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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

SEP 9 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Implementation of Section 309(j))	PP Docket No. 93-253
of the Communications Act -)	
Competitive Bidding)	

**LIMITED OPPOSITION TO PETITIONS FOR RECONSIDERATION
OF ENCOMPASS, INC.**

Encompass, Inc. ("Encompass") hereby files its limited opposition to the Petitions for Reconsideration (the "Petitions") of the Federal Communications Commission's Fifth Report and Order^{1/} in the above-captioned proceeding. Encompass opposes the Petitions to the extent that the petitioners seek to widen the gap in preferences provided in the entrepreneurial blocks for small businesses and businesses owned by women or minorities. Encompass further urges the Commission to specify a maximum time frame of sixty days between the close of the broadband PCS A&B block auctions and the commencement of the broadband PCS C&F block auctions.

Encompass is a small business dedicated to becoming a premier provider of broadband personal communications services ("PCS"). Encompass intends to bid for licenses in the entrepreneurial blocks as a small business eligible for the preferences provided for small businesses under the Commission's competitive bidding rules.

^{1/} In the Matter of Implementation of Section 309(j) of the Communications Act - Competitive Bidding, PP Docket No. 93-253, Fifth Report and Order (rel. July 15, 1994).

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I. **THE COMPETITIVE BIDDING RULES ADEQUATELY ADDRESS THE DIFFERENT NEEDS OF SMALL BUSINESSES AND BUSINESSES OWNED BY WOMEN AND MINORITIES IN THE ENTREPRENEURIAL BLOCK AND SHOULD NOT BE REALIGNED**

The competitive bidding rules adopted by the FCC in the Fifth Report and Order (the "Order") adequately address the unique capital needs of small businesses and businesses owned by minorities and women. In the Order the Commission appropriately recognizes that bidding for broadband PCS licenses will take significant financial resources as well as a commitment of capital to build out the PCS systems. The creation of the entrepreneurs' blocks and the specific provisions for small businesses and businesses owned by women and minorities within those blocks implements the Congressional goal of ensuring the wide dissemination of licenses. In structuring the bidding credits, the FCC also has struck the right balance among the different designated entities.

Encompass opposes any realignment of the bidding credits that would shift the balance and increase the differential between the bidding credits provided to each designated entity. Alternatively, if the bidding credit is increased for any particular designated entity the bidding credits provided to the other designated entities including small businesses also should be increased accordingly. For example, if the Commission were to modify its rules to provide a 40% bidding discount for small minority or women owned companies -- an increase of 15% -- the Commission should also increase the bidding credit for small businesses by 15% to 25%. This parallel adjustment will ensure

that within the entrepreneurial blocks small businesses and businesses owned by women and minorities are given a fair and balanced opportunity to attract investors and successfully bid for broadband PCS licenses.

II. THE COMMISSION SHOULD PROVIDE FOR A MAXIMUM TIME GAP OF SIXTY DAYS BETWEEN THE CLOSE OF THE A&B BLOCK AUCTIONS AND THE COMMENCEMENT OF THE C&F BLOCK AUCTIONS

Several petitioners have requested clarification on the timing of the three broadband PCS auctions. Pacific Bell has asked for clarification that the filing of the short form applications is required prior to each of the three scheduled auctions rather than prior to the commencement of the first auction.

Encompass agrees that the FCC should clarify the timing of the auctions and further requests that the Commission specify: (1) a time frame of no more than sixty days between the close of the broadband PCS A&B block auctions and commencement of the broadband PCS C&F block auctions; and (2) not finalize the award of the A&B block broadband PCS licenses until completion of the broadband C&F block auctions. A more extended time frame between the auctions will encourage potential bidders to delay the development and formalization of partnerships for bidding in the entrepreneurs' blocks until completion of the A&B block auctions. This delay will put companies eligible to bid in the entrepreneurial block, and particularly designated entities, at a significant disadvantage. Specifically, these entrepreneurs' block bidders will be in a state of flux and will not be in a

position to adequately prepare for the auction and network deployment. In addition, any delay beyond sixty days and the award of A&B block licenses prior to the completion of the C&F block auctions will give the A&B block winners a head start in market entry. This head start combined with their wealth and expertise could stifle any hopes of competition by successful bidders in the C&F block.^{2/}

WHEREFORE, Encompass urges the Commission not to modify the structure of its bidding credits and to specify a maximum time frame between the first and second auction of sixty days.

Respectfully submitted,

ENCOMPASS, INC.


by: Christopher Dettmar
Encompass, Inc.
Two Ravinia Drive, Suite 1205
Atlanta, Georgia 30346
(404) 673-6555

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^{2/} Delay also will provide the cellular carriers with additional time to strengthen their dominant position in the wireless market and to fend off the competitive threat of PCS.

CERTIFICATE OF SERVICE

I, Cathy Sampson, hereby certify that copies of the foregoing "Limited Opposition to Petitions for Reconsideration of Encompass, Inc." in PP Docket No. 93-253, have been sent this 9th day of September, 1994 via first-class mail to the parties listed below.


Cathy Sampson

James L. Winston
Rubin, Winston, Diercks,
Harris & Cooke
1730 M Street, N.W. #412
Washington, D.C. 20036

Lois E. Wright
Inner City Broadcasting Corp.
801 Second Avenue
New York, NY 10017

William J. Franklin
William J. Franklin, Chtd.
1919 Pennsylvania Avenue, N.W.
Suite 300
Washington, D.C. 20006

J. Barclay Jones
American Personal
Communications
1025 Connecticut Avenue, N.W.
Washington, D.C. 20036

Patricia Diaz Dennis
Sullivan & Cromwell
1701 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

Benjamin H. Dickens
John A. Prendergast
Susan J. Bahr
Blooston, Mordkofsky,
Jackson & Dickens
2120 L Street, N.W.
Washington, D.C. 20037

Thomas J. Casey
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Avenue, N.W.
Washington, D.C. 20005

Cathleen A. Massey
McCaw Cellular Communications
1150 Connecticut Avenue, N.W.
4th Floor
Washington, D.C. 20036

James P. Tuthill
Betsy Stover Granger
140 New Montgomery Street
Room 1525
San Francisco, CA 94105

Gail L. Polivy
GTE Service Corporation
1850 M Street, N.W. #1200
Washington, D.C. 20036

James U. Troup
Arter & Hadden
1801 K Street, N.W.
Suite 400K
Washington, D.C. 20006

Thomas A. Karl
Timothy E. Karl
Gregory L. Karl
Karl Brothers Inc.
P.O. Box 58040
Fairbanks, AK 99711

Joseph A. Belisle
Leibowitz & Associates
One South East 3rd Avenue
Suite 1450
Miami, FL 33131

Michael F. Altschul
Randall S. Coleman
Cellular Telecommunications
Industry Association
1250 Connecticut Avenue, N.W.
Washington, D.C. 20036

Ellen S. Deutsch
Jacqueline R. Kinney
P.O. Box 340
8920 Emerald Park Drive #G
Elk Grove, CA 95759-0340

Debra L. Lee
Maurita K. Coley
Black Entertainment Television
1232 31st Street, N.W.
Washington, D.C. 20007

Henry Solomon
Amelia Brown
Haley, Bader & Potts
4350 N. Fairfax Drive #900
Arlington, VA 22203

Joe D. Edge
Mark F. Dever
Drinker Biddle & Reath
901 15th Street, N.W. #900
Washington, D.C. 20005

John A. Malloy
Columbia PCS, Inc.
201 N. Union Street, #410
Alexandria, VA 22314

Kenneth R. Cole
Century Telephone Enterprises
100 Century Park Drive
Monroe, Louisiana 71203

Robert E. Levine
Latrice Kirkland
Mullin, Rhyne, Emmons
and Topel
1225 Connecticut Avenue, N.W.
Washington, D.C. 20036

David L. Nace
Marci E. Greenstein
Lukas, McGowan, Nace,
and Gutierrez
1111 19th Street, N.W. #1200
Washington, D.C. 20036

Stephen G. Kraskin
Sylvia Lesse
Charles D. Cosson
Kraskin & Associates
2120 L Street, N.W. #520
Washington, D.C. 20037

Mark J. Tauber
Mark J. O'Connor
Piper & Marbury
1200 19th Street, N.W.
7th Floor
Washington, D.C. 20036

David Sharbutt
Hicks and Ragland
Engineering Company
4747 South Loop 289
Lubbock, TX 79424

Robert H. Kyle
kycom, Inc.
96 Hillbrook Drive
Portola Valley, CA 94028

W. Chris Blane
Metrex Communications Group
5 Concourse Parkway #3100
Atlanta, GA 30328

James L. Wurtz
1275 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

Jonathan D. Blake
Kurt A. Wimmer
Covington & Burling
1201 Pennsylvania Avenue, N.W.
Washington, D.C. 20044