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CTIA

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February 2, 1996

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Mr. William F. Caton, Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

Ex Parte Contact: Microwave Relocation - RM 8643;
Reciprocal Termination -
CC Docket Nos. 95-185; 95-54;

Dear Mr. Caton:

On Thursday, February 1, 1996, Messrs. Brian Fontes, Senior Vice President for Policy and Administration, and Randall S. Coleman, Vice President for Regulatory Policy and Law, CTIA, met with Ms. Lisa Smith, Senior Legal Advisor to Commissioner Andrew C. Barrett, regarding microwave relocation and reciprocal termination. The attached document, demonstrating the costs of delay and the benefits of expeditious relocation of microwave incumbents, was provided to Ms. Smith. In addition to this material, Ms. Smith was also provided with the attached document demonstrating the extent to which reciprocal termination has already been implemented by, or is under consideration by, state regulators or legislators.

Pursuant to Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the attachments are being filed with your office.

If there are any questions in this regard, please contact the undersigned.

Sincerely,

Robert F. Roche

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Spectrum Auctions and Microwave Relocation:
The Costs of Delay to Taxpayers and the Economy

So far, the U.S. Treasury has received $7.7 billion for 102 Personal Communications Services (PCS) licenses, and another $5.8 billion has been bid for 493 other wireless licenses.

The Problem:
These figures sound large, but in truth, they could have been larger.

The Solution: Require good faith negotiations upon award of the PCS licenses to the auction winners.

Background:
What went wrong? Currently, FCC rules permit incumbent licensees to avoid good faith negotiations to relocate to other bands until **two years** after the grant of the PCS license. This delay in good faith negotiations costs plenty:

- "**every year that PCS licensing is delayed reduces auction proceeds by at least $1 billion. Consequently, the viability of the entire PCS industry, the consumer benefits of cellular competition, and the net proceeds of the PCS auction are all contingent upon expeditious licensing.**" -- Alex D. Felker, Vice President, Technology, Time Warner Telecommunications, FCC PCS Task Force Meeting, April 1994.

- "**the longer the delay in PCS's entry into the market, the lower the expected investment returns, which will in turn raise the cost of capital and reduce the amount bidders are willing to pay for the licenses.**" -- Mark A. Roberts, Alex. Brown & Sons, Inc., FCC PCS Task Force Meeting, April 1994.

- **"ultimate PCS demand levels are reduced by roughly 15% for each year of delay" making PCS a "less than attractive business proposition -- particularly since the cash flow in early years has a great influence on the attractiveness of the business case" and possibly causing "some potential bidders to 'sit out' the auction because ventures may appear to be less profitable.**" -- Barry Goodstadt, EDS Management Consulting, FCC Ex Parte Presentation, March 1994.

Due to the refusal of spectrum incumbents to negotiate in good faith, the ability of auction winners to deliver wireless services is being hampered. Moreover, the incumbents are demanding excessive premiums as a precondition for negotiation or excessive prices for relocation.

Although the purchasers of the PCS licenses anticipated some relocation costs, and took these costs into account in making their bids for the licenses, the premiums and prices demanded by incumbents far exceed those expected. Prior to the auctions, it was estimated that it might cost, on average, $100,000 to move or replace a microwave system, which cost would be taken into account in making auction bids. *See* Statement of Dr. Charles L. Jackson, Strategic Policy Research, Before the FCC Personal Communications Services Task Force Meeting, April 12, 1994, at p.6.

In fact, post-auction estimates of relocation costs increased to between $250,000 and $500,000 per microwave link to reflect "engineering, hardware and negotiation incentives." *Paul Kagan Associates Wireless Market Stats*, April 21, 1995, at p.16. Since then, the demands of microwave incumbents have escalated, rising to $1 million per link or more.

Dr. Paul R. Milgrom of Stanford University has recently estimated that as the result of demands by microwave incumbents "**the loss of auction revenues would amount to $1.9 billion**." Dr. Milgrom also estimated that **"the loss in consumer surplus from delaying the introduction of PCS services on the A and B bands nationwide, conservatively estimated, amounts to $120 million per month of delay, while the loss of delays in introducing services in the C band amounts to at least $24 million per month.** Under less conservative estimates, the costs could be several times higher than this." Letter from Dr. Paul R. Milgrom, Stanford University, September 21, 1995, WT Docket No. 95-157.

Delays due to the lack of good faith negotiations also have other costs:

- delayed entry of new competition, which would create incentives for lower prices, innovation and new service features;
- delayed creation of consumer choice among alternative service providers;
- delayed or diminished investment in infrastructure and new employment; and
- continued opportunities to compete before regulators, rather than in the marketplace.

Requiring good faith negotiations upon the award of licenses will get PCS systems up and running faster, give consumers more choices for wireless services, and drive wireless costs down. This acceleration in the wireless deployment process will also enhance future Federal revenues in two ways. First, this solution will allow PCS bidders use the money they formerly allocated for payments to induce the microwave incumbents to negotiate instead to bid on new licenses. This way, instead of making PCS companies pay millions of dollars to private microwave incumbents, those dollars can instead flow into the U.S. Treasury to more fully compensate taxpayers for private use of a public resource. Second, because PCS firms will be able to deploy their networks years sooner, they will begin providing services and paying taxes on their new earnings more quickly.

STATE INTERCONNECTION COMPENSATION PROCEEDINGS SUMMARY

State	Proceeding Status	Form of Proposal or Rule	Report Source
Arizona	Proposal.	Bill and keep for LEC competition for three year interim period.	1/12/96 Teleport release on PR Newswire.
California	Concluded.	New entrants in LEC competition will be governed by bill and keep for the first year (through 12/31/96).	1/25/96 State Telephone Regulation Report; and Cox status report.
Connecticut	Concluded.	Reciprocal bill and keep for LEC competition for 9 month period, with confirmation of traffic balance. If balanced, B&K is maintained for another 12 months; if out-of-balance, true up and compensation to be determined.	9/22/95 Teleport release on PR Newswire; 10/5/95 State Telephone Regulation Report; Cox status report.
Massachusetts	Pending.	Evidentiary hearing on interconnection, decision pending.	Cox status report.
Ohio	Proposed.	Bill and keep for LEC competition.	12/28/95 State Telephone Regulation Report.
Oregon	Concluded.	Bill and keep for LEC competition for a two year interim period.	1/26/96 Communications Daily
Texas	Legislation in place; rulemaking initiated.	Legislation provides for bill and keep for first nine months of LEC competition; long-term arrangements to be developed.	Cox status report.
Washington	Concluded.	Bill and keep in place as interim measure for LEC competition.	11/30/95 State Telephone Regulation Report.