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**In the Matter of the Commission's
Open Inquiry on the Competitive
Bidding Process for Report to Congress**

Docket No. WT 97-150

Comments of East Ascension Telephone Company, Inc.

East Ascension Telephone Company, Inc. ("Eatel"), through undersigned counsel, responds to the Public Notice requesting comments on the relative success or failure of the competitive bidding and auction rules established four years ago to disseminate spectrum-based licenses. Eatel submits that the Federal Communications Commission ("FCC") has failed to properly implement the preferential C-Block auctions by eliminating the preferences as intended by the Congressional mandate and by auctioning C-Block licenses after the A-Block and B-Block were auctioned. This failure has adversely affected both the introduction of PCS service to rural America and the dissemination of licenses to women and/or minority owned companies. In addition, the FCC's proposed rules, which would prevent rural incumbent local exchange companies from obtaining local multipoint distribution services ("LMDS") licenses in their own territories, frustrate continued technological developments in rural America. Furthermore, small companies, companies owned by women and/or minorities, and telephone companies located in rural areas are at a disadvantage as a result of FCC rules, regulations, and procedures.

I. Frustration of Congressional Mandate and Impact for Rural America

The FCC's decision to allow A-Block and B-Block auctions to occur prior to the C-Block auctions is the cause of almost every difficulty faced by C-Block licensees. The C-Block licensees' experience proves that the FCC's rationale that the smaller bidders for the C-Block licenses could learn from the experiences of the A-Block and B-Block licensees was flawed. The

actual impact, on the contrary, was that many of the contemplated C-Block licensees were replaced with losers from the A-Block and B-Block auctions. Basically, the A-Block and B-Block were given a second bite at the apple by bidding on C-Block licenses through subsidiaries or affiliates specifically created for the purpose of obtaining a C-Block license or entities already in existence and small enough to qualify as C-Block bidders.

In addition, the group considered by Congress to be most in need of preference and assistance in this bidding process were adversely affected by the inflated bidding. The exorbitant prices paid for the C-Block licenses made it extremely difficult for the rural bidders to compete. If they did in fact get a license or several licenses, the payment for such license or licenses brought many of these licensees to the edge of financial insolvency. Again, the Congressional intent was to foster and encourage technological development in rural America. Instead, this whole auction process and the exorbitant prices paid for licenses has delayed the introduction of technologically advanced services in some rural areas.

In addition, the prevailing bidders for the C-Block licenses have faced many obstacles because their auctions occurred after the A-Block and B-Block licensees were already implementing their business plan. The best sites for location of facilities were obtained by the A-Block and B-Block licensees. Furthermore, capital markets were accessed first by those most able to attract capital in the first place. By the time the C-Block licenses were issued, the bulk of available capital had been depleted. The licensees most in need of assistance in accessing the financial markets were precluded, in many instances, from obtaining necessary capital.

The disastrous impact went beyond problems with access to site locations and capital markets. A-Block and B-Block licensees also had a head start on commencing construction of facilities and developing business and marketing plans. A-Block and B-Block licensees were also able to negotiate first and establish key relationships with manufacturers. By the time C-Block licenses were auctioned and issued, all vendor financing was exhausted by the A-Block and B-Block licensees. C-Block licensees also faced the challenge of obtaining equipment in an environment where A-Block and B-Block licensees had already negotiated contracts for purchase and delivery of the limited quantity of equipment available. The FCC strategy of allowing C-Block bidders and licensees to learn from the experiences of A-Block and B-Block licensees was a complete failure.

In addition, Congress' intent to grant preferences to women and/or minorities was completely abandoned by the FCC through its selection of criteria for eligibility in C-Block auctions. Even if minority preferences were subject to strict scrutiny as required by the Adarand case, the public interest in this instance weighs in favor of granting such preferences. This whole C-Block process was a bold step by Congress to aid in the development of rural telephone companies and women and/or minority owned businesses. The nature of the public interest in granting such preferences is such that the FCC should have to fulfill the wishes of Congress and grant such preferences. However, the FCC made no distinction between the women and/or minority preference and the small business preference. Therefore, the original intent of Congress was lost through the FCC's implementation of its rules governing the procedures for such auctions. This loss of preferential treatment for women and/or minorities, combined with the time table established for spectrum auctions, lead to disastrous results for the

entities these rules were intended to benefit.

Finally, the FCC proposed rules with regard to LMDS auctions would have the effect of keeping rural telephone companies from bidding for licenses in their own territories. Rural incumbent local exchange carriers are not in a position to act as a bottleneck, as are larger Regional Bell Operating Companies. Congress intended in its legislation that licenses be disseminated to rural telephone companies. Restricting the ability of rural incumbent local exchange companies to bid for licenses in their own areas seems unnecessarily burdensome and serves only to again frustrate Congress' intent of encouraging rural bidding for such licenses.

II. Solution to C-Block Crisis

The only solution which will return the auction process back to what Congress intended is for Congress to bring the pricing for C-Block licenses closer to A-Block and B-Block prices. This would allow for the restoration of some semblance of the preferences intended for designated entities. Without such a modification of the FCC scheme by Congress, the rural telephone companies, and rural America in general, have lost an opportunity to keep pace with technological innovations available in urban areas. It was surely never Congress' intent in establishing special rules for designated entities to drive many of these entities into financial

insolvency. Congress has the power to remedy this unfortunate set of circumstances by bringing C-Block prices down to A-Block and B-Block levels.

Respectfully Submitted,

 *Janet Britton* AW

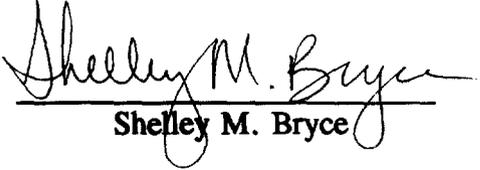
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CERTIFICATE OF SERVICE

I, Shelley M. Bryce, on behalf of East Ascension Telephone Company, Inc. hereby certify that a copy of the foregoing **Comments of East Ascension Telephone Company, Inc. Docket No. WT 97-150** was served on this 1st day of August, 1997, by hand delivery to the following parties:



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