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Docket No. 93-252
Ex Parte Presentation

The Honorable Susan P. Ness
Federal Communications Commission
1919 "M" Street, N.W. Room 832, Stop Code 0104
Washington, D.C. 20554

AUG 18 1994

August 16, 1994

Re: Vested Rights of SMR Applicants & Docket 93-252

Dear Commissioner Ness:

EX PARTE OR LATE FILED

RMTV, Inc., is owned exclusively by the undersigned, past President of a very large building supplies firm, who has been a part owner of a number of cellular telephone systems and many other businesses, and one who has the resources and relationships necessary to build and operate SMR and DSMR systems. RMTV, Inc. is also an SMR licensee and is an applicant for 800 MHz SMR licenses in many medium to smaller U.S. markets. According to the FCC's News Release DC-2638 and my attorney, the FCC now plans to return all of RMTV's pending SMR applications. Comments follow.

Approximately one year ago, RMTV completed its study of the FCC's SMR and related rules and concluded that it should hire the professionals needed to prepare and file applications for SMR licenses, which the rules provided were available on a first-come first-served basis, in many of the smaller markets that did not then seem to be of much interest to the larger SMR firms, such as Nextel and Motorola. RMTV expended many thousands of dollars and untold efforts preparing and filing these applications.

Now, some nine months later, the FCC appears to want to rewrite the SMR licensing rules retroactively to disqualify all pending applications. Forgive me, but that sounds more like the "Now you see it, now you don't" actions of the shysters who run application mills than it does the actions of a reputable federal agency. If the federal government can impose new "prices" on its products after the fact, why can't every entrepreneur in the nation? Can it be that the FCC has fallen prey to the same greed that has consumed the application mills?

Further, returning pending SMR applications will simply serve to strengthen Nextel's death grip on the SMR industry. Wide-area licensing may be in the public interest, but the processing of pending applications will not impair wide-area licensing anymore than will existing SMR licenses and systems! The thousands of pending applications are predominantly owned by small entrepreneurs and minorities who seek a chance to compete with the SMR-giant, Nextel, a virtual monopoly that the FCC has created with hosts of waivers and special treatment. RMTV doesn't seek such special treatment; it simply wants the FCC to keep its word and to abide by its own rules as to all citizen-actions that have been taken in reliance on those rules. If the FCC will do this, it will help create some competition in SMR. If not, the FCC's actions will be proving that it doesn't care at all about competition, small businesses or minorities; it simply cares about the federal pocket book and will violate its own laws to serve that end. Surely this cannot be the case. If not, the FCC will not return any pending SMR applications.

Respectfully submitted,

Roy J. Murphy

Roy J. Murphy, RMTV's President & Owner

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