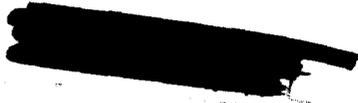


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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

OPR - 2 1995

In the Matter of)	
)	
Revision of Part 22 and Part 90)	WT Docket No. 96-18
of the Commission's Rules to)	
Facilitate Future Development)	
of Paging Systems)	
)	
Implementation of Section 309(j))	PP Docket No. 93-253
of the Communications Act --)	
Competitive Bidding)	

To: The Commission

REPLY COMMENTS OF EMERY TELEPHONE COMPANY

Emery Telephone (Emery), by its attorneys and pursuant to Rule Section 1.415(c) of the Commission's Rules, hereby submits its reply comments in the above-captioned proceeding.

- I. **The Commission Should Not Auction the Common Carrier Two-Way Frequencies.**
 - A. **BETRS is an Essential Service Which Must be Protected.**

The record developed by various commentators in this docket clearly demonstrates that market area licensing of two-way VHF and UHF spectrum, with its attendant auctions, will adversely affect the ability of rural telephone companies to satisfy requests for local exchange service, in contravention of the universal service mandate of Section 1 of the Communications Act of 1934, as amended (the Act).

Comments of NNTC at 3-5; Comments of United States Telephone Association at 2; Comments of Border to Border Communications, Inc. at 2-4; see also Comments of Rule Radiophone Service, Inc. and Robert R. Rule d/b/a Rule Communications (hereinafter Rule Communications) at 24. Emery submits that the Commission's auction scheme, if implemented, will seriously impair the ability of rural telephone companies to effectively respond to their customers' requests for local exchange telephone service in remote locations, where it is either economically not feasible or physically impossible to provide such service by wireline or fiber-optic cable (e.g., because the customer to be served is too far removed from the nearest central office, or natural terrain features make it physically impossible or impracticable to string open wire or lay cable). Accordingly, in order to preserve the provision of local exchange telephone service, via radio, in remote areas, Emery urges the Commission to abandon its proposal to auction spectrum allocated for the provision of Basic Exchange Telecommunications Radio Service (BETRS).

B. IMTS Is Not An Adequate Replacement for BETRS.

Rule Communications suggests that the provision of Improved Mobile Telephone Service (IMTS) in rural areas is superior, in terms of spectrum efficiency, to BETRS. Comments of Rule Communications at pp. 23 - 24. In

particular, Rule Communications asserts that it is able to serve many more subscribers, per channel, over its IMTS system than could be served by a rural telephone company over its BETRS system. Id. at 24. Emery has no information at hand to either rebut or support Rule Communication's contentions. However, a comparison of the relative attributes of BETRS versus IMTS is beyond the scope of this proceeding and irrelevant to its outcome. Needless to say, IMTS and BETRS are different services, with different purposes and expected grades of service. BETRS is intended to be an extension of local exchange telephone service in rural areas where service cannot be practicably provided via landline plant. Basic Exchange Telecommunications Service, First Report and Order, 3 FCC Rcd. 214, 217 (1989).¹

II. Emery Opposes the Auction.

Emery has reviewed the comments submitted in the captioned proceeding, and supports the numerous comments in opposition to the Commission's market area licensing

¹ In establishing BETRS, the Commission recognized that this service would be utilized by certificated local exchange carriers to provide local exchange telephone service by using radio loops to take the place of wire line or cable plant in remote areas. Report and Order, 3 FCC Rcd. 217 (1988). The Commission intended BETRS to be an extension of basic exchange telephone service, and required any service provider to either be certificated or otherwise obtain authority from the State to provide BETRS service. Id.

proposal. See e.g., Comments of The Paging Coalition; Teletouch Licenses, Inc.; Mashell Connect, Inc.; Border to Border Communications, Inc.; Ameritech Mobile Services, Inc.; MobileMedia Communications, Inc.; and Snider Communications Corporation. Emery believes that any auction proposal, especially any proposal to auction the two-way VHF and UHF frequencies, is contrary to the public interest since it will have a significant adverse effect on most small businesses, including Emery.

III. Conclusion.

Like most commentors in this proceeding, Emery opposes the Commission's market area licensing proposal to subject any of the VHF and UHF BETRS channels to competitive bidding even though such frequencies are shared, on a co-primary basis, with the Paging and Radiotelephone Service. Because of the high infrastructure costs associated with competitive bidding and the low population densities in rural areas, the imposition of market area licensing for BETRS operations is inimical to the universal service mandate of Section 1 of the Act, and contrary to the basic purpose for creating BETRS -- to provide local exchange telephone service to remote areas of rural America via wireless facilities, where such service could not otherwise be provided in a cost efficient manner. Accordingly, the Commission is urged to

take the necessary steps to protect the provision of BETRS to the residents of rural America who might otherwise have to do without local exchange telephone service, especially in the event of a life-safety emergency.

Respectfully submitted,

EMERY TELEPHONE

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Dated: April 2, 1996

CERTIFICATE OF SERVICE

I, Elizabeth A. Ebere, hereby certify that I am an employee of Blooston, Mordkofsky, Jackson & Dickens, and that on this 2nd day of April, 1996, I caused to be delivered by first-class U.S. mail, postage prepaid, a copy of the foregoing **Reply Comments** to the following:

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