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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

BY MESSENGER

Regina M. Keeney, Esq.  
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Federal Communications Commission  
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Re: Commencement of Voluntary Negotiation Period  
Public Notice DA 95-872, ET Docket 92-9

Dear Ms. Keeney:

On behalf of American PCS, L.P. d/b/a American Personal Communications ("APC"), we seek reconsideration of one aspect of the Wireless Telecommunications Bureau's public notice announcing the commencement of the voluntary relocation of 2 GHz incumbents to accommodate new personal communications service ("PCS") licensees on spectrum blocks A and B. See Wireless Bureau Announces Initiation of Voluntary Negotiation Period for A and B Block PCS Licensees and 2 GHz Incumbent Microwave Licensees, DA 95-872 (April 19, 1995) (the "Public Notice").

The Public Notice sought to begin the voluntary negotiation period as of April 5, 1995, the date upon which Block A and B auction winners filed their long-form license applications. The Public Notice cannot, however, be deemed to commence the voluntary negotiation date as to APC. APC filed its application for a PCS license on Block A on January 18, 1994, almost 15 months ago, and the FCC formally invited the filing of applications by two other PCS pioneers on February 25, 1994. See Commission Invites Filing of Broadband Personal Communications Service Pioneer's Preference Applications, Public Notice, Report No. 41902 (Feb. 25, 1994). The Commission formally accepted APC's application for filing on August 25, 1994. See Announcement of Acceptance of Broadband PCS Applications, Public Notice, Report No. CW-94-1 (Aug. 25, 1994). Accordingly, the voluntary negotiation period for APC began on January 18, 1994, or, at the latest, August 25, 1994.

Section 94.59 of the Commission's rules provides that 2 GHz incumbents "will maintain primary status in these

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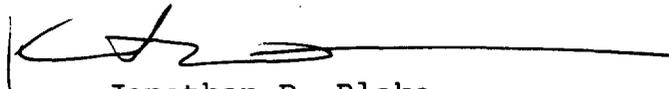
Regina M. Keeney, Esq.  
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bands until two years after the Commission commences acceptance of applications for an emerging technology service. . . ." 47 C.F.R. § 94.59(b) (1994). In adopting this rule, the Commission stated that the rule "attempts to balance the need to provide usable spectrum for emerging technologies as quickly as possible against causing disruption to the incumbent operations." Redevelopment of Spectrum to Encourage the Use of New Telecommunications Technologies, 9 F.C.C. Rcd. 1943, ¶ 63 (1994). The goal of the rule is to put microwave incumbents on notice of the date on which the negotiation period would commence. Incumbents were put on notice that APC had filed its application on January 18, 1994 or, at the very latest, on August 25, 1994 when the Commission issued a public notice reporting the acceptance of APC's application.

Issuing a new public notice retroactively eliminating between eight to 15 months from the voluntary negotiation period that already has commenced for APC would violate the clear language of the rules. Accordingly, the Bureau should clarify that the Public Notice applied solely to PCS applicants who filed their applications on April 5, 1995, and not to PCS licensees whose applications were earlier filed.

Please contact either of the undersigned with questions concerning this matter.

Very truly yours,



Jonathan D. Blake  
Kurt A. Wimmer

Attorneys for American  
Personal Communications