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December 12, 1997

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Notice of Ex Parte Communication;
Broadband PCS C and F Block Installment
Payment Restructuring; WT Docket No. 97-82

Dear Ms. Salas:

NextWave Telecom Inc.

On behalf of NextWave Telecom Inc. ("NextWave" or "Company"), Ms. Charla Rath and undersigned counsel met yesterday afternoon with Ms. Catherine Sandoval of the FCC's Office of Communications Business Opportunities, and, separately, with Gerald Vaughan, Sandra Danner, Jerome Fowlkes, David Shiffrin and Rachel Kazan of the Wireless Telecommunications Bureau. The purpose of the meetings was to discuss issues in the above-captioned proceeding. The positions expressed by NextWave's representatives reflect those previously submitted to the Commission in writing in the Company's November 24, 1997, reconsideration petition in this proceeding.

One subject discussed during the meeting was NextWave's pending request that the "build out" exception to the amnesty option currently available to C block licensees be made available under the disaggregation option. The Commission's recent order on C block debt restructuring explains that the rationale for the exception is that it furthers the statutory goal of facilitating service to the public by acknowledging the activities of licensees that have commenced operations already or otherwise have invested significantly in network construction. *See Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees*, WT Docket No. 97-82, FCC 97-342, released Oct. 16, 1997, at para. 57. In its petition for reconsideration, at pp. 15-18, the Company demonstrates that this rationale applies with equal force under the disaggregation option, and that considerations of fairness and non-discrimination also argue for making the exception available under that option. Requiring licensees to elect the exception on an MTA-by-MTA basis addresses concerns about "cherry-picking."

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If the exception were extended to the disaggregation option, NextWave and other C block licensees would qualify because they have made significant investment in PCS

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network build out activities. For example, even before the Commission launched this docket, NextWave's regional network deployment teams had begun our build out in major markets throughout the country. Capital was applied to a range of network deployment activities, including microwave relocation, antenna site identification, leasing and zoning negotiations; vendor contracting and RF testing; network system design and engineering; antenna, base station, controller and switch installations; cell site construction; and the traditional steps associated with doing business in a particular locality, including registering with a state's corporation commission and opening offices. These activities constitute a significant part of the effort required to build out a PCS network, and they benefit the public interest no less under the disaggregation option than under the amnesty option. They should be acknowledged under both options.

A disaggregation "build out" exception for significant investment could be administered in a straightforward manner. The activities and investments in question are typical of all wireless networks. Records of such activity are maintained in accordance with generally accepted accounting principles and in standardized formats that are easily auditable. Much of the investment is unambiguously directly assignable, and common costs are assigned consistent with industry practices.

NextWave Telecom Inc.

In accordance with the Commission's rules, an original and two copies of this memorandum are being filed today. Please direct any questions concerning this matter to me, at 202-347-2771.

Sincerely,

Michael R. Wack
Vice President, Regulation

cc: Catherine Sandoval
Gerald Vaughan
Sandra Danner
Jerome Fowlkes
David Shiffrin
Rachel Kazan