ORIGINAL

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

MAY 30 1995

In the Matter of	)	
	)	
Deferral of Licensing of MTA Commercial Broadband PCS	)	GN Docket No. 93-253
	)	ET Docket No. 92-100

To: The Commission

DOCKET FILE COPY ORIGINAL

OPPOSITION TO APPLICATION FOR REVIEW

South Seas Satellite Communications Corporation ("South Seas"), by its attorneys and pursuant to Section 1.115 of the Rules and Regulations of the Federal Communications Commission ("Commission"), hereby responds to the Application for Review[1/] filed by the National Association of Black Owned Broadcasters, the National Association for the Advancement of Colored People, and Percy E. Sutton (collectively, "Petitioners") on May 12, 1995.

IN SUPPORT WHEREOF, the following is shown:

1. The Application for Review seeks review of the Wireless Telecommunications Bureau's order denying the

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[1/] The Application for Review is actually entitled "Application for Review and Request for Stay." Because this Opposition is being filed after the deadline for submitting timely responses to the Request for Stay, South Seas is not responding to the Request for Stay. South Seas' decision not to respond to the Request for Stay should not be interpreted as support for that request.

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List A B C D E

"Emergency Motion to Defer MTA PCS Licensing" filed March 8, 1995 by Communications One, Inc. ("COI"). Deferral of Licensing of MTA Commercial Broadband PCS, GN Docket No. 93-253, ET Docket No. 92-100, Chief, Wireless Telecommunications Bureau, released April 12, 1995 ("COI Order"). COI had requested the Commission to defer the licensing of the A and B blocks in the 2 GHz broadband Personal Communications Service ("PCS") to prevent subsequent auction block winners from suffering a competitive disadvantage due to the "headstart" afforded to the A and B block auction winners. In the COI Order, the Bureau denied COI's request, stating that

> [t]he argument raised by COI was expressly addressed in the Fourth Memorandum Opinion and Order in PP Docket No. 93-252, in which the Commission affirmed its decision to use a sequence of auctions to license broadband PCS.[2/] In that decision, the Commission expressly rejected the argument that the PCS licensing sequence should be changed to prevent A and B block winners from gaining an unfair headstart over other PCS licensees....We find that COI's effort to raise these issues again in an "emergency motion" amounts to an untimely petition for reconsideration of the Commission's prior decision.

COI Order at pp. 2-3.

[2/] Implementation of Section 309(j) of the Communications Act, Competitive Bidding, Fourth Memorandum Opinion and Order, 9 FCC Rcd 6858 (1994), paras. 126-132.

2. Petitioners do not dispute the Commission's conclusion that COI's pleading constituted an untimely petition for reconsideration of the Fourth Memorandum Opinion and Order and was accordingly not entitled to consideration. Like COI, Petitioners are also attempting to attack the merits of the Commission's decision in its Fourth Memorandum Opinion and Order. Again, the period for timely appealing that decision has long since passed.

3. In rearguing the merits of the Fourth Memorandum Opinion and Order, Petitioners have raised no facts or legal arguments that the Commission did not already consider and reject in its COI Order. Petitioners argue that the Bureau in its COI Order "failed to acknowledge the Commission's statutory obligation under Section 309(j)" of the Communications Act. To the contrary, the COI Order notes that prompt licensing of the A and B blocks furthers the Congressional mandate set forth in that section to "promote the development and rapid deployment of PCS for the benefit of the public with a minimum of administrative or judicial delay." COI Order at pp. 3-4. As the Bureau went on to state, "Prompt licensing of the A and B blocks furthers this Congressional mandate by speeding the introduction of services that will compete with cellular and other

established mobile services." Id. at p. 4. Petitioners do not dispute this conclusion.

Petitioners have failed to provide any basis for reconsidering the COI Order. Accordingly, the Application for Review must be denied.

Respectfully submitted,

SOUTH SEAS SATELLITE COMMUNICATIONS CORPORATION

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Date: May 30, 1995

CERTIFICATE OF SERVICE

I, Patt Meyer, a secretary in the law firm of Keller and Heckman, do hereby certify that a copy of the foregoing OPPOSITION TO APPLICATION FOR REVIEW has been served this 30th day of May, 1995, by mailing U.S. First-Class, postage prepaid, to the following:

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Patt Meyer

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Attachment A

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