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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of)
)
Implementation of Sections 3(n) and 332)
of the Communications Act)
)
Regulatory Treatment of Mobile Services)

GN Docket No. 93-252

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COMMENTS OF AIRTOUCH COMMUNICATIONS, INC.

AirTouch Communications, Inc. ("AirTouch"), by its attorneys, hereby files these
Comments in response to the *Third Further Notice of Proposed Rule Making* issued by the
Commission on May 5, 1995.¹

Earlier in this proceeding, the Commission decided to impose a 45 MHz spectrum
limit on the amount of combined cellular, broadband Personal Communications Service ("PCS")
and Specialized Mobile Radio ("SMR") spectrum a licensee could aggregate in a given geo-
graphic area at any point in time.² This spectrum "cap" was applied only insofar as the licensee
was classified as a Commercial Mobile Radio Services ("CMRS") provider. The Commission
now proposes to amend this rule by extending it to all cellular, broadband PCS and SMR
providers regardless of their regulatory classification. AirTouch supports this proposal.

¹ Implementation of Sections 3(n) and 332 of the Communication's Act, Regulatory
Treatment of Mobile Services, *Third Further Notice of Proposed Rule Making*, GN
Docket No. 93-252, released May 5, 1995 ("*Third Further Notice*").

² Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory
Treatment of Mobile Services, *Third Report and Order*, GN Docket No. 93-252,
9 FCC Rcd. 7988, 8100 (1994).

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The Commission adopted the spectrum cap based largely on the concern that a concentration of broadband CMRS spectrum in a few hands would unduly limit opportunities for potential competitors. AirTouch, which filed extensive comments in this proceeding in opposition to the spectrum limit, continues to believe that a spectrum cap will be counterproductive. Nonetheless, given that a spectrum cap has been adopted, AirTouch agrees with the Commission's proposal herein to apply the cap to cellular, PCS and SMR licensees, regardless of regulatory classification. This ensures that all licensees providing broadband wireless services will be subject to the same spectrum cap. Adoption of this even-handed rule change will prevent licensees from skewing the system to their advantage, provide greater certainty to the industry and obviate the need for the Commission to engage in a multiplicity of time-consuming proceedings in which it must determine how much of a licensee's spectrum should be attributed to CMRS (as opposed to PMRS) for purposes of the cap.

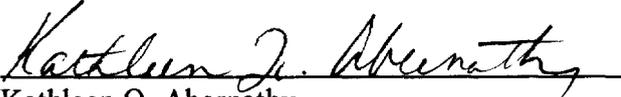
AirTouch also submits that the spectrum cap should be immediately applied to "grandfathered" SMR licensees who will continue to be regulated as PMRS providers until August 10, 1996. The three year transition period, which was established by Congress to ensure an orderly transition to CMRS regulation for re-classified PMRS providers, certainly was not intended to enable SMR carriers to amass large quantities of spectrum on a permanent basis in excess of the amount of spectrum that other industry participants, including other SMR providers, are permitted to acquire. Moreover, as recognized by the Commission, the immediate application of the spectrum cap will not adversely affect grandfathered SMR licensees since the

cap does not limit the number of SMR channels these entities may obtain, nor exclude them from participation in PCS.³

RESPECTFULLY SUBMITTED,

AIRTOUCH COMMUNICATIONS, INC.

Brian Kidney
Pamela Riley
AIRTOUCH COMMUNICATIONS, INC.
1 California Street
San Francisco, CA 94111


Kathleen Q. Abernathy
David A. Gross
AIRTOUCH COMMUNICATIONS, INC.
1818 N Street, N.W.
Washington, D.C. 20036
(202) 293-3800

Its Attorneys

June 5, 1995

³ *Third Further Notice*, ¶4.