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July 29, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

BY HAND

Mr. William F. Caton, Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: GN Docket 93-252 (Implementation of Sections
3(n) and 332 of the Communications Act)
Ex parte Presentation

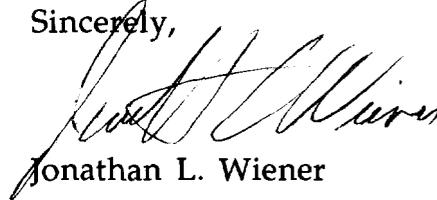
Dear Mr. Secretary:

On Friday, July 29, 1994, Jonathan L. Wiener of Goldberg, Godles, Wiener & Wright, and Steven T. Apicella, Vice President of RAM Mobile Data USA Limited Partnership ("RMD"), met with Ms. Karen Brinkmann, Special Assistant to Chairman Hundt, to discuss the proceeding listed above.

The discussion focused on Phase II 900 MHz licensing matters already discussed by RMD in its filings before the Commission. A summary of the matters discussed is attached to this letter.

An original and a copy of this summary are being provided for the public record, in accordance with Section 1.1206 of the Commission's Rules. If there are any questions in this regard, please contact the undersigned.

Sincerely,



Jonathan L. Wiener

cc: Ms. Karen Brinkmann

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SUMMARY OF RMD'S 900 MHz SMR PHASE II POSITION

- I. 900 MHz SMR PHASE I ("DFA") LICENSEES SHOULD BE PERMITTED TO EXPAND THEIR SYSTEMS (AND PROTECT EXISTING "SECONDARY" SITES) TO MARKET AREA BOUNDARIES, WITHOUT BEING SUBJECT TO AUCTION.**
- Such expansion will serve the public interest by insuring that those who have borne the risk and made the investment in the initial fragmentary DFA locations will be able to protect and expand their systems to natural market boundaries.
 - A licensing policy that favors system expansion is necessary to complete a licensing process began years ago before auctions were contemplated.
 - Unless expansion rights are granted, existing services that have been forced to expand on an at sufferance secondary basis will be disrupted and system expansion, instead of being allowed to proceed finally on a protected basis, will be forestalled. Auctions will, at best, delay necessary system expansion and, more likely, will result in the balkanization of the limited spectrum available among those who have built systems, but need to expand, and those with sufficient funds to buy just enough spectrum to make wide area operation of existing systems a practical impossibility.
 - Allowing existing systems to expand is consistent with existing and past FCC policies, most recently evidenced in the Commission's decision to allow incumbent private carrier paging systems a first opportunity to expand their systems on a channel exclusive basis.
 - Such expansion is also supported by the auction legislation mandate to avoid mutual exclusivity whenever possible and by parity goals to allow 900 MHz SMRs the opportunity to compete with other wide area systems.
- II. 900 MHz SMR SERVICE IS NOT ECONOMICALLY VIABLE WITHOUT SYSTEM EXPANSION**
- The initial license DFAs were never intended to comprise full market areas, but were part of an initial "Phase I" licensing scheme created solely for administrative convenience to avoid "daisy chain" mutual exclusivity problems.

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- The majority of 900 MHz SMR licenses were never even built; those that were are hanging on an economic thread.
- To have any chance of survival, systems have expanded, with FCC consent, by constructing “secondary” unprotected sites. Over one half of RMD’s 874 system locations are “secondary” and over 300 are outside of the DFAs; pending the resolution of Phase II, all ongoing and planned construction continues to be on a secondary, at sufferance basis.

III. RMD’S MODIFIED MTA EXPANSION PLAN RESOLVES YEARS OF DEBATE ABOUT HOW BEST TO PROCEED WITH 900 MHZ PHASE II LICENSING.

- Phase II licensing has been delayed for almost a decade, as it has been caught up in larger debates about the merits of local, regional, or nationwide licensing, system expansion by incumbent licensees versus new entry, competitive hearings or lotteries, and now auctions and parity.
- The Modified MTA plan fairly addressed all of these concerns and is fully supported by a previously divided SMR industry. The essence of the plan is as follows:
 - For each of the initially licensed 46 DFAs, a Modified MTA area, drawn from the 47 MTAs, is created.
 - Existing systems are allowed to expand (and/or protect their existing “secondary” sites) to Modified MTA boundaries on their already licensed DFA frequencies.
 - Because each licensee is limited to its own already licensed DFA frequencies, there is no mutual exclusivity.
 - Because so many licenses were returned to the Commission, new entry is permitted in almost all areas on currently unlicensed frequencies.
 - Systems seeking nationwide coverage, such as RMD, are able to put together Modified MTA areas to create a nationwide system. Systems seeking local or regional coverage can also accomplish their goals.

- The Congressional mandate “to avoid mutual exclusivity” by the application of “threshold qualifications, service regulations, and other means” is satisfied.
- Parity goals to allow 900 MHz SMR systems effectively to compete on a wide area basis with CMRS systems are also served.
- Build out requirements assure that spectrum will be effectively utilized.

IV. THE RESOLUTION OF 900 MHZ SMR PHASE II LICENSING NEED NOT BE CAUGHT UP IN YET ANOTHER BROADER DEBATE — THIS TIME ABOUT 800 MHZ SMRS AND NEXTEL’S ESMR PROPOSALS.

- 900 MHz SMR is different from 800 MHz SMR (and from cellular); it involves a total of only 5 MHz of spectrum, divided in narrow 12.5 kHz channels in ten channel blocks divided among as many as 20 licensees.
- While wide area service is crucial, “ESMR” or conventional cellular type services are not practical in the band.
- There is industry consensus in support of RMD’s Modified MTA plan, which should now be implemented, without being distracted by the 800 MHz SMR wide area service/ESMR debate.