

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

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General Counsel

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June 13, 1995

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

Re: FCC Denial of New York Petition to Extend Rate
Regulation of Cellular Carriers - PR Docket No. 94-108

Dear Secretary Caton:

This letter is being submitted in lieu of a Petition for Reconsideration in the above proceeding. It is evident that the Commission will not be swayed by further argument.¹

We do continue to believe, however, that the risks of premature deregulation of the rates charged by the cellular industry outweighs the minimal costs associated with New York's continued light regulation. As Assistant Attorney General Ann Bingaman suggested in her testimony before the House Subcommittee on Telecommunications, with only two facilities-based providers in each market, there is little evidence of significant price competition.

New York will carefully monitor the impact of the Commission's decision on New York consumers, and should it become necessary will seek Commission review, as permitted under the Budget Reconciliation Act of 1993.

Moreover, the Commission does not have the authority to establish the extent of New York's authority to set the terms and conditions for the provision of cellular service in the State. Absent specific Congressional action to the contrary, New York retains the authority to set the terms and conditions for the provision of cellular service in New York. In this regard, the Commission is examining whether to institute a proceeding to

¹ Chairman Hundt's speech at the NARUC Winter meeting in Washington seemed to suggest this result.

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address the appropriate terms and conditions necessary for cellular carrier compliance with State law.

Sincerely,

A handwritten signature in cursive script, appearing to read "Maureen O. Helmer".

Maureen O. Helmer
General Counsel
New York State
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cc: Chairman Hundt
Commissioner Quello
Commissioner Barrett
Commissioner Chong
Commissioner Ness

c:PBR:kk:FCC-cell.let

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