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July 6, 1995

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Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Mail Stop Code 1170
Washington, DC 20554

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Re: Comments to PP Docket ~~95-263~~
Further Notice of Proposed Rule Making

Dear Mr. Caton:

Enclosed herewith in an original and four (4) copies are Comments prepared by Richard L. Vega, Sr. in response to the Further Notice of Proposed Rule Making in PP Docket No. 95-263, released June 23, 1995.

Should the Commission have any questions concerning these matters, please contact the undersigned.

Respectfully submitted,

Richard L. Vega, Sr.

RLV/lt
Enc.

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List A B C D E

The Richard L. Vega Group
Telecommunications Engineers/Consultants
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FCC 95-263

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

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In the Matter of	)	
	)	
Implementation of Section 309(j) of the Communications Act - Competitive Bidding	)	PP Docket No. 93-253
	)	
Amendment of the Commission's Cellular PCS Cross-Ownership Rule	)	GN Docket No. 90-314
	)	
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 ON FURTHER NOTICE OF PROPOSED RULE MAKING

Richard L. Vega ("RLV") herein provides his Comments to the above Further Notice of Proposed Ruling Making. RLV has standing to file these Comments since he is the Managing Partner of an entity planning to participate in the PCS Auctions and is eligible for the Commission's small business and minority bidding credits.

The Commission has concluded, "reluctantly", that they must drop race-and-gender-based provisions, and adopt standards based solely on economic size. Further, somehow the Commission concludes that minority and women bidders will have a better chance of becoming successful PCS providers through the elimination of the previously adopted provisions. This Commentor believes the Commission has no authority to supersede, based on its own conclusions, the Omnibus Budget Reconciliation Act of 1993 which authorized the FCC to award licenses by competitive bids, as well as directed the Commission to ensure that small businesses, rural telephone companies, and businesses owned by minority groups and women (collectively known as "Designated Entities") are to be given the opportunity to participate in the provision of spectrum-based PCS services.

After two years of conducting new PCS Rule Making proceedings, and after significant money has been spent by individuals and groups seeking the "boost-up" mandated by Congress, the Commission, because of the *Adarand* decision, tosses into the trash these months of effort and dollars spent by many, many committed parties, and issues a Further Notice of Proposed Rule Making ("FNPRM") on the matter at the eleventh hour. The FNPRM, at II., concludes that ".... our proposal to eliminate the race-and-gender-based measures .... is consistent with our duty to implement the Budget Act." **Not so!** The Commission's proposal, in this writer's opinion, **sacrifices** the race-and-gender-based provisions currently in the Rules for the fast buck to be earned by the conduct of the Auction.

DELETE THE ENTREPRENEURS BLOCKS

FROM THE AUCTION PROCESS

The Commission has invited comments on how best to satisfy the goal of Congress relative to the issue of race and gender, without significantly delaying the license process. In response, this writer suggests that C and F Block licenses be awarded on a random selection basis (i.e. by a lottery). Since it is easy to accept the fact that there are a far greater number of race-and-gender-based minorities than those businesses or entities having revenues in excess of $40 million, it is also easy to conclude that these same minorities would succeed in acquiring a license as a direct result of their statistical majority if licenses were awarded by a random selection process. Procedures for a lottery are already in place and can easily be implemented once a qualified Applicant submits his/her Form 175 identifying the market, or markets, for which the Applicant is interested in obtaining a PCS license. Lotteries would be held on a market by market basis with all eligible Applicants for each market participating in the lottery. **Isn't the lottery process the fairest way to gain representation in an industry historically under-represented by minorities? Doesn't a lottery resolve all issues relative to the Court's decision mandating equal protection?**

The Commission need not fret at the thought of lost revenue to the Government. Rules could be constructed that would require the lottery winner to pay for the license(s) won. The same Rules would also grant the most favorable

payment terms to the winner of each lottery; without regard to race and/or gender, big business or small business. One payment plan for all! As a starting point for discussion, this writer would suggest that each market be assigned a value of $1.00 per pop on which the lottery winner would be required to pay interest only over a six-year period and then payments of principal and interest amortized over the remaining four years of the license term; the payment of interest would be identical to the 10-year U.S. Treasury rate.

Respectfully submitted,

Richard L. Vega, Sr.
Chairman
The Richard L. Vega Group
235 Hunt Club Blvd.
Longwood, FL 32779

Dated: July 6, 1995