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BY HAND DELIVERY

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

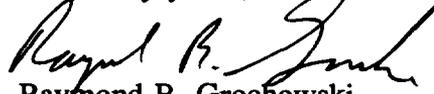
Re: PP Docket No. 93-253
Ex Parte Presentation

Dear Mr. Caton:

This is to advise you that on this date, the attached Further Comments of Vanguard Cellular Systems, Inc. were delivered by hand to the following: Chairman Hundt, Commissioner Quello, Commissioner Barrett, Commissioner Chong, Commissioner Ness, Karen Brinkmann of the Chairman's office, and Robert M. Pepper and Donald H. Gips of the Office of Plans and Policy.

Please direct any questions about this matter to me.

Very truly yours,


Raymond B. Grochowski
of LATHAM & WATKINS

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SEP 30 1994

FEDERAL COMMUNICATIONS COMMISSION
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Before the
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SEP 30 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
)

Implementation of Section 309(j)
of the Communications Act)
Competitive Bidding)
)
_____)

PP Docket No. 93-253

FURTHER COMMENTS OF VANGUARD CELLULAR SYSTEMS, INC.

Vanguard Cellular Systems, Inc. ("Vanguard") hereby submits these further comments regarding reconsideration of certain rules (the "Broadband Auction Rules") for licensing broadband personal communications services ("PCS"), adopted in the Commission's Fifth Report and Order in the above-captioned proceeding, FCC 94-178 (Released July 15, 1994) ("Fifth Report and Order").

In its Comments filed September 9, 1994 ("Vanguard Comments"), Vanguard requested that the Commission (i) adopt the proposal of the Cellular Telecommunications Industry Association ("CTIA") that gross revenues used for determining whether a company is eligible to bid for entrepreneurs' block licenses be averaged over the two years preceding September 23, 1993, and (ii) eliminate the provision in the Broadband Auction Rules that limits the ability of entrepreneurs with over \$75 million in annual gross revenues to pay winning bids through installment payments to only the top 50 BTAs. Vanguard Comments at 2-5. Additional information regarding these requests is provided below.

TIMEFRAME FOR DETERMINING ENTREPRENEURIAL ELIGIBILITY

Vanguard continues to support CTIA's suggestion of using September 23, 1993 as the ultimate date for annual gross revenue determination. In the alternative, the Commission should use the average gross revenues for calendar years 1992 and 1993 in making this determination. This will permit use of audited annual financial statements, which will probably not be available for 1994 at the time short form applications are to be filed for participation in the broadband PCS auction. Use of revenues averaged over 1992 and 1993 would also provide certainty to small businesses that are now engaged in formulating plans and marshalling resources for auction participation.

The ability of certain small cellular carriers to take part in the auction for entrepreneurs' blocks could well depend on the Commission's choice of the time period used for revenue determination. To illustrate this point, the attached list, prepared by Vanguard, shows total revenue figures for 1993 for the top 23 cellular companies in the United States. Vanguard's revenues for that year were \$124 million. The next largest cellular company is Century Telephone Enterprises, at \$433 million in gross revenues, an increase of almost 250 percent over Vanguard. Based on these figures, Vanguard would be eligible to bid for the entrepreneurs' blocks in the broadband PCS auction, because its average annual gross revenues are below \$125 million. If the Commission were to use a later timeframe, the average annual revenues of Vanguard, and other small companies, may fall just above the \$125 million cutoff.

As the attached list shows, the Commission's choice of \$125 million for the entrepreneurial business designation coincides closely with actual grouping by size within the

cellular industry. However, the direct result of the Commission's choice of a period after calendar year 1993 for gross revenue determination effectively could be, for purposes of broadband PCS participation, to move companies like Vanguard up to the group containing companies that are many times larger than Vanguard. Unnecessarily forcing a small company like Vanguard to bid on equal terms against only companies with hundreds of millions of dollars more in revenues would thwart the Commission's purpose in establishing the entrepreneurs' blocks. On the other hand, it is far less likely that choosing 1992 and 1993 as the calendar years for the gross revenue determination would in any way prejudice the opportunity of other small businesses to bid for the entrepreneurs' blocks.

INSTALLMENT PAYMENT OF BIDS BY ENTREPRENEURIAL BUSINESSES

The attached list further illustrates that at least two small cellular carriers, Vanguard and Associated Communications Corporation, would be unable to pay winning bids in the broadband PCS auctions in installments in all but the top 50 BTAs, because their annual revenues exceed \$75 million. See Vanguard Comments at 2-5. Again, a provision of the Broadband Auction Rules would result in placing carriers that are in the lower revenue cluster in the same category as much larger companies with respect to bid payment.

The Commission has offered no rational basis for the \$75 million cutoff for installment payments in smaller BTAs. On the other hand, the attached list demonstrates that, for cellular carriers in 1993, a large revenue gap exists between companies with less than \$125 million and those with more than \$125 million in revenues.

This clear separation at the \$125 million line between larger carriers, with a greater capability to pay winning bids up front, and smaller carriers, who may be forced to

limit their bids if they are unable to pay in installments, is consistent with the policies underlying the Commission's rules on eligibility for entrepreneur's blocks. This logical consistency breaks down under the Broadband Auction Rules, however, because companies that earn over \$75 million, but less than \$125 million, would be forced to pay on the same schedule as much larger bidders for small BTAs. Remarkably, the markets affected by this rule are the ones in which smaller cellular carriers, like those in the bottom group on the attached list, are best-suited to successfully provide PCS.

CONCLUSION

For the reasons stated above, Vanguard requests that the Commission (i) clarify the Fifth Report and Order by adopting the CTIA proposal for looking at the two years prior to September 23, 1993, or, in the alternative, by establishing calendar years 1992 and 1993 as the timeframe for determining eligibility to bid for entrepreneurs' blocks based on average annual gross revenues; and (ii) modify Final Rule Section 24.709 to permit all entrepreneurs with annual gross revenues under \$125 million to pay winning bids in installments for all BTAs.

Respectfully submitted,

VANGUARD CELLULAR SYSTEMS, INC.

By:



Raymond B. Grochowski
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September 30, 1994

		1993 Total Revenues (\$ MM's)
	COMPANY	
1	GTE Corp (Includes Contel Cellular)	19,748
2	BellSouth Corporation	15,880
3	NYNEX Corporation	13,408
4	Bell Atlantic Corporation	12,990
5	Ameritech Corporation	11,710
6	Sprint Corporation	11,388
7	Southwestern Bell Corporation	10,690
8	U S WEST, Inc.	8,658
9	ALLTEL Corporation	2,342
10	McCaw Cellular Communications, Inc.	2,195
11	Southern New England Telecom.	1,654
12	Comcast Corporation	1,338
13	AirTouch Communications	890
14	LIN Broadcasting Corporation	688
15	Telephone and Data Systems (Includes US Cellular)	591
16	Century Telephone Enterprises	433
17	Vanguard Cellular Systems, Inc.	124
18	Associated Communications Corporation	98
19	CommNet Cellular, Inc.	56
20	Cellular Communications, Inc.	48
21	Centennial Cellular Corporation	43
22	Cellular Comm. of Puerto Rico, Inc.	29
23	Horizon Cellular Telephone Company	21

CERTIFICATE OF SERVICE

I, Raymond B. Grochowski, hereby certify that the foregoing Further Comments of Vanguard Cellular Systems, Inc. were served this 30th day of September, 1994, by hand, on the following:

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Federal Communications Commission
1919 M Street, N.W.
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Washington, D.C. 20554

James H. Quello, Commissioner
Federal Communications Commission
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Room 802
Washington, D.C. 20554

Andrew C. Barrett, Commissioner
Federal Communications Commission
1919 M Street, N.W.
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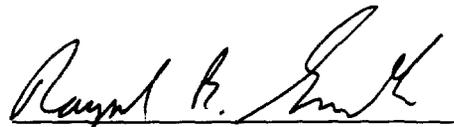
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