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May 27, 1997

Federal Communications Commission  
Office of Secretary

William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: CC Docket 90-314 and Freeman Engineering  
Associates, Inc. v. FCC, 103 F.3rd 169  
(1997)

Dear Mr. Caton:

Please find enclosed for inclusion in the above-referenced docket copies of letters sent to individuals at the FCC (see attached list) regarding pioneer's preferences.

If you have any questions regarding this matter, please feel free to contact the undersigned.

Sincerely,

  
Philip L. Verveer

Enclosures

No. of Copies rec'd 021  
List ARCD E

Three Lafayette Centre  
1155 21st Street, NW  
Washington, DC 20036-3384  
202 328 8000

Telex: RCA 229800  
WU 89-2762  
Fax: 202 887 8979

Copies were hand delivered to the following individuals at the FCC:

Rudolfo Baca, Office of Commissioner Quello

Commissioner Rachelle B. Chong

Jackie Chorney, Office of the Chairman

William Kennard, Office of General Counsel

Commissioner Susan Ness

Commissioner James H. Quello

Blair Levin, Office of the Chairman

Dan Phythyon, Wireless Telecommunications Bureau

David Siddall, Office of Commissioner Ness

Rodney Small, Office of Engineering and Technology

Richard Smith, Office of Engineering and Technology

Peter Tenhula, Office of General Counsel

Suzanne Toller, Office of Commissioner Chong

# WILLKIE FARR & GALLAGHER

Washington, DC  
New York  
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Paris

May 23, 1997

Mr. Rodney Small  
Office of Engineering and Technology  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Rodney:

Irwin M. Jacobs of QUALCOMM Incorporated sent a letter today to Chairman Hundt concerning the D.C. Circuit's decision in the above-captioned case involving pioneer's preferences in broadband PCS. Our purpose is to share with you the substance of that letter and to express on behalf of QUALCOMM eagerness to work with the Commission to reach a fair and reasonable outcome. Mr. Jacob's letter addresses a determination that the Commission is required to reach as a result of the above-captioned January D.C. Circuit decision. QUALCOMM, Incorporated, the company that is affected, believes that the substantive decision effectively is foreordained by the record. Implementation of the decision effectively is foreordained by the record. Implementation of the decision has certain practical ramifications. QUALCOMM is well aware of them. It is anxious to cooperate with the Commission to assure that the implementation does not result in any inconvenience to consumers or dislocation of established service providers.

The record, reviewed in the attached memorandum, shows that QUALCOMM's pioneering contribution to broadband PCS service passes the test that was applied to two of the three firms that received preferences, but was not applied to QUALCOMM. In light of the significance of QUALCOMM's CDMA technology to broadband PCS, the Court of Appeals' remand to "remedy this inconsistency" can only result in a determination that QUALCOMM is entitled to a preference. A contrary determination would be both grossly unfair and utterly unsustainable in court.

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Mr. Rodney Small  
May 23, 1997  
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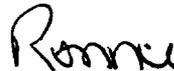
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Thank you for taking the time to consider this matter.

Sincerely,



Philip L. Verveer



Veronica M. Ahern

cc: William Caton  
Jonathan Chambers  
Andre LaChance  
Luisa L. Lancetti

# WILLKIE FARR & GALLAGHER

Washington, DC  
New York  
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May 23, 1997

Mr. Peter A. Tenhula  
Office of General Counsel  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Peter:

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Mr. Peter A. Tenhula  
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Philip L. Verveer



Veronica M. Ahern

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Washington, DC  
New York  
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May 23, 1997

William E. Kennard, Esq.  
Office of General Counsel  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Bill:

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William E. Kennard, Esq.  
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# WILLKIE FARR & GALLAGHER

Washington, DC  
New York  
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May 23, 1997

Mr. Richard M. Smith  
Office of Engineering and Technology  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Dick:

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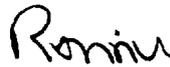
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Washington, DC  
New York  
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May 23, 1997

Mr. Dan Phythyon  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Dan:

Irwin M. Jacobs of QUALCOMM Incorporated sent a letter today to Chairman Hundt concerning the D.C. Circuit's decision in the above-captioned case involving pioneer's preferences in broadband PCS. Our purpose is to share with you the substance of that letter and to express on behalf of QUALCOMM eagerness to work with the Commission to reach a fair and reasonable outcome. Mr. Jacob's letter addresses a determination that the Commission is required to reach as a result of the above-captioned January D.C. Circuit decision. QUALCOMM, Incorporated, the company that is affected, believes that the substantive decision effectively is foreordained by the record. Implementation of the decision effectively is foreordained by the record. Implementation of the decision has certain practical ramifications. QUALCOMM is well aware of them. It is anxious to cooperate with the Commission to assure that the implementation does not result in any inconvenience to consumers or dislocation of established service providers.

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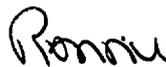
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Washington, DC  
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May 23, 1997

Mr. David R. Siddall  
Office of Commissioner Ness  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

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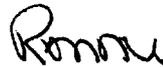
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Washington, DC  
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May 23, 1997

Rudolfo M. Baca  
Office of Commissioner Quello  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Rudy:

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Philip L. Verveer



Veronica M. Ahern

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# WILLKIE FARR & GALLAGHER

Washington, DC  
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May 23, 1997

Ms. Suzanne Toller  
Office of Commissioner Chong  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

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Ms. Suzanne Toller  
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Washington, DC  
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May 23, 1997

Ms. Jackie Chorney  
Office of the Chairman  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

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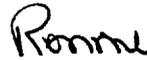
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The record, reviewed in the attached memorandum, shows that QUALCOMM's pioneering contribution to broadband PCS service passes the test that was applied to two of the three firms that received preferences, but was not applied to QUALCOMM. In light of the significance of QUALCOMM's CDMA technology to broadband PCS, the Court of Appeals' remand to "remedy this inconsistency" can only result in a determination that QUALCOMM is entitled to a preference. A contrary determination would be both grossly unfair and utterly unsustainable in court.

Commissioner Rachelle B. Chong  
May 23, 1997  
Page 2

QUALCOMM is prepared to help minimize the complications associated with the implementation of the preference award. QUALCOMM's preference request specified the MTA in South Florida as the area in which it wished to implement its proposal. QUALCOMM recognizes that, the licenses for this MTA having been awarded, pursuing its original service area request is difficult. QUALCOMM is willing to discuss substitution of a presently unlicensed service area of comparable significance. One such area is the Phoenix C block BTA, which is available as a result of a payment default. Whether this area and/or others would be appropriate is a matter that could be the subject of fruitful discussions, subject to any ex parte rule requirements.

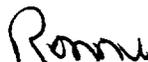
In summary, the Commission should grant QUALCOMM's preference application promptly, with the understanding that QUALCOMM would be willing to consider a substitute service area for the one initially requested. Subject to any applicable ex parte requirements, we would be pleased to discuss either the merits of QUALCOMM's preference request or the issues surrounding the implementation of a favorable decision.

Thank you for taking the time to consider this matter.

Sincerely,



Philip L. Verveer



Veronica M. Ahern

cc: William Caton  
Jonathan Chambers  
Andre LaChance  
Luisa L. Lancetti

# WILLKIE FARR & GALLAGHER

Washington, DC  
New York  
London  
Paris

May 23, 1997

Commissioner Susan Ness  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Commissioner Ness:

Irwin M. Jacobs of QUALCOMM Incorporated sent a letter today to Chairman Hundt concerning the D.C. Circuit's decision in the above-captioned case involving pioneer's preferences in broadband PCS. Our purpose is to share with you the substance of that letter and to express on behalf of QUALCOMM eagerness to work with the Commission to reach a fair and reasonable outcome. Mr. Jacob's letter addresses a determination that the Commission is required to reach as a result of the above-captioned January D.C. Circuit decision. QUALCOMM, Incorporated, the company that is affected, believes that the substantive decision effectively is foreordained by the record. Implementation of the decision effectively is foreordained by the record. Implementation of the decision has certain practical ramifications. QUALCOMM is well aware of them. It is anxious to cooperate with the Commission to assure that the implementation does not result in any inconvenience to consumers or dislocation of established service providers.

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Three Lafayette Centre      Telex: RCA 229800  
1155 21st Street, NW      WU 89-2762  
Washington, DC 20036-3384      Fax: 202 887 8979  
202 328 8000

Commissioner Susan Ness  
May 23, 1997  
Page 2

QUALCOMM is prepared to help minimize the complications associated with the implementation of the preference award. QUALCOMM's preference request specified the MTA in South Florida as the area in which it wished to implement its proposal. QUALCOMM recognizes that, the licenses for this MTA having been awarded, pursuing its original service area request is difficult. QUALCOMM is willing to discuss substitution of a presently unlicensed service area of comparable significance. One such area is the Phoenix C block BTA, which is available as a result of a payment default. Whether this area and/or others would be appropriate is a matter that could be the subject of fruitful discussions, subject to any ex parte rule requirements.

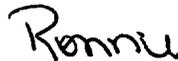
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Thank you for taking the time to consider this matter.

Sincerely,



Philip L. Verveer



Veronica M. Ahern

cc: William Caton  
Jonathan Chambers  
Andre LaChance  
Luisa L. Lancetti

# WILLKIE FARR & GALLAGHER

Washington, DC  
New York  
London  
Paris

May 23, 1997

Commissioner James H. Quello  
Federal Communications Commission  
Washington, D.C. 20554

Re: Freeman Engineering Associates, Inc. v. FCC,  
103 F.3d 169 (1997)

Dear Commissioner Quello:

Irwin M. Jacobs of QUALCOMM Incorporated sent a letter today to Chairman Hundt concerning the D.C. Circuit's decision in the above-captioned case involving pioneer's preferences in broadband PCS. Our purpose is to share with you the substance of that letter and to express on behalf of QUALCOMM eagerness to work with the Commission to reach a fair and reasonable outcome. Mr. Jacob's letter addresses a determination that the Commission is required to reach as a result of the above-captioned January D.C. Circuit decision. QUALCOMM, Incorporated, the company that is affected, believes that the substantive decision effectively is foreordained by the record. Implementation of the decision effectively is foreordained by the record. Implementation of the decision has certain practical ramifications. QUALCOMM is well aware of them. It is anxious to cooperate with the Commission to assure that the implementation does not result in any inconvenience to consumers or dislocation of established service providers.

The record, reviewed in the attached memorandum, shows that QUALCOMM's pioneering contribution to broadband PCS service passes the test that was applied to two of the three firms that received preferences, but was not applied to QUALCOMM. In light of the significance of QUALCOMM's CDMA technology to broadband PCS, the Court of Appeals' remand to "remedy this inconsistency" can only result in a determination that QUALCOMM is entitled to a preference. A contrary determination would be both grossly unfair and utterly unsustainable in court.

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