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September 29, 1994

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

Re: PP Docket 93-253, Competitive Bidding, Fifth Report & Order

Dear Mr. Caton:

On Tuesday, September, September 27, 1994, Preston McAfee and I, on behalf of AirTouch Communications, met with Don Gips, Jonathan Cohen, Evan Kwerel and Andrew Sinwell from the Office of Plans and Policy to discuss several auction issues being addressed in the above-referenced proceeding. First, we pointed out that with regard to the ability to use waivers, parties are best served if the Commission allows a finite number of waivers that can be used at any stage of the auction process. This flexibility allows bidders to maintain eligibility while discussing bidding strategy with management and seeking approval to spend additional sums of money. We also discussed the information provided in the attached document.

Two copies of this notice were submitted to the Secretary of the FCC in accordance with Section 1.1206(a)(1) of the Commission's Rules.

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Please stamp and return the provided copy to confirm your receipt. Please contact me at 202-293-4960 should you have any questions or require additional information concerning this matter.

Sincerely,

Kathleen Q. Abernathy

Penalties for Withdrawal by Designated Entities

- A Coherent Policy uses the Auction Prices to Establish Penalties for All Bidders
  - Penalty is the Greater of Zero and Amount Bid Minus Final Sale Price
- For Designated Entities, Bidder Credits Apply to Penalties as Well as Auction Prices
  - Doesn't Matter Whether Final Buyer is a Designated Entity or Not
  - All Payments to FCC by Designated Entities are Treated the Same
  - Other Rules Would Require Differentiating by Type of Final Buyer
  - Bidder Credit Can Be Viewed as Leveling of Playing Field
  - Doesn't Promote Frivolous Bids by D.E.s
- **Example:** Suppose Bidder Credit is 25%. A D.E. Bids $100, then Withdraws. The Final Price is $80. D.E. Pays $15 = 75% of ($100 - $80).
  - Given Bidder Credit, D.E.'s Bid is Effectively $75 (75% of $100)
  - If the Final Buyer is a D.E., then Bid of $80 is an Effective Bid of $60
    - Adjusting for Credits, Penalty is Difference in Effective Bids
  - If Final Buyer is Not a D.E., Penalty is Still $15
    - Represents Loss to Government in Having a Non-Designated Entity Win Bidding
    - Deters Withdrawals by D.E.s in this Circumstance
    - Compensates Government for Loss of Win by D.E.