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EX PARTE PRESENTATION

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August 8, 1997

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, NW
Mail Stop Code 1170
Washington, D.C. 20544

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

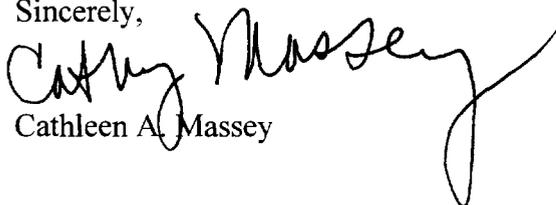
RE: Ex Parte Presentation
ET Docket No. 93-62 -- Guidelines for Evaluating the Environmental Effects of
Radiofrequency Radiation

Dear Mr. Caton:

Pursuant to the requirements of Sections 1.1200 et seq. of the Commission's Rules, you are hereby notified that the attached materials were delivered yesterday to Jackie Chorney of Chairman Hundt's Office, Suzanne Toller of Commissioner Chong's Office and David Siddall of Commissioner Ness' Office.

Should there be any questions regarding this matter, please contact the undersigned.

Sincerely,


Cathleen A. Massey

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APPLICABILITY OF NEW RF RULES TO INTERIOR CELL SITES

The Commission's new radiofrequency ("RF") radiation emission rules^{1/} would apply to the construction of new facilities within a cellular operator's existing service area boundary, even though such facilities are not otherwise subject to prior FCC approval.

Section 1.1312(a) of the Commission's rules explicitly provides that, "in the case of facilities for which no Commission authorization prior to construction is required by the Commission's rules and regulations[,] the licensee or applicant shall initially ascertain whether the proposed facility may have a significant environmental impact as defined in section 1.1307 of [the Commission's rules]."^{2/} If so, the licensee must prepare and submit an environmental assessment.^{3/} Under section 1.1307(b), construction of facilities that would exceed the radiation limits set forth in the RF rules requires the preparation of an EA, to the extent specified in that section.^{4/} In essence, while interior cells do not require preconstruction authorization, they remain subject to environmental processing.^{5/}

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^{1/} 47 C.F.R. §§ 1.1301 et seq. ("RF rules").

^{2/} Id. § 1.1312(a).

^{3/} Id. § 1.1312(b).

^{4/} Id. § 1.1307(b). There is no categorical exclusion for facilities that do not require preconstruction authorization. Cf. id. § 1.1307(b)(1)

^{5/} As the Commission has made clear, "[w]ith respect to previously-licensed stations, . . . we expect our licensees to comply with our RF radiation environmental rules as applicable to them." In the Matter of Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, Report and Order, 11 FCC Rcd 15123, 15168 at ¶ 119 (1996) (citing 47 C.F.R. §§ 1.1307, 1.1311 and 1.1312) (emphasis added).