

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

FCC 97M-203

80205

In re Applications of	)	WT Docket No. 97-199
	)	
WESTEL SAMOA, INC.	)	File No. 00560-CW-L-96
	)	
For Broadband Block C Personal	)	
Communications Systems Facilities	)	
	)	
and	)	
	)	
WESTEL, L.P.	)	File Nos. 00129-CW-L-97
	)	00862-CW-L-97
For Broadband Block F Personal	)	00863-CW-L-97
Communications Systems Facilities	)	00864-CW-L-97
	)	00865-CW-L-97
	)	00866-CW-L-97

MEMORANDUM OPINION AND ORDER

Issued: December 8, 1997

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Released: December 10, 1997

1. Under consideration are a Petition to Enlarge Issues, filed on October 30, 1997, by Westel Samoa, Inc. ("WSI"), Westel, L.P. ("WLP"), and Quentin L. Breen ("Breen"),<sup>1</sup> and Comments on the petition, filed on November 13, 1997, by the Wireless Telecommunications Bureau ("Bureau").

2. The Memorandum Opinion and Order, Hearing Designation Order, Notice of Opportunity for Hearing, and Order to Show Cause in this proceeding, FCC 97-322, released September 9, 1997 ("HDO"), specified the following issues pertaining to the Petitioners:

2. (A) To determine the facts and circumstances surrounding the conduct of Quentin L. Breen in connection with PCS 2000's bids placed on January 23, 1996, in the Commission's Broadband PCS C Block auction;
- (B) To determine, based on the evidence adduced above, whether Quentin L. Breen engaged in misrepresentations before and/or exhibited a lack of candor towards the Commission[; and]
3. To determine, based on the evidence adduced in Issue 2, whether Westel Samoa, Inc., and Westel, L.P., possess the requisite character qualifications

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<sup>1</sup> WSI, WLP, and Breen will be collectively referred to as "the Petitioners."

to be granted the captioned C Block and F Block Broadband Personal Communications Services applications, and accordingly, whether grant of their applications would serve the public interest, convenience, and necessity.

(HDO at para. 53.)

3. The Petitioners seek to add an issue "[t]o determine, based on the evidence adduced in Issue 2, whether Quentin L. Breen possesses the requisite character qualifications to hold a Commission license." In support, the Petitioners state that the Commission, in PCS 2000, L.P., 12 FCC Rcd 1703, 1718 (1997), remarked that it would address its concerns regarding Breen's actions in the PCS 2000 matter in a separate proceeding "and make a determination therein of whether Mr. Breen possesses the requisite character qualifications to hold a Commission license." The Petitioners contend that the instant proceeding is the one promised by the Commission but that no issue was included in the HDO looking towards Breen's personal qualifications to be a Commission licensee, as opposed to his qualifications in the context of the WSI and WLP applications. "It is that shortcoming which [the Petitioners] seek[ ] to rectify." The Bureau does not oppose the Petitioner's request provided that the general scope of this proceeding, as reflected in the HDO, is not changed.

4. The petition to enlarge issues will be denied. Breen is the "controlling principal" of WSI and WLP. (HDO at para. 1.) The issues in this proceeding are directed solely to Breen's alleged misconduct with respect to the PCS 2000 bid in question. Neither WSI, WLP, nor any principal of WSI or WLP other than Breen has been implicated in the alleged misconduct. Under these circumstances, a resolution of Issue 3 favorable to WSI and WLP will be the functional equivalent of and have the same effect as a determination, under the issue requested by the Petitioners, that Breen personally has the character qualifications to be a Commission licensee. Consequently, the addition of a separate issue to address that matter would serve no useful purpose.

Accordingly, **IT IS ORDERED** that the Petition to Enlarge Issues, filed on October 30, 1997, by WSI, WLP, and Breen **IS DENIED**.

FEDERAL COMMUNICATIONS COMMISSION



Arthur I. Steinberg  
Administrative Law Judge