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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EX PARTE

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

Dear Mr. Caton:

Re: WT Docket No. 96-162, Amendment of the Commission's Rules to Establish
Competitive Safeguards for Local Exchange Carrier Provision of Commercial
Radio Services

The attached letter was sent today to Karen Brinkmann. Please associate this material
with the above referenced proceeding.

We are submitting two copies of this notice 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
should you have any questions or require additional information concerning this matter.

Sincerely,

Gina Harrison /AFC

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January 21, 1997

Karen Brinkmann
Associate Bureau Chief
Federal Communications Commission
2025 M Street, Room 5002
Washington, D.C. 20554

Re: Amendment of the Commission's Rules to Establish Competitive Safeguards for Local Exchange Carrier Provision of Commercial Mobile Radio Services, WT Docket No. 96-162

Dear Ms. Brinkmann:

Pacific Bell Mobile Services is filing this letter in response to your request for information on the difficulties and burdens that Pacific Bell Mobile Services would face if it were required to become a fully structurally separate subsidiary.

At the time Pacific Telesis was developing its business case for bidding in the PCS auctions, the ability to have some form of integration with Pacific Bell was a key factor. As you know, the Commission had previously decided that no separate subsidiary requirements were necessary for LECs (including BOCs) that provide PCS.¹ The Commission stated: "[B]y seriously limiting the ability of LECs to take advantage of their potential economies of scope, such requirements would jeopardize, if not eliminate, the public benefits we seek through LEC participation in PCS."² The Commission also noted: "We believe that these economies will promote more rapid development of PCS and will yield a broader range of PCS services at lower costs to consumers."³

Ultimately, as explained in our PCS safeguards plan, the decision was made to place PCS in a separate affiliate of Pacific Bell.⁴ However, the separate affiliate would still take

¹ Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, Second Report and Order, 8 FCC Rcd 7700, para. 126 (1993) ("PCS Order").

² Id.

³ Id.

⁴ Pacific Bell, Nevada Bell, Pacific Bell Mobile Services and Pacific Telesis Mobile Services' Plan for Non-Structural Safeguards against Cross-Subsidy and Discrimination, pp. 3-4, July 10, 1995.

advantage of some the key benefits of integration, such as access to the Pacific Bell sales channel and the ability to place PBMS's equipment on Pacific Bell property.

The passage of the Telecommunications Act of 1996, codified the ability to jointly market commercial mobile radio services with telephone exchange service, exchange access, intraLATA telecommunications, interLATA telecommunications and information services, regardless of where commercial mobile radio services are placed in the corporate structure.⁵ Thus, RBOCs with cellular subsidiaries can now jointly market landline and wireless services even though cellular service is still in a fully separate subsidiary. Likewise, for PCS, the ability to do joint marketing with landline services is now unaffected by where the service is placed in the corporate structure.

Nevertheless, a requirement to be fully separate would impose significant burdens and difficulties on us. Our mobile switching centers ("MSCs") are all located on Pacific Bell property. All except one of our base station controllers ("BSCs") are located on Pacific Bell property. The placement of equipment on an affiliate's property is not unique to our provision of PCS. For example, our competitor, Cox, has a similar ability to place its PCS equipment on its affiliated cable property.

It would place us at an extreme disadvantage if we were singled out for the removal of equipment from our affiliate's property. Our network is offering service now in San Diego, and we expect to be offering service in all the major markets in our service territory by mid-1997. Our MSCs and BSCs are in place now. Removing them would require diverting resources from our deployment efforts at a critical time when we are just entering a market or preparing to enter a market. It would require renting new sites which would need to be renovated to meet the technical characteristics necessary for our equipment. This would include providing uninterrupted back-up power, air conditioning, and security. Negotiating leases takes significant time, as does renovation.

Moving equipment requires disconnection, packing, unpacking and transport. Because the equipment is sensitive and needs special handling, this process is expensive and time consuming. Since we are already offering service in San Diego, the equipment that serves San Diego would either have to be duplicated at significant cost to allow a cut-over or we would have to take down the service during the relocation process. Either choice would substantially damage our competitiveness.

We are in a highly competitive market facing both entrenched cellular providers and other new PCS entrants. Relocating our MSCs and BSCs would be very costly and very disruptive to deployment and marketing efforts. Consumers would suffer because our service would have to bear these additional costs. The only beneficiaries would be our competitors.

⁵ Telecommunications Act of 1996, H.R. Rep. No. 104-458, 104th Cong., 2d. Sess. 92 (1996).

In addition to the use of Pacific Bell property, there are some other examples of integration that would have to be eliminated. We have access to intellectual property and proprietary information for which Pacific Bell is fully compensated. We use some Pacific Bell administrative services such as centralized distribution of employee materials, and internal directory sources. We also use some state regulatory support. Again, Pacific Bell is fully compensated for any services we use according to the Part 32 affiliate transaction rules.

In conclusion, we are moving rapidly to deploy our service throughout the Northern and Southern California MTAs. Our corporate structure and the location of our equipment are firmly in place. A regulatory requirement that would force full structural separation would disrupt our ongoing efforts. It would delay our deployment and our entry into the market. As a result, existing cellular providers would face less competition and consumers would lose some of the benefits of competition. If you have any additional questions, please let me know.

Sincerely

A handwritten signature in cursive script that reads "Betsy Stover Granger".

Betsy Stover Granger
Attorney