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BEFORE THE
Federal Communications Commission
WASHINGTON, DC 20554

In the Matter of	)	
	)	
Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS	)	GN Docket No. 90-314 ET Docket No. 92-100
	)	
Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS	)	PP Docket No. 93-253

REPLY COMMENTS OF ARCH COMMUNICATIONS GROUP, INC.

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July 21, 1997

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REPLY COMMENTS OF ARCH COMMUNICATIONS GROUP, INC.

Arch Communications Group, Inc. ("Arch"), by its attorneys, hereby submits these reply comments in the above-captioned proceeding,[1] in which the Commission seeks comment relating to the auction and licensing of narrowband Personal Communications Services ("PCS").

I. INTRODUCTION AND SUMMARY

Important developments have occurred in the past three to four years since the Commission last addressed the narrowband PCS service. Arch, therefore, continues to believe that it is appropriate for the Commission to take these industry developments into account as it considers its proposed modifications to the narrowband PCS rules. Specifically, Arch has taken the following positions in this proceeding:

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1 *In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, Narrowband PCS, Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS*, GEN Docket No. 90-314, ET Docket No. 92-100, PP Docket No. 93-253, Report and Order and Further Notice of Proposed Rulemaking, 62 Fed. Reg. 27507 (1997) ("*Further Notice*").

- Arch supports the Commission's proposed reconfiguration of the narrowband PCS channels to create additional regional and nationwide licenses and to eliminate Basic Trading Area ("BTA") licenses.

- Arch opposes, as does the vast majority of commenters, the Commission's proposal to channelize and license the remaining one MHz of narrowband PCS spectrum currently held in reserve.

- Arch continues to recommend that the Commission conduct one auction for the remaining allocated narrowband PCS spectrum as well as the paging response channels to avoid unnecessary drains on the resources of both applicants and the Commission.

- Arch objects to the Commission's proposal to eliminate the restriction on paging response channels which limits their eligibility to incumbent paging licensees, as did the majority of commenters in this proceeding. Arch also opposes (as did all parties commenting on the issue) the Commission's proposal to remove the mobile-to-base restriction on these response channels because of the potential for harmful interference.

- Arch urges the Commission to retain the existing narrowband PCS spectrum aggregation limit The Commission also should take the opportunity in this proceeding, Arch believes, to create regulatory parity among similarly situated licensees and adopt narrowband PCS attribution rules consistent with those for broadband Commercial Mobile Radio Service ("CMRS") providers.

- Finally, Arch, as well as the majority of the commenting parties, oppose the Commission's proposal to allow narrowband PCS licensees to meet their performance requirements through a demonstration of "substantial service" as an alternative to meeting specific benchmarks. Instead, Arch believes that defined construction thresholds should be required in order to be consistent with Congressional directives. Nevertheless, Arch believes the Commission should modify the construction and coverage standards applicable to narrowband PCS to afford bona fide industry participants who have paid for their spectrum sufficient flexibility to implement their business plans in light of difficulties and delays in obtaining commercially available equipment.

II. NARROWBAND PCS SERVICE AREAS SHOULD BE MODIFIED

A. The Commission's Proposals To Create Additional Regional And Nationwide Licenses Are Warranted Given The Trend Toward Larger Narrowband Service Areas

In its opening comments, Arch agreed with the Commission that elimination of BTA-based licenses is justified because BTA service areas are too small to provide a viable narrowband service. A majority of the commenting parties supported the elimination of BTAs.[2]

Arch also supported the Commission's proposed reconfiguration of the narrowband PCS channels, with one minor exception. Specifically, Arch recommended that the Commission establish one of the two remaining 50 kHz paired channels as a regional license, rather than designating them both as nationwide licenses. This modification, in Arch's view, would afford more opportunities for potential industry participants, without foreclosing the opportunity for aggregation of regional licenses into larger systems.

As Arch detailed in its opening comments, the Commission's proposals to create additional regional and nationwide licenses are an appropriate response to the growing trend toward larger wireless narrowband markets. In this regard, the Commission properly noted that the demand for larger service areas is illustrated by the fact that several of the winning bidders in the regional narrowband PCS auction aggregated their

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2 *See* Comments of American Paging Inc. ("American Paging") at p. 3, Celpage, Inc. ("Celpage") at p. 5, Metrocall, Inc. ("Metrocall") at pp. 4-5, PageMart, Inc. ("PageMart") at pp. 2-3, PCIA at pp. 5-6, AirTouch Paging ("AirTouch") at pp. 2-5 (AirTouch correctly pointed out that "BTAs provide too limited a geographical area for the provision of meaningful messaging services given the evolution of the market toward wide-area services.").

licenses into nationwide service areas and by the large number of 929 and 931 MHz paging licensees currently operating regional and nationwide systems.[3] The Commission also correctly pointed out that regional and nationwide service areas for narrowband PCS create economies of scale and solve many of the difficulties licensees have experienced in attempting to aggregate smaller license areas.[4]

B. A Diversity of Opinion Exists Among Commenting Parties Regarding The Proper Market Sizes For Narrowband PCS Channels

Commenters exhibited a clear lack of unanimity regarding the appropriate market sizes for the remaining allocated narrowband PCS spectrum. For example, five parties objected to any redesignation of the remaining narrowband PCS spectrum, preferring BTAs and Major Trading Areas ("MTAs") only.[5] Four parties, while supporting elimination of BTAs, objected to the creation of any service area larger than MTAs.[6] Two other parties proposed additional MTA and regional licenses, but opposed the Commission's proposal to create additional nationwide licenses.[7] Despite this diversity of opinion, commenters centered their arguments in support of their various positions

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3 *Further Notice* at ¶ 30.

4 *Id.*

5 *See* Comments of Ameritech Mobile Services, Inc. ("Ameritech") at pp. 5-7, CONXUS Communications, Inc. ("CONXUS") at pp. 5-10, Merlin Telecom, Inc. ("Merlin") at pp. 3-4, Morgan Stanley Partnerships at pp. 3, 5-6, Rural Telecommunications Group at pp. 5-12.

6 *See* Comments of AirTouch at pp. 2-14, American Paging at pp. 4-5, PageMart at pp. 2-3, Paging Network, Inc. ("PageNet") at pp. 17-18. (PCIA endorsed more MTAs and opposes additional nationwide licenses, but took no position as to additional regional licenses. *See* Comments of PCIA at pp. 5-6, 8.)

7 *See* Comments of Celpage at pp. 6-7 and Metrocall at pp. 5-6.

around two general themes: small business concerns and issues regarding public confidence in the Commission's auctions.

1. Creation of a Channelization Plan With No Service Areas Smaller Than MTAs Will Not Preclude Small Business Participation in Narrowband PCS

Many of the parties objecting to the creation of service areas larger than MTAs contend that eliminating BTAs will impede the ability of small businesses to participate in narrowband PCS.[8] This concern is unwarranted based upon past auction experience. First, four of the successful bidders in the Commission's auction for regional narrowband PCS licenses qualified as small businesses, one of which was able to aggregate enough licenses to provide nationwide service.[9] Further, as PCIA pointed out, the Commission's establishment of MTAs as the smallest geographic area in a service does not preclude small business participation, noting that 60 of the 80 high bidders in the MTA-based 900 MHz Specialized Mobile Radio ("SMR") auction were small businesses.[10]

Two of the commenting parties, Celpage and Metrocall, supported the elimination of BTAs, but opposed the creation of additional nationwide licenses at the expense of fewer MTA and regional licenses because of their concerns that the opportunities for

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[8] *See* Comments of AirTouch at pp. 10-12, CONXUS at pp. 7-10, Merlin at pp. 3-4, PageMart at p. 3, Rural Telecommunications Group at pp. 5-12.

[9] CONXUS's contentions that small businesses would not be able to compete for licenses representing service areas larger than MTAs are in apparent contrast to its own success as an auction winner in the regional narrowband PCS auction, in which it won licenses for all five regions, giving it nationwide coverage. *See* Comments of CONXUS at pp. 8-10.

[10] Comments of PCIA at p. 7, citing to the *Further Notice* at ¶ 29.

small businesses will be reduced.[11] Similar concerns prompted Arch to recommend in its comments that the Commission redesignate (on a regional basis) one of the two proposed additional nationwide licenses.

PCIA argued that MTA licenses would allow greater opportunities for small businesses, and both PCIA and PageNet contended that MTAs are the appropriate service area for the remaining narrowband spectrum.[12] Neither the Commission nor Arch propose to eliminate all MTAs, however.[13] Arch believes there are definite needs for MTA-based licenses, and many small businesses will undoubtedly pursue them. However, an allocation plan of all MTAs would not allow any auction participants to gain licenses of the necessary service size to compete against those few narrowband PCS incumbents that have sufficient spectrum to provide narrowband PCS two-way voice services. An allocation plan consisting of MTAs only would therefore not serve to promote the Commission's pro-competitive objectives.[14]

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11 *See* Comments of Celpage at p. 6 and Metrocall at pp. 5-6.

12 *See* Comments of PCIA at p. 7 and PageNet at pp. 18-19.

13 Indeed, the Commission's proposal would provide three MTA-based licenses in addition to the four MTA-based licenses for the paging response channels.

14 Another commenter, American Paging, proposed an allocation plan for the remaining allocated narrowband PCS spectrum that includes MTAs only, and recommended that any additional regional or nationwide licenses be addressed in the one MHz of reserve spectrum. *See* Comments of American Paging at pp. 4-5. Arch opposes this proposal for the same reasons.

2. The Commission Is Correct In Taking The Trend Toward Larger Service Areas Into Account In Modifying The Channelization Plan

Several other commenting parties claimed that the creation of additional regional and nationwide licenses will undermine the confidence of the public, existing and potential licensees and the investment community with regard to the Commission's spectrum auctions.[15] These arguments are misplaced.

Four years have elapsed since the original allocation scheme was adopted, and significant developments, such as the trend toward regional and nationwide service areas, have occurred in the wireless messaging industry during that period. Implementation of a licensing scheme that did not take these developments into account would be inappropriate.

At least one commenter contended that the Commission's original allocation plan "put the industry on notice that the number of regional and nationwide frequencies that would be available in the near-term was limited."[16] But there is no reason that the industry should have expected that new regional or nationwide allocations would not be made after four years. This is particularly the case insofar as the industry has known for at least several years that the Commission could potentially allocate (and license) the one MHz of spectrum held in reserve to include additional regional or nationwide licenses.

Further, a majority of those parties objecting to any modification of the channelization plan which would create license areas larger than MTAs have extensive

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15 *See* Comments of AirTouch at pp. 12-14, Ameritech at pp. 5-7, CONXUS at pp. 5-7, Morgan Stanley Partnerships at pp. 5-6.

16 Comments of AirTouch at p. 13.

holdings in existing narrowband PCS licenses. Two of those parties, CONXUS and PageMart, in fact, aggregated their regional narrowband PCS licenses into nationwide service. However, the goal of the Commission's spectrum policy, as Arch pointed out in its opening comments, "is not to preserve the value of licenses that auction winners acquire, but to promote competition and service in the public interest."[17]

III. THE RESERVED ONE MHz OF SPECTRUM SHOULD NOT BE LICENSED AT THIS TIME

Arch was among the vast majority of commenters that opposed the Commission's tentative proposal to channelize and license the one MHz of narrowband PCS spectrum currently held in reserve.[18] Arch explained that the reasons underlying the Commission's decision in 1993 to hold the one MHz of spectrum in reserve are still valid today because the narrowband PCS industry is still in its developmental stages. AirTouch adopted a similar view, noting that "for the reasons originally stated, the Commission should continue to defer allocating the 1 MHz reserve until it has a body of market evidence upon which to base any further decision."[19]

The Personal Communications Industry Association ("PCIA") offered the most rational approach to addressing the Commission's proposal. PCIA suggested that the Commission defer a decision on licensing the reserve spectrum until the industry can

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17 *Further Notice* at ¶ 32.

18 *See* Comments of AirTouch at pp. 14-20, Ameritech at p. 7, Celpage at pp. 7-9, CONXUS at pp. 16-17, Metrocall at pp. 6-7, Morgan Stanley Partnerships at pp. 3-5, Motorola at p. 7, PageMart at pp. 4-6, PageNet at pp. 3-12, and PCIA at pp. 8-10.

19 Comments of AirTouch at p. 19.

conduct a study (to be coordinated by PCIA) of narrowband PCS spectrum usage needs.[20] PCIA committed to completing the study and reporting its findings to the Commission by June 30, 1998. PCIA explained that a comprehensive evaluation of future spectrum needs would be appropriate before the release and channelization of the reserve spectrum, given that the narrowband PCS industry is still in its infancy due to delays associated with the introduction of commercially available equipment.[21] Accordingly, the Commission should postpone any decision regarding the licensing and channelizing of the one MHz of reserve spectrum until completion of PCIA's proposed study.

IV. REMAINING ALLOCATED NARROWBAND PCS SPECTRUM AND PAGING RESPONSE CHANNELS SHOULD BE AUCTIONED IN ONE AUCTION

Arch recommended in its opening comments that the Commission conduct one auction for the remaining allocated narrowband PCS spectrum as well as the paging response channels. Arch noted that conducting separate auctions would unnecessarily drain the resources of both applicants and the Commission. Merlin agreed that one auction for "the remaining allocated narrowband PCS" would "increase the efficiency of the auction process by minimizing administrative costs and speeding the licensing process. It will also increase the ability of bidders to pursue back-up strategies in bidding on interdependent licenses."[22]

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20 Comments of PCIA at p. 9.

21 *Id.*

22 Comments of Merlin at p. 8. (Merlin also proposed to include the reserve spectrum in the same auction if the Commission allocates it quickly. Arch continues to oppose any release of the reserve spectrum at this time as such action would be premature until PCIA can conduct a study on narrowband PCS spec-

(continued...)

One party, Ameritech, proposed that the paging response channels be auctioned at a later date in order to provide paging carriers an opportunity to plan auction strategy.[23] Arch believes, however, that conservation of resources outweighs any benefits derived for a delayed auction for the response channels. Thus, the Commission should auction the remaining narrowband PCS spectrum that has been allocated as well as the response channels in one auction.

V. EXISTING PAGING RESPONSE CHANNEL USE AND ELIGIBILITY RESTRICTIONS SHOULD BE MAINTAINED

A. Response Channels Should Be Limited To Mobile-to-Base Transmissions

Arch opposed -- as did all parties commenting on the issue -- the Commission's proposal to remove the mobile-to-base restriction on the paging response channels.[24] As Arch pointed out, the current use restrictions should be maintained because of the potential for the creation of harmful interference at receive sites if these response channels are allowed to be used for transmission purposes. Two commenting parties argued that to the extent the Commission's proposal is motivated by a small number of existing paging licensees wanting to use the response channels other than as talk-back channels, such requests would be better addressed through individual waivers from the

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22 (...continued)
trum needs and report its findings to the Commission.)

23 *See* Comments of Ameritech at p. 9.

24 *See* Comments of Celpage at pp. 12-13, Metrocall at pp. 9-10, Motorola, Inc. ("Motorola") at pp. 8-10, PageNet at pp. 21-22 and PCIA at pp. 11-12.

Commission rather than through changing the use restrictions on these channels.[25] Arch, however, would continue to oppose any use of these channels other than for mobile-to-base transmissions.

In addition, Arch shares the concerns raised by PCIA regarding the appropriateness of the seven watt peak output power for these channels established in Section 24.132 of the Commission's rules.[26] PCIA explained that its Technical Committee has been called upon by the industry to begin a study of the maximum output power limit that "best balances the need for clear mobile-to-base transmissions with the need to prevent interference with other transmissions, while also taking into account competitive considerations."[27] PCIA expects this study to be completed in the near future, and Arch urges the Commission to carefully consider PCIA's findings.[28]

B. Eligibility For Response Channels Should Be Limited To Incumbent Paging Licensees

Eligibility for response channels is currently limited to existing paging licensees of conventional one-way paging base stations licensed under Part 22 and Part 90 of the Commission's rules. Arch objected to the Commission's proposal to eliminate these

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25 *See* Comments of Celpage at p. 13 and Metrocall at p. 10.

26 *See* Comments PCIA at pp. 12-13.

27 *Id.*

28 Additionally, Arch does not oppose Motorola's proposal to allow "land station" operations on the paging response channels (*See* Comments of Motorola at p. 10) or PageNet's proposal to allow use of mobile spectrum for registration purposes (*See* Comments of PageNet at pp. 20-21) provided that these proposed applications are consistent with mobile use and do not create harmful interference to other mobile-to-base transmissions.

eligibility restrictions, as did the majority of commenters in this proceeding.[29] PCIA correctly pointed out that the Commission's original objective in limiting eligibility for these channels was to allow existing paging operations to eventually provide two-way capability, and "without access to these channels for mobile-to-base transmissions, incumbent one-way providers will not be able to upgrade their operations to compete with the two-way services that will be offered by narrowband PCS licenses."[30]

Further, as Celpage and Metrocall noted, incumbent paging licensees will be best suited to make immediate use of these response channels in providing service to the public as they would be able to pair them with existing, operational systems.[31] Accordingly, the eligibility for these response channels should continue to be restricted to existing Part 22 and Part 90 paging licensees.

Only two parties support elimination of the existing eligibility restrictions.[32] Merlin, for example, argued that removing eligibility restrictions would increase competition and encourage new entrants into the narrowband PCS market.[33] Arch believes that maintaining the current eligibility restrictions will achieve the same results, and more quickly. Ensuring that eligibility for these response channels is limited to existing paging licensees will allow those licensees to upgrade their systems and begin to

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29 *See* Comments of Ameritech at pp. 8-9, Celpage at pp. 12-13, Metrocall at pp. 9-10, Motorola at pp. 8-10, PageNet at pp. 21-22 and PCIA at pp. 11-12.

30 Comments of PCIA at pp. 11-12.

31 *See* Comments of Celpage at p. 12 and Metrocall at p. 9.

32 *See* Comments of Merlin at p. 6 and Rural Telecommunications Group at p. 20.

33 *See* Comments of Merlin at p. 6.

offer immediate competition to narrowband PCS providers, just as the Commission originally proposed.

VI. THE EXISTING AGGREGATION LIMIT SHOULD BE MAINTAINED BUT THE ATTRIBUTION RULES SHOULD BE RELAXED

A. There Is No Need To Modify The Spectrum Aggregation Limit At This Time

Arch opposed the Commission's proposal to modify or remove the existing aggregation limit, as set forth in Section 24.101 of the Commission's rules, applicable to narrowband PCS licensees. The Commission proposed to modify the aggregation limit in light of its tentative decision to open and license the one megahertz of spectrum currently held in reserve. Should the Commission continue to hold the one MHz of spectrum in reserve, as Arch and many other parties have recommended, there would be no need or basis for revising the current aggregation limits.

Arch also explained that the Commission's rationale in setting the existing spectrum aggregation limit -- to allow narrowband PCS providers flexibility while ensuring competition -- would be threatened if the cap were modified. Several parties opposed any modification to the current spectrum cap for narrowband PCS.[34] Merlin pointed out that "without the spectrum cap, or with too large a spectrum cap, larger companies, hoping to avoid competition, will be able to use their larger capital resources to prevent entry into the marketplace of newer, smaller competitors."[35]

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[34] *See* Comments of Merlin at p. 5, PCIA at pp. 10-11 (PCIA opposed revision to spectrum cap for existing two MHz of reserve spectrum, but suggested that spectrum cap issue be part of its study on narrowband PCS spectrum needs and possible release of reserve spectrum.).

[35] Comments of Merlin at p. 5.

Such a concern is particularly relevant given the fact that only two existing narrowband PCS licensees possess enough spectrum capacity (*i.e.* up to 150 kHz in outbound channels) to provide narrowband PCS voice services on a nationwide basis. Any relaxation or removal of this cap would allow these licensees to increase their spectrum holdings to the preclusion of others, thereby perpetuating their dominant position in this market.

B. The Commission Should Make The Narrowband PCS Attribution Rules Consistent With Those For Broadband CMRS Licensees

Arch pointed out in its comments the disparity between the attribution rule found in Section 24.101(a)(2), which is unique to narrowband PCS, and the less stringent standard applicable to broadband CMRS licensees set forth in Section 20.6(d) of the Commission's rules. Arch explained that there is no apparent reason for this disparity. For purposes of consistency, Arch recommended that the Commission adopt for narrowband PCS licensees the standard applicable to broadband CMRS licensees contained in Section 20.6(d) of the rules.[36] Arch continues to believe that the Commission's stated goal of achieving regulatory parity among similarly situated licensees warrants this modification.

VII. THE COMMISSION SHOULD MODIFY THE CONSTRUCTION AND COVERAGE REQUIREMENTS APPLICABLE TO NARROWBAND PCS LICENSEES

A. Definitive Construction/Coverage Benchmarks Are Needed

A majority of the commenting parties, including Arch, opposed the Commission's proposal to allow narrowband PCS licensees to meet their performance requirements

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[36] *See* 47 C.F.R. § 20.6.

through a demonstration of "substantial service" as an alternative to meeting the coverage requirements currently found in Section 24.103 of the Commission's rules.[37] "'[S]ubstantial service' is so vague a term as to be virtually meaningless," PCIA explained.[38]

Arch and others opposed an amorphous substantial service alternative because it would enable auction winners to avoid Congress' objectives (as evidenced by Section 309(j)(4)(B) of the Communications Act) that they build out their systems. PCIA, voicing the concerns of the industry, observed that:

> the substantial service test -- and the fact that substantial service will not be ascertained until five or possibly ten years after license grant -- allows application mills and speculators to take advantage of the auction process, to the detriment of the public ... speculators can apply for licenses and use the first five (or ten) years of their license term to extort concessions from those entities serious about providing service to the public ... and the public will be left without service on the frequencies at issue.[39]

In Arch's view, construction benchmarks are the best way to ensure that licensees build out their systems consistent with Congressional directives.

B. The Commission Should Modify Construction And Coverage Standards Applicable To Narrowband PCS Licensees

While Arch continues to support the imposition of definitive coverage and construction requirements for the reasons noted above, Arch nevertheless believes that

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37 *See* Comments of CONXUS at pp. 11-13, Merlin at p. 7, PageMart at pp. 6-7, PageNet at pp. 12-16, PCIA at pp. 13-15 and Rural Telecommunications Group at pp. 12-15.

38 Comments of PCIA at 14. Two other parties support a substantial service alternative, but only if the Commission can clarify its definition of what constitutes substantial service. *See* Comments of Celpage at p. 11 and Metrocall at pp. 8-9.

39 *Id.*

modification of the current performance requirements applicable to narrowband PCS licensees is warranted. Specifically, Arch recommended that the Commission amend Section 24.103 of its rules to permit nationwide, regional and MTA narrowband PCS licensees to meet the 37.5 percent population (and associated five-year geographic area) coverage requirements at 10 years from the initial license grant, rather than at the five-year mark currently required. Such an extension is necessary to allow bona fide industry participants who have paid for their spectrum sufficient flexibility to implement their business plans in light of difficulties and delays in obtaining requisite equipment.

There was no consensus among the commenting parties as to the Commission's construction and coverage requirements. CONXUS and PCIA recommended retaining current buildout criteria; however, they proposed that the Commission should toll the beginning of the five-year buildout period until the date the last market area license in the original two MHz of narrowband PCS spectrum is issued.[40] Arch believes that setting the five-year population and coverage requirements at the ten-year mark is a more appropriate response to the equipment delays that have been encountered.[41]

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[40] *See* Comments of CONXUS at pp. 13-14 and PCIA at pp. 15-16. The only other parties supporting retention of current buildout requirements do so in the context of objecting to the vague definition of substantial service rather than in recognition of the state of deployment of narrowband PCS service. *See* Comments of Celpage at p. 10, Metrocall at p. 8, PageNet at pp. 12-16. To the extent these comments are read only to oppose the Commission's substantial service option, Arch supports them.

[41] To the extent the Commission does not adopt Arch's proposal to move the five-year benchmarks to the ten-year mark, Arch would recommend -- as a second-best alternative -- that the Commission adopt the PCIA/CONXUS proposal, which at least provides a more realistic approach to construction than the existing coverage requirements.

Ameritech proposed to eliminate all of the current benchmarks in order to allow the marketplace to dictate where and how quickly narrowband PCS will be implemented.[42] Such a proposal ignores not only Congressional intent but also the concerns expressed by the overwhelming majority of commenters in opposing the substantial service option.

PageMart suggested that existing construction benchmarks should be retained, and proposed that "in particular instances where extenuating circumstances (*e.g.*, manufacturer delay) constrain the ability of a service provider to meet these requirements, the licensee may seek a waiver from the Commission."[43] Arch believes that individual waivers are a solution, but an unnecessarily burdensome one (to licensees and to the Commission) in light of the well-documented delays industry participants have experienced in obtaining commercially available equipment. A modification to the construction benchmarks, therefore, would provide a simpler, more efficient solution to the problem narrowband PCS licensees face in building out their systems.

Finally, Arch opposes the Rural Telecommunications Group's proposal to adopt "'unserved area' rules for narrowband PCS similar to those adopted for the cellular radio service ... such 'use it or lose it' provisions would encourage licensees either to provide service themselves, or to partition licenses to smaller companies who desire to serve less populated areas."[44] The Rural Telecommunications Group's proposal, given the current state of commercially available narrowband PCS equipment, would have the effect of

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42 *See* Comments of Ameritech at p. 3.

43 Comments of PageMart at p. 7.

44 Comments of Rural Telecommunications Group at pp. 16-17.

increasing the likelihood of forcing licensees to partition off rural areas rather than ensuring that the parties who acquired their licenses at auction would have sufficient time to construct their systems.

VIII. CONCLUSION

It has been almost three years since the Commission last addressed the service and auction rules for the narrowband PCS service. Significant developments have occurred during that time which reflect trends in the wireless messaging marketplace, as well as the realities faced by current narrowband PCS licensees. As a result, Arch respectfully requests that the Commission use this opportunity to re-evaluate its allocation plan and licensing rules for narrowband PCS.

Respectfully submitted,

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July 21, 1997

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