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Federal Communications Commission
Office of Secretary

April 17, 1997

BY HAND

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Office of Chairman Reed Hundt
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Dan Phythyon, Acting Chief
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Federal Communications Commission
2025 M Street, N.W., Room 5002
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Re: In the Matter of QUALCOMM Incorporated
Application for Pioneer's Preference
GEN Docket No. 90-314, File No. PP-68 —
Request for Meeting and Reply to QUALCOMM
Correspondence Dated April 7, 1997

Gentlemen:

On behalf of PrimeCo Personal Communications, L.P. ("PrimeCo"), we hereby request a meeting to discuss QUALCOMM, Inc.'s ("QUALCOMM") pending request for a pioneer's preference in the broadband Personal Communications Service, in light of the recent remand by the U.S. Court of Appeals for the D.C. Circuit in *Freeman Eng'g Assocs. v. FCC*.¹ This meeting is requested as an alternative to the meeting requested by Veronica Ahern, counsel to QUALCOMM, in correspondence (dated April 7, 1997), submitted to Mr. Richard Smith. Notwithstanding Mr. Smith's reply to Ms. Ahern (dated April 11, 1997), PrimeCo urges the Commission to schedule a meeting to discuss issues of concern to PrimeCo.

¹ 103 F.3rd 169 (D.C. Cir. 1997). As required under the *ex parte* rules, all parties to the proceeding would also be invited to attend/participate.

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Due to the legal issues surrounding the Commission's consideration of the remand, and the possible impact on the existing Miami-Ft. Lauderdale MTA PCS licensees (PrimeCo and Sprint PCS), PrimeCo submits that an early meeting with the Commission offices with an interest in this matter is wholly appropriate. Further, for its part, PrimeCo believes that a more broad-based meeting involving representatives of the Office of Engineering and Technology ("OET"), Office of General Counsel ("OGC") and the Wireless Telecommunications Bureau is in fact warranted.

As PrimeCo stated in its recent Reply Comments filed in this proceeding, it was surprised to be made a party to this proceeding and even more surprised to learn from the February 25, 1997 Public Notice² that there was a "possible conflict between QUALCOMM's preference application and the previously granted applications for the A and B Block licenses in the Miami-Ft. Lauderdale MTA."³ Obviously, from PrimeCo's perspective, *any* uncertainty — for any length of time — as to the status of PrimeCo's final license grant in the Miami-Ft. Lauderdale MTA is unacceptable. In addition, because of its recent addition to the proceeding, PrimeCo has not attended any prior QUALCOMM meetings at the Commission and has had no opportunity to express its views in person on this matter of grave concern.

Finally, with respect to the QUALCOMM correspondence, PrimeCo is constrained to comment on QUALCOMM's statement that no parties oppose the merits of its application. First, PrimeCo notes that GTE MobileNet filed an opposition to QUALCOMM's preference application and it is PrimeCo's understanding that this objection remains pending. Second, PrimeCo and Sprint have both expressly and vigorously stated their objection to a preference award of a Miami-Ft. Lauderdale MTA license to QUALCOMM. Thus, QUALCOMM's suggestion that there is no opposition to grant of its preference application is somewhat misleading.

² *Ex Parte Status Clarified: In the Matter of QUALCOMM Incorporated, Application for Pioneer's Preference*, DA 97-423 (rel. Feb. 25, 1997).

³ *Id.* See PrimeCo Reply Comments (filed March 20, 1997). For reference purposes, attached is a copy of the PrimeCo filing.

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Again, PrimeCo urges the Commission to schedule a meeting to address the legitimate concerns of the existing Miami-Ft. Lauderdale MTA PCS licensees. We respectfully request that a Commission representative contact us concerning such a meeting.

Respectfully submitted,

WILKINSON, BARKER, KNAUER & QUINN

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