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**DOCKET FILE COPY ORIGINAL**

August 4, 1997

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N. W.  
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FEDERAL COMMUNICATIONS COMMISSION  
WASHINGTON, D.C.

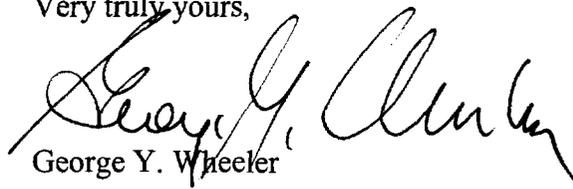
Re: WT Docket No. 97-112  
CC Docket No. 90-6

Dear Mr. Caton:

Transmitted herewith on behalf of Aerial Communications, Inc. and Western PCS BTA I Corporation, by its attorneys, are an original and nine copies of their Reply Comments in the above-captioned proceeding.

In the event there are any questions concerning this matter, please communicate with the undersigned.

Very truly yours,

  
George Y. Wheeler

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**ORIGINAL**

Before the  
Federal Communications Commission  
Washington, D.C. 20554

In the Matter of )  
)  
Cellular Service and Other Commercial ) WT Docket No. 97-112  
Mobile Radio Services in the Gulf of )  
Mexico )  
)  
Amendment of Part 22 of the Commission's ) CC Docket No. 90-6  
Rules to Provide for Filing and Processing )  
of Applications for Unserved Areas in the )  
Cellular Service and to Modify Other )  
Cellular Rules )

To: The Commission

**REPLY COMMENTS OF  
AERIAL COMMUNICATIONS, INC. AND  
WESTERN PCS BTA I CORPORATION**

Aerial Communications, Inc., and Western PCS BTA I Corporation ("Western PCS"), by its attorneys, submits its reply comments with regard to the Commission's Second Further Notice of Proposed Rulemaking (FCC 97-110) released April 16, 1997 in the above-captioned proceeding.

The comments filed in these proceedings demonstrate that the demand for voice, data and other services in the Gulf of Mexico is expanding rapidly and that the licensing and service rules for broadband PCS already permit incumbent licensees to establish wireless networks to meet such demands. The Commission has ample grounds to retain its established rules and policies which provide for the nationwide deployment of PCS service, including in the Gulf of Mexico, using existing MTA and BTA service area definitions.

DISCUSSION

1. The Record Demonstrates Ample Legal and Factual Grounds To Sustain the Established Rights of Incumbent PCS Licensees to Serve the Gulf of Mexico.

Aerial and Western have previously described in their comments that the Commission's proposed re-examination is unnecessary to promote the rapid deployment of competitive service for the Gulf of Mexico and is fundamentally inconsistent with the nationwide scope of existing PCS licensing. We strongly support the comments of Primeco Personal Communications, L.P. ("Primeco") and Sprint Spectrum, L.P. ("Sprint") in these proceedings which demonstrate that under the Commission's established rules and policies, PCS licenses for the MTA/BTA service areas encompassing the Gulf coast are already authorized to serve the Gulf of Mexico.<sup>1</sup>

2. The "Rededication" of Broadband PCS Spectrum Exclusivity for Private Microwave Uses Proposed by Shell Offshore Services and the American Petroleum Institute Should be Rejected as an Improper Attempt to Seek Reconsideration of Long-Settled Allocation Decisions.

The arguments of Shell Offshore Services ("Shell") and American Petroleum Institute ("API") requesting that the PCS band be effectively "rededicated" to fixed point-to-point services should be summarily rejected.<sup>2</sup> The request for rededication of the PCS band to fixed point-to-point service in the Gulf improperly seeks reconsideration of long-settled spectrum allocations decisions.<sup>3</sup> This request is based solely on unsupported and self-serving claims that PCS

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<sup>1</sup> The Comments of BellSouth Corporation ("BellSouth") also confirm the fact that existing MTA and BTA service areas encompass significant areas of the Gulf. (BellSouth Comments, pp. 4-5).

<sup>2</sup> Shell Comments, pp. 7-8 and API Comments, p. 6, 8-9.

<sup>3</sup> Redevelopment of Spectrum to Encourage Innovation in the Use of New  
(continued...)

operations are “technically unfeasible” in the Gulf.<sup>4</sup> Aerial and Western strongly disagree for the reasons previously presented in their Comments. (pp. 4-5).

3. **The Efforts of Commentors Seeking To Delay the Competitive Entry of PCS Licensees in the Gulf of Mexico Should be Rejected as Fundamentally Contrary to the Commission’s Pro-Competitive policies and the Rights of PCS Licensees.**

Aerial and Western also strongly object to the requests of Shell and Petroleum Communications, Inc. (“Petro”) to restrict the rights of PCS licensees to compete in the Gulf.<sup>5</sup> Adoption of either of these requests would be a fundamental abrogation of the Commission’s pro-competitive goals in its PCS proceedings,<sup>6</sup> the abandonment of its Congressional mandate under Section 309(j)(3)(B) of the Communications Act<sup>7</sup> and a modification of PCS licenses for which the U.S. Treasury has received payments or commitments amounting to hundreds of millions of dollars. Neither Shell nor Petro has offered any credible factual or legal argument to justify this outcome.

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<sup>3</sup>(...continued)

Telecommunications Technologies, ET Dkt. No. 92-9, First Report and Order and Third Notice of Proposed Rulemaking, 7 FCC Rcd. 6886 (1992).

<sup>4</sup> API Comments, p. 8.

<sup>5</sup> Shell Comments, p. 8 and Petro Comments, p. 17.

<sup>6</sup> See, for example, Amendment of Commission’s Rules to Establish New Personal Services, GEN Dkt. No. 90-314, Notice of Proposed Rulemaking and Tentative Decision, 7 FCC 5676, 5679 (1992).

<sup>7</sup> 47 U.S.C. § 309(j)(3)(B).

4. **Contrary to the Claims of Petroleum Communications, Inc., the Evidence in the Record Demonstrates the Public Benefits Which Will Result From PCS Operations Serving the Gulf of Mexico.**

The Petro claim that "...sufficient demand likely does not exist to justify geographic licensing of broadband...PCS services into the Gulf..."<sup>8</sup> is directly contradicted in Shell's Comments. Shell, which is the largest producer of petroleum and natural gas in the Gulf, describes the demand for communications services as follows:

"...In the past three years...the amount of drilling and exploration activity in the GOM [Gulf of Mexico] has increased dramatically...The resurgence of exploration and production activity in the GOM...has been accompanied by an increase in the demand for reliable voice, data and video telecommunication services. Providers of these services, however, have been unable to keep up with the growing demand..."<sup>9</sup>

Based on this estimate of overall demand, the public benefits from preserving competitive opportunities for incumbent PCS licensees to develop services for the Gulf are self-evident.

#### CONCLUSION

The Commission has ample factual and legal basis to confirm the rights of incumbent PCS licensees for MTA and BTA service areas comprising the portions of the Gulf of Mexico adjacent to Florida, Louisiana and Texas to serve the Gulf. The Commission should not alter its service area or other licensing rules as they apply to PCS service in the Gulf of Mexico.

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<sup>8</sup> Petro Comments, p. 18.

<sup>9</sup> Shell Comments, p. 5.

Respectfully submitted,

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August 4, 1997

CERTIFICATE OF SERVICE

I, Judy Norris, a legal secretary in the firm of Koteen & Naftalin, L.L.P., hereby certify that on the 4th day of August, 1997, copies of the foregoing "Reply Comments" were deposited in the U.S. mail, postage prepaid, addressed to:

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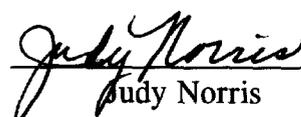
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