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

In the Matter of )  
)  
Amendment of the Commission's Rules )  
Regarding Installment Payment Financing )  
For Personal Communications Services (PCS) )  
Licensees )

WT Docket No. 97-82

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OPPOSITION OF AT&T WIRELESS SERVICES INC. FEDERAL COMMUNICATIONS COMMISSION  
TO PETITIONS FOR RECONSIDERATION OFFICE OF THE SECRETARY

AT&T Wireless Services Inc. ("AT&T"), by its attorneys, hereby submits its opposition to the petitions for reconsideration filed in the above-captioned proceeding.<sup>1/</sup> The Commission should affirm the Order, which properly balances the competing interests and policy goals involved in this complicated proceeding. While the problems of a few overextended parties have been the subject of considerable publicity, many C-block licensees are building out their markets and commencing service to the public. There is no justification for the Commission to revise its rules in a further attempt to rescue the worst cases.

As the disparate petitions for reconsideration demonstrate, no action that the Commission could take on reconsideration will satisfy all of the parties, and further modifications to the rules will only delay final resolution of the matters that gave rise to this proceeding. Rather, the public interest would be best served by bringing this chapter of the auction process to a close. The options the Commission has adopted will provide sufficient financial relief for C-block licensees,

<sup>1/</sup> Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees, WT Docket No. 97-82, Second Report and Order and Further Notice of Proposed Rulemaking, FCC 97-342 (rel. Oct. 16, 1997) ("Order").

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while preserving the integrity of the auction process. In light of the variety of other means for C-block licensees to enhance their ability to compete in the wireless marketplace, moreover, there is no need for the additional relief sought by petitioners.

## DISCUSSION

In the Order, the Commission recognized the need to ensure fairness to all participants in its auctions, including those who won C-block licenses, those who did not, and those who won licenses in competing services.<sup>2/</sup> The Commission properly considered all these varying interests and adopted a menu of options that should provide C-block licensees with sufficient financial relief, without undermining the integrity of the auction program. Petitioners now seek modifications to the Order that would enable them, among other things, to apply all of their down payment amounts to the purchase of licenses; pay a discounted price for the licenses they decide to buy; and have the option of purchasing licenses on a BTA rather than an MTA basis. For several reasons, such additional relief is unwarranted.

First, the C-block marketplace is healthy and functioning. Indeed, several C-block licensees have already built out their systems and are providing service.<sup>3/</sup> Significantly, several

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<sup>2/</sup> Order at ¶ 2.

<sup>3/</sup> See Monica Allevan, Small Carriers Launch, Wireless Week, October 13, 1997; Einstein Personal Communications Services Press Releases <<http://www.einsteinpcs.com>> (visited December 28, 1997) (describing Airadigm Communications Inc.'s deployment of PCS in Wisconsin); WirelessNorth Press Releases <<http://www.wirelessnorth.com>> (visited December 28, 1997) (announcing PCS launch in North Dakota and Minnesota); Yahoo! Company Press Releases <<http://f2.yahoo.com/prnews>> (visited December 28, 1997) (describing NPI Wireless's launch of PCS in Northern Michigan); CFW Communications Press Releases <<http://www.cfw.com>> (visited December 28, 1997) (announcing launch of PCS in Charlottesville, Virginia).

of these licensees oppose the additional relief sought in the petitions for reconsideration in this proceeding.<sup>4/</sup> Except for a few overextended licensees whose financial problems have received significant publicity, the C-block “crisis” has passed.<sup>5/</sup> There is simply no need or justification for the Commission to rewrite its rules for the benefit of the worst cases. Bidders in any Commission auction understand that there is no guarantee of business success even if they win a license. The Commission should not now create an expectation that it will shield applicants or licensees from the results of bad business decisions, or take actions that suggest that some licensees are “too big to fail.” The menu of options the Commission provided in the Order will provide most C-block licensees with sufficient financial relief to permit them to continue to participate in the wireless marketplace, although it may be on a reduced basis.

Second, further revisions to the Commission’s rules will only penalize responsible C-block bidders and the rest of the wireless industry by stirring up uncertainty after parties on both sides of the issue urged the Commission to make a swift decision and eliminate the “cloud of uncertainty hanging over the wireless sector.”<sup>6/</sup> As the Commission recognized, “[c]ertainty is beneficial to all C-block licensees and will foster the increased competition that [the

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<sup>4/</sup> See Petition for Reconsideration of Cook Inlet Region, Inc. at 2; Petition for Reconsideration of Omnipoint Corporation at 2-3.

<sup>5/</sup> See A Look at What the PCS Industry Got For All Its Trouble, Communications Today, December 22, 1997 at 3 (describing the financial crisis in the wireless industry last April and stating that the “sheer mass” of the three largest C-block bidders’ troubles “overshadowed the fact that the majority of C-block licensees were not facing financial crisis”).

<sup>6/</sup> Order at ¶ 24.

Commission] expects in the marketplace.”<sup>7/</sup> Now that the Commission has reached its well-considered decision in this proceeding, it should affirm that decision and allow the process to move forward to conclusion.

Third, even without the substantial rule revisions proposed by petitioners, C-block licensees can attract capital and improve their ability to compete by entering into partitioning and disaggregation arrangements or joint ventures with other wireless providers. Triton PCS, for example, recently announced a joint venture agreement with AT&T under which Triton will become a member of the AT&T Digital Wireless Network.<sup>8/</sup> Triton will obtain financing and build and operate the system. In return, AT&T will exchange 20 MHz of its PCS spectrum in Triton’s markets for a minority interest in the joint venture. Triton and AT&T will also sign reciprocal roaming agreements that will allow Triton customers to use their wireless service as they move through AT&T’s national coverage area. Triton will also be able to identify itself with AT&T in marketing materials through a licensing arrangement for the AT&T brand. This type of joint venture is beneficial to all the parties involved and AT&T hopes to complete other such agreements in the near future, including similar agreements with C-block licensees.<sup>9/</sup> Other carriers have announced similar plans to enter into arrangements with smaller licensees.<sup>10/</sup> The

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<sup>7/</sup> Id. at ¶ 4.

<sup>8/</sup> See Triton PCS to Become AT&T Corp. Partner, *Wireless Week*, October 13, 1997.

<sup>9/</sup> See John J. Keller, AT&T Is Planning Bold New Business Strategy, *Wall Street Journal*, September 18, 1997, at A3 (describing AT&T’s plans to expand its wireless services by using franchised affiliates).

<sup>10/</sup> See Sprint, Too, Moves to Franchise Wireless Service, *Wall Street Journal*, September 26, 1997, at B5 (describing Sprint’s and PrimeCo’s plans to enter into franchise agreements in order (continued on next page)

wireless marketplace, therefore, already is providing much of the relief sought by the petitioners, and there is no need for further government intervention.

### CONCLUSION

The relief sought by the petitioners is not warranted given the options that the Commission already has made available to overextended licensees and the build-out of C-block systems. Private sector arrangements between C-block licensees and other parties offer licensees additional means of entering the marketplace. Further modifications to the rules will only prolong the uncertainty and litigation that have attended the C-block auctions. AT&T urges the Commission to affirm the Order and put this contentious proceeding to rest.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

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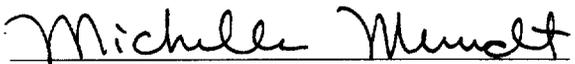
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