 10/14/93 (W) 2/17/94	9/29/93 (W)		8/11/93 9/9/93 (W)
Bruce A. France - Deputy Chief Engineer - Office of Engineering & Technology	7/2/92 (W) 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 11/18/93	9/29/93 (W) 12/1/93		9/9/93 (W)
John Winston - Director - Office of Small Business Activities	7/6/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/29/93 (W)		9/9/93 (W)
Myron Peck - Deputy Chief - Mobile Services Branch - Common Carrier Bureau	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/29/93 (W)		9/9/93 (W)

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Pedesta Associates)
Steven Markendorff - Chief - Cellular Radio Branch - Common Carrier Branch	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/29/93 (W)		9/9/93 (W)
Martin Liebman - Deputy Chief - Rules Branch - Private Radio Branch	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	9/29/93 (W)		9/9/93 (W)
David Solomon - Assistant General Counsel	11/1/93 12/3/93	12/1/93		
David Means - Chief - Engineering Evaluation Branch - Office of Engineering & Technology		3/10/93 8/19/93		
Kent Nakamura - Legal Counsel - Private Radio Bureau	2/17/94			
Kelly Cameron - Legal Assistant to Chief - Common Carrier Branch	2/17/94			
Don Gips - Deputy Chief - Office of Plans & Policy	3/15/94	3/17/94		3/14/94 3/23/94

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Pedesta Associates)
David Kroch - Special Assistant to Bureau Chief - Common Carrier Bureau	2/17/94			
Cecily Holiday - Chief - Satellite Radio Branch - Common Carrier Branch	9/2/93			
Julius Knapp - Chief - Authorization & Evaluation Division - Office of Engineering & Technology		7/28/93		
Stevenson Kaminer - Legal Counsel - Office of Engineering & Technology		12/1/93		
Richard Engleman - Chief - Technical Standards Branch - Office of Engineering & Technology				3/23/94

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
John Williams - Office of Plans and Policy	4/8/92 6/15/93 8/18/93 8/31/93 (W) 9/7/93 (W)(2) 9/10/93 9/13/93 (W) 9/13/93 9/14/93 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 10/14/93 (W) 12/1/93 12/17/93	7/30/93 9/29/93 (W)		9/9/93 3/23/94
Evan R. Kwerel - Office of Plans & Policy	4/8/92 6/15/93 8/18/93 8/24/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 12/1/93 2/17/94	7/30/93 9/29/93 (W)		9/9/93
Paul Marrangoni - Engineer - Office of Engineering & Technology	8/30/93 8/31/93 (W) 9/7/93 (W)(2) 9/10/93 9/13/93 9/13/93 (W) 9/14/93 9/15/93 (2) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	7/28/93 9/14/93 9/29/93 (W)		9/9/93 (W)

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FCC Employee Contacted	American Personal Communications	Omnipoint Corporation	Cox Enterprises	PCS Action (Podesta Associates)
David Reed - Office of Plans & Policy	6/15/93 8/18/93 8/30/93 8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 12/1/93	9/29/93 (W)	9/28/93 (W)	9/9/93 (W)
Fred Thomas - Office of Engineering & Technology	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W) 11/18/93	9/29/93 (W)		9/9/93 (W)
Tom Derenge - Office of Engineering & Technology	8/31/93 (W) 9/7/93 (W)(2) 9/13/93 (W) 9/14/93 (W) 9/15/93 (W)(3) 9/16/93 (W) 10/14/93 (W)	3/10/93 7/29/93 9/29/93 (W)		9/9/93 (W)
Donald Campbell - Office of Engineering & Technology	9/10/93 9/13/93 9/14/93 9/15/93			
Peter Tenhula - Office of General Counsel	11/1/93 12/3/93 1/18/94	12/1/93		3/23/94
Rodney Small - Office of Engineering & Technology	12/1/93 12/15/93	12/1/93		

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