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November 21, 1996

EX PARTE

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW, Room 222
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

RE: Amendment of the Commission's Rules to Permit Flexible Service Offerings in the Commercial Mobile Radio Services (WT Docket No. 96-6)

Dear Mr. Caton:

On Wednesday, November 20, 1996, Brian Kidney and I, on behalf of AirTouch Communications, Inc. met with Michael Hamra, Mika Savir, and David Krech of the Wireless Bureau to discuss the above proceeding. Please associate the attached material with the above-referenced proceeding.

Two copies of this notice are being submitted to the Secretary in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me at 202-293-4960 should you have any questions or require additional information concerning this matter.

Sincerely,

Kathleen Q. Abernathy

Attachment

cc: Michael Hamra
David Krech
Mika Savir

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List A B C D E

AirTouch Communications, Inc.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

**Amendment of the Commission's Rules to Permit Flexible Service
Offerings in the Commercial Mobile Radio Services
WT Docket 96-6**

November 20, 1996

**Brian Kidney
Kathleen Q. Abernathy**

ALLOWING CMRS PROVIDERS TO OFFER MULTIPLE TYPES OF SERVICES FURTHERS CUSTOMER CHOICE

- CMRS providers are now permitted to offer fixed services (including wireless local loop), fixed wireless architecture, and remote base stations on a co-primary basis.
- The “dynamic, evolving nature of the wireless industry” requires CMRS flexibility to “anticipate what services customers most need” and respond to the expected “rapid demand for fixed wireless services.”
- Allowing service providers to offer all types of fixed, mobile, and hybrid services furthers competition and increases customer choice.

THE FURTHER NOTICE CASE-BY-CASE PROPOSAL UNDERMINES THE GOALS OF THIS PROCEEDING

- The Commission proposes to address the regulatory treatment of fixed wireless services on a case-by-case basis.
- A rebuttable presumption that fixed wireless service should be regulated as CMRS may be challenged by any interested party.
- Any fixed or combination fixed and mobile services offered by a CMRS on a co-primary basis may also be challenged.
- The Commission proposes a detailed, fact-based consideration of the proposed service, the technology and system architecture involved, and the market to be served.
 - By forcing CMRS carriers and the Commission to expend time and resources resolving such regulatory disputes, the rapid development of new service offerings are discouraged.

FIXED WIRELESS SERVICES SHOULD BE REGULATED AS CMRS UNTIL CMRS REPLACES LANDLINE SERVICE FOR A SUBSTANTIAL PORTION OF THE PUBLIC

- Regulating fixed wireless service as CMRS until CMRS constitutes a widespread substitute for landline telephone exchange service is supported by many of the comments previously filed in this proceeding.
- Treating fixed wireless service as CMRS places the regulation of CMRS in the hands of the FCC rather than the states.
 - This is consistent with the intent of the Budget Act of 1993 and the Telecommunications Act of 1996.
- Section 332(c)(3) preempts state jurisdiction over CMRS rates and entry. Nevertheless a state may request authority to regulate CMRS if it proves that CMRS “is a replacement for landline telephone service for a substantial portion of the telephone landline exchange service within such State” and other factors.

FIXED WIRELESS SERVICES SHOULD BE REGULATED AS CMRS UNTIL CMRS REPLACES LANDLINE SERVICE FOR A SUBSTANTIAL PORTION OF THE PUBLIC (Cont'd)

- The statutory definition of “mobile services” was amended by the Budget Act in a manner that recognizes, and incorporates, the use of wireless technology to provide fixed services in competition with local exchange service.
- Congress was aware that CMRS providers offer telephone exchange and exchange access services but declined to define CMRS providers as local exchange carriers in the Telecommunications Act of 1996.
 - The Commission also declined to regulate CMRS providers as local exchange carriers at this time.