

KURTIS & ASSOCIATES, P.C.

DOCKET FILE COPY ORIGINAL

ORIGINAL

SUITE 600  
2000 M STREET, N.W.  
WASHINGTON, D.C. 20036

(202) 328-4500  
TELECOPIER (202) 328-1231

April 18, 2000

RECEIVED

APR 18 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**Via Hand Delivery**

Magalie Roman Salas, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-B204  
Washington, D.C. 20554

Re: Electronic Filing of Carolina PCS I Limited  
Partnership's Opposition

Dear Ms. Salas:

Enclosed please find a conforming hard copy of Carolina PCS I Limited Partnership's Opposition which was electronically filed on the night of April 17, 2000. On April 18, 2000, we were advised by FCC staff that technical difficulties made it impossible to view the document electronically. Accordingly, in light of the difficulties encountered by FCC staff, we are transmitting the enclosed copy of the pleading that was filed electronically last evening.

If you have any questions or require additional information with respect to this matter, please do not hesitate to call Lisa L. Leibow or the undersigned.

Best regards,

 <sup>by</sup>  
(see)

Michael K. Kurtis

cc: Audrey Bashkin



**The FCC Acknowledges Receipt of Comments From ...  
 Carolina PCS I Limited Partnership  
 ...and Thank You for Your Comments**

**Your Confirmation Number is: 2000417210235**

**Date Received: Apr 17 2000**

**Docket: 97-82**

**Number of Files Transmitted: 1**

File Name	File Type	File Size (bytes)
OPPOSITION TO PETITION FOR RECONSIDERATION	WordPerfect	1265244

[Initiate a Submission](#) | [Search ECFS](#) | [Return to ECFS Home Page](#)

[FCC Home Page](#) | [Search](#) | [Commissioners](#) | [Bureaus Offices](#) | [Finding Info](#)

*updated 03/25/98*



**The FCC Acknowledges Receipt of Comments From ...  
 Carolina PCS I Limited Partnership  
 ...and Thank You for Your Comments**

Your Confirmation Number(s): 2000418991367 1  
 Date Received: Apr 18 2000  
 Docket: 97-82  
 Number of Files Transmitted: 1

File Name	File Type	File Size (bytes)
OPPOSITION TO PETITION FOR RECONSIDERATION	WordPerfect	1265244

[Initiate a Submission](#) | [Search ECFS](#) | [Return to ECFS Home Page](#)

[FCC Home Page](#) | [Search](#) | [Commissioners](#) | [Bureaus Offices](#) | [Finding Info](#)

*updated 03/25/98*

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

In the Matter of )  
 )  
Amendment of the Commission's Rules )  
Regarding Installment Payment Financing ) WT Docket No. 97-82  
for Personal Communications )  
Services (PCS) Licenses )  
 )  
Order on Reconsideration of the )  
Fourth Report and Order )

---

OPPOSITION

---

CAROLINA PCS I LIMITED PARTNERSHIP

Michael K. Kurtis  
Lisa L. Leibow

Its Attorneys

Kurtis & Associates, P.C.  
2000 M Street, N.W.  
Suite 600  
Washington, D.C. 20036  
(202) 328-4500

April 17, 2000

TABLE OF CONTENTS

SUMMARY ..... ii

I. THE JOINT PETITION MUST BE DISMISSED AS  
PROCEDURALLY DEFECTIVE ..... 2

II. IF CONSIDERED ON THE MERITS, THE JOINT PETITION  
SHOULD BE REJECTED ..... 5

    A. The Existing 30 MHz C Block License Size and 10 MHz F Block  
    License Size Must Be Maintained ..... 6

    B. No Matter How the C and F Block Spectrum Is Divided, the DE  
    Set-aside Must Be Maintained to Further Congressional Goals ..... 8

    C. SBC’s Related Proposal to Eliminate DE Eligibility For Markets  
    With Populations Over 700,000 Must Be Rejected ..... 9

    D. The Proposed 10-10-10 Split Decreases Chances of DEs to  
    Acquire 20 or 30 MHz of Spectrum ..... 11

III. CONCLUSION ..... 12

## SUMMARY

Carolina urges the Commission to maintain the 30 MHz Block size for the C Block license. Changing the structure of the DE licenses now would put current C and F block license holders at a competitive disadvantage because those carriers had relied on the current market structure when making their business plans.

Carolina further urges the Commission to maintain DE eligibility restrictions no matter how the spectrum is divided. If any compromise is made, it should be on a population basis. However, not at the 700,000 population basis proposed by SBC Communications, Inc. Instead, any population threshold for non-DE participation should be set at a minimum of 2 million. Further, Carolina urges the Commission to reject Joint Petitioners' proposal because under it, the only remaining vestige of the DE set-aside would be bidding credits. As has been demonstrated on the record of related proceedings, bidding credits at the current levels would be meaningless without the set-aside. The level of credits must reflect the relative financial strengths of all entities eligible to bid.

In conclusion, Carolina PCS I Limited Partnership opposes Sprint Spectrum and US West Wireless, LLC's Joint Petition for Reconsideration in WT Docket No. 97-82. The Joint Petition must be dismissed as procedurally defective. The issues raised are beyond the scope of the the Order on Reconsideration. However, if the Commission chooses to address Joint Petitioners' request on its merits, the Commission should deny Joint Petitioners' requests.

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

RECEIVED

APR 18 2000

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Amendment of the Commission's Rules )  
Regarding Installment Payment Financing )  
for Personal Communications )  
Services (PCS) Licenses )  
)  
Order on Reconsideration of the )  
Fourth Report and Order )

WT Docket No. 97-82

---

OPPOSITION

---

Carolina PCS I Limited Partnership ("Carolina"), by its attorneys and pursuant to the Federal Communications Commission's ("Commission") Public Notice in the above-captioned proceeding<sup>1/</sup> hereby submits its opposition to Sprint Spectrum L.P.'s ("Sprint") and US West Wireless, LLC's ("USWW") (collectively "Joint Petitioners") Petition for Reconsideration of the Order on Reconsideration of the Fourth Report and Order in WT Docket No. 97-82 ("Joint Petition").<sup>2/</sup> The April 5 Public Notice, states that comments and other filings responding to the

---

<sup>1/</sup>"Wireless Telecommunications Bureau Sets Comment Schedule for Petitions For Reconsideration of the Order on Reconsideration of the Fourth Report and Order in WT Docket No. 97-82," *Public Notice*, DA 00-760 (rel. Apr. 5, 2000) ("*April 5 Public Notice*").

<sup>2/</sup>See Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, *Order on Reconsideration of the Fourth Report and Order*, FCC 00-54 (rel. Feb. 29, 2000) ("*Order on Reconsideration*"); see also Amendment of the Commission's Rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, *Fourth Report and Order*, 13 FCC Rcd 15,743 (1998) ("*C Block Fourth Report and Order*").

petitions of Nextel Communications, Inc. (“Nextel”) and SBC Communications Inc. (“SBC”) regarding PCS C and F Block rules (“DE Eligibility Proceeding”),<sup>3/</sup> as well as those relating to the petitions of AT&T Wireless Services, Inc. (“AT&T”), BellSouth Corporation (“BellSouth”) and Bell Atlantic Mobile, Inc. (“Bell Atlantic”) regarding CMRS spectrum cap limits (“Spectrum Cap Proceeding”),<sup>4/</sup> will be incorporated into the record in this docket. Therefore, Carolina incorporates by reference, but does not restate, its pleadings in those proceedings.<sup>5/</sup> In addition, the following comments specifically address the Joint Petitioners’ requests.

I. THE JOINT PETITION MUST BE DISMISSED AS PROCEDURALLY DEFECTIVE.

Joint Petitioners ask the Commission to address all outstanding petitions related to DE eligibility and spectrum cap limits and adopt rule revisions advocated by Joint Petitioners by reconsidering the Order on Reconsideration. The issues raised by Joint Petitioners, however, are

---

<sup>3/</sup>See Wireless Telecommunications Bureau Seeks Comment on SBC Communications Inc.’s Request for Waiver of the Eligibility Requirements for Participation in the Upcoming PCS C and F Block Auction,” *Public Notice*, DA 00-145 (rel. Jan. 31, 2000); “Wireless Telecommunications Bureau Seeks Comment on Nextel Communications, Inc.’s Petition Regarding PCS C and F Block Spectrum,” *Public Notice*, DA 00-191 (rel. Feb. 3, 2000); “Extension of Filing Deadline for Comments to the Petitions Filed By SBC Communications and Nextel Communications, Inc. Regarding PCS C and F Block Rules,” *Public Notice*, DA 00-271 (rel. Feb. 11, 2000).

<sup>4/</sup>See “Wireless Telecommunications Bureau Seeks Comment on AT&T Wireless Services, Inc., BellSouth Corporation and Bell Atlantic Mobile, Inc. Petitions Regarding CMRS Spectrum Cap Limits,” *Public Notice*, DA 00-318 (rel. Feb. 18, 2000) (“Feb. 18 Public Notice”). In the April 5 Public Notice the Commission does not specifically state that the CMRS Spectrum Cap proceeding record will be incorporated into the record of the instant proceeding, however, it does signal the public to “see also” the Feb. 18 Public Notice.

<sup>5/</sup>See Carolina Comments and Reply Comments in DA 00-191, filed Feb. 22, 2000, and March 1, 2000 respectively. See also Carolina Comments in DA 00-318, filed Mar. 3, 2000. See also, Carolina Ex Parte Opposition to USWW Petition for Waiver filed Mar. 13, 2000. See also, Carolina Ex Parte Notices of meetings with Commission staff filed Mar. 28, 2000, Apr. 3, 2000, and Apr. 6, 2000.

beyond the scope of the *Order on Reconsideration*, which addressed petitions seeking reconsideration of the Commission's Fourth Report and Order. Although the C Block *Fourth Report and Order* was concerned with auction rules for the C Block, the only substantive issues addressed in the *Order on Reconsideration* were whether to extend both the two year "grandfather" exception to the entrepreneur eligibility requirement and a similar exception to bidding credit eligibility for participants in earlier C Block auctions. The Commission granted the former and denied the latter. The Commission dismissed as moot all other issues presented by petitions for reconsideration.<sup>6/</sup>

The parties seeking reconsideration of the Fourth Report and Order never requested that the Commission weigh some new division of the C Block's 30 MHz of spectrum or eliminate the DE set aside outright. Nor did the Commission raise this idea on its own in the Order on Reconsideration.<sup>7/</sup> As a result, Joint Petitioners are hard pressed to show that their concept of subdividing the C Block and terminating DE status is within the scope of the Order on Reconsideration and can be heard by the Commission in this proceeding.

---

<sup>6/</sup>The moot issues included: whether to delay Auction No. 22 pending resolution of bankruptcy proceedings affecting the availability for auction of certain C Block spectrum; whether to apply a "controlling interest" approach rather than using "control group" structures to determine financial attribution for future C Block auctions; whether to reduce the minimum opening bids for Auction No. 22; whether to implement for Auction No. 22 Omnipoint's proposal for a bid increment methodology; whether to reconsider its decision to eliminate installment payment financing and to exclude spectrum involved in bankruptcy proceedings from Auction No. 22.

<sup>7/</sup>Joint Petitioners (at 2) assert that their Joint Petition is procedurally correct because facts presented in petitions filed by Nextel Communications, Inc. and SBC Communications, Inc. were never considered by the Order on Reconsideration. The facts to which Joint Petitioners refer, however, were unrelated to the specific matters addressed by the Order on Reconsideration; equally revealing neither Nextel nor SBC elected to file their petitions in the instant docket, implicitly acknowledging that their proposals are outside the scope of the Fourth Report and Order and the Order on Reconsideration.

Under certain circumstances, the Commission can grant reconsideration based on *facts* which have not previously been presented.<sup>8/</sup> Nowhere does the Joint Petition cite to “new facts” as the justification for its filing. Indeed, the sole basis for submission of the Joint Petition is the desire by USWW and Sprint to arrogate more spectrum to themselves--- hardly a new fact.

Despite the self-reflected label Joint Petitioners assign to their request, the subject pleading more closely resembles a petition for rulemaking, than a reconsideration petition. Indeed, the Appendix to the Joint Petition is entitled: “Specific Proposed Rule Changes,” thus validating Carolina’s position that any attempt to revise the DE rules must conform to requirements imposed by the Administration Procedures Act and which the Commission is obligated to enforce.<sup>9/</sup> While the DE rules can be changed through such a formal proceeding, Carolina submits that there are strong arguments, outlined below, against making such fundamental changes. The Commission should fully consider these arguments in deciding whether or not to institute a formal, time consuming rulemaking proceeding at this time, which could have the undesired effect of further delaying any reaaction of this spectrum.

Joint Petitioners cite to the Second Memorandum Opinion and Order in CC Docket No. 94-102 (the *Enhanced E911* proceeding)<sup>10/</sup> for the proposition that the Commission has

---

<sup>8/</sup>See 47 C.F.R. § 1.429(b). Parties were welcomed to present new evidence or information to the Commission right up to Feb. 29, 2000, the date the *Order on Reconsideration* was released. Joint Petitioners, however, cite to no events which have occurred or circumstances which have changed since that date.

<sup>9/</sup>See 5 U.S.C. § 553.

<sup>10/</sup>Revision of the Commission’s Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems (Second Memorandum Opinion and Order in CC Docket No. 94-102), FCC 99-352, rel. Dec. 8, 1999 (at ¶ 2).

implemented rule amendments in the course of reconsideration orders even when the amendment had not been specifically raised in a petition for reconsideration. The Second Memorandum Opinion and Order, however, was issued in response to petitions that sought clarification and further consideration of an order which imposed on “covered” CMRS carriers the requirement to transmit enhanced location information in two phases. In their filings, petitioners sought rule changes and deletions designed to facilitate phase one implementation. Thus, unlike here, there was a one-to-one correspondence between the subject matter of the order for which reconsideration was sought and the issues raised by petitioners.

In sum, the Commission must dismiss the above-captioned petition for reconsideration as procedurally defective.

**II. IF CONSIDERED ON THE MERITS, THE JOINT PETITION SHOULD BE REJECTED.**

In the event that the Commission chooses to address Joint Petitioners’ request on its merits Carolina submits that it must deny the request out-of-hand as an attempt to circumvent the Commission’s obligations under the Act. Joint Petitioners propose dividing the 30 MHz C Block licenses into three 10 MHz licenses, and allowing non-DEs to bid on these 10 MHz C Block licenses, as well as 15 MHz C Block and 10 MHz F Block licenses. Joint Petitioners contend that these measures are necessary because the existing 30 MHz C Block size and DE eligibility rules are somehow incompatible with objectives set forth in Section 309(j)(3), and will undermine delivery of advanced telecommunications services.<sup>11/</sup> Joint Petitioners are wrong. The 30 MHz

---

<sup>11/</sup>Joint Petitioners suggest, in a footnote, continuing the DE set-aside for one of the 10 MHz C Block licenses, while opening eligibility for all other licenses being reauctioned. DEs would  
(continued...)

Block size and DE eligibility rules promote Section 309(j)(3)'s objectives and will accelerate availability of advanced services. For the reasons discussed herein, Carolina urges the Commission to maintain the current 30 MHz license size for the C Block licenses and to maintain DE eligibility requirements for the entire 30 MHz C Block.

A. The Existing 30 MHz C Block License Size and 10 MHz F Block License Size Must Be Maintained.

Carolina urges the Commission to maintain the 30 MHz Block size for the C Block licenses, and the 10 MHz license size for the F Block. The 30 MHz and 10 MHz DE rules set the business conditions under which Carolina structured its bids and market valuations. In prior C Block auctions, current C Block licensees like Carolina, have relied on the fact that they would have “entrepreneurs” operating on 30 MHz Blocks in their adjacent markets, with whom they could, *inter alia*, negotiate reasonable roaming arrangements. If the Commission were to abruptly adopt the C Block spectrum proposal USWW-Sprint prefer, the business environment on which incumbent DEs relied would change drastically. Instead of DEs in adjacent markets, existing C Block licensees will find large regional and national carriers with substantial spectrum inventories (perhaps exceeding the existing cap) that have expanded precisely as a result of the proposal favored by USWW-Sprint.

This would be potentially devastating to Carolina, as it already has had difficulty

---

<sup>117</sup>(...continued)

continue to receive bidding credits whether or not the license was one which was set aside. This “alternative” is no compromise at all. A 10 MHz set-aside is too meager to allow meaningful participation by DEs. And as explained in more detail herein, the likelihood of a DE winning in a market pursued by a large entity is almost non-existent, and would exacerbate an already hostile, anti-competitive environment. As such, Joint Petitioners’ compromise position likewise must be rejected.

obtaining an equitable roaming arrangement with BellSouth, the large carrier in Carolina's adjacent markets. While BellSouth agreed to enter into a roaming agreement with Carolina, it will do so only at rates substantially exceeding those which Carolina understands BellSouth has made available to other GSM-based carriers. BellSouth has expressly advised Carolina that it will bar roaming in North Carolina at which it allows all other GSM carriers to obtain roaming because BellSouth and Carolina are direct competitors in South Carolina. If the Commission were to allow BellSouth to acquire C Block spectrum in North Carolina, it will have a significant impact on the availability of competitive GSM services not only in the North Carolina markets but, as demonstrated above, in other markets as well.

These market-specific issues highlight the fallacy of relying on generalized market conditions as the predicate for allowing non-DE carriers to indiscriminately acquire C Block spectrum and compete directly with DEs.

Carolina further relied on the fact that it would be on the same competitive footing as its DE competitors vis-a-vis their size and ability to raise capital. Carolina chose a technology and built a business case for voice and data applications which require 30 MHz of spectrum to fully deploy. Different business decisions would have been made had the full 30 MHz not been available from the start. Many original C Block carriers have relied on those rules. To the extent that C Block eligibility constraints in a marketplace are lifted, so should all DE restrictions be lifted for those C Block licensees still playing by the original rules. This applies if the Commission allows the non-DEs to bid for any of the spectrum in the marketplace as this would impact the competitive posture under which DEs originally placed their bids.

In the early PCS proceedings, the Commission had tentatively proposed to set aside one

20 MHz block and 10 MHz BTA block for designated entities. However, after examining an exhaustive record, the Commission included the 30 MHz C Block in its set aside to address concerns that smaller blocks would be inadequate to satisfy the need for DEs to be able to offer a full range of PCS services with quality equivalent to the like offerings of other providers operating with 30 MHz licenses; to be able to obtain commercial funding on terms as favorable to those available to operators with 30 MHz licenses; and to avoid the greater transaction costs that would be incurred above those associated with the acquisition of a single 30 MHz license.<sup>12/</sup>

B. No Matter How the C and F Block Spectrum Is Divided, the DE Set-aside Must Be Maintained to Further Congressional Goals.

Dividing the C Block spectrum into three 10 MHz allocations likely would have the undesired effects of not only significantly reducing the chances for a DE to obtain sufficient spectrum to effectively compete with the large players but would also have the unintended consequence of reducing the competitive bids in the marketplace. Any large business interested in any of the 10 MHz license will likely outbid a small business interested in the same market. The probable result of splitting the spectrum in this manner and allowing non-DEs to participate in the auction would be that the only markets available to DEs would be those which are undesirable to large companies.

Moreover, it is substantially more expensive to offer service in the mid- to large-sized markets with a 10 MHz allocation than with a larger spectrum allocation. Accordingly, it would be more appropriate and competitively neutral to maintain the entire 30 MHz Block for the DEs.

---

<sup>12/</sup>Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Fifth Report and Order*, 9 FCC Rcd 5532, ¶¶ 124-127 (1994).

DEs would, in essence, be foreclosed from competing in the PCS marketplace in direct contravention of Section 309(j). As such, Carolina urges the Commission to maintain the entire 30 MHz C Block license size for DEs.

The cost to compete is based upon the amount of spectrum available, the relationship cited by Nextel as the basis for its petition. Since the carriers have argued they need this additional spectrum primarily to meet growth and make new service offerings in the larger markets, carving up the C Block spectrum into smaller spectrum blocks and opening the auction would mean that the DE offering new service will have less spectrum while the entrenched competitor will have more, further disadvantaging the DE. If the incumbent claims it is too difficult or costly to compete with its existing 25 or 30 MHz allocation, how does that justify reducing the DE to 20 or 10 MHz?

C. SBC's Related Proposal to Eliminate DE Eligibility For Markets With Populations Over 700,000 Must Be Rejected.

On an *ex parte* basis in the related DE eligibility proceedings incorporated by reference into this proceeding, SBC Communications, Inc. ("SBC") proposes a "compromise" to eliminate DE eligibility for markets with populations exceeding 700,000. As this proposal may be considered a direct alternative to the proposals presented in the Joint Petition, Carolina respectfully takes this opportunity to respond to the SBC proposal on the record in this proceeding.

Confining DE eligibility restrictions to markets whose population falls within some arbitrary threshold appears to reflect the unsupported notion that DEs lack the resources to construct larger markets. Carolina has already exceeded the 10 year construction requirement for

two of its markets including the Greenville-Spartanburg BTA which, according to the reauction notice, has a population of 788,212. Clearly, the fact that the market exceeds a population of 700,000 had no bearing on Carolina's ability to deploy and offer substantial service in that market.

Population size alone is not necessarily indicative of the ability of a DE to deploy a regional or rural-oriented system. For example, Charlotte, NC BTA has a population in excess of 1.6 million. Under the SBC proposal, the sale of this BTA in Auction No. 35 would be open to non-DEs. However, Carolina has met its construction requirements for three South Carolina BTAs, whose combined population and geographic sizes exceed that of the Charlotte, NC BTA. This demonstrates that a DE *can* succeed in a BTA the size of Charlotte. As such, Carolina urges that to the extent that the DE eligibility requirement were to be based upon market size, the appropriate cut off should not be below the two million population level.

Many factors beyond just market size impact upon the costs of system deployment. Moreover, market forces in the upcoming, all cash, re-auction will likely result in any markets which are too costly for DEs to deploy to remain unsold in Auction No. 35.

As a possible alternative to address that issue, Carolina suggests that the Commission could proceed with Auction No. 35, as presently scheduled, limited only to qualified DEs, immediately followed by an open auction without DE restrictions for any licenses not won in Auction No. 35. Under this proposal, if as suggested by SBC, a market was too large for a DE to acquire and construct, the spectrum would immediately become available to non-DEs.

The need for "nation wide" coverage does not include the smaller tiered markets but are

geared for the nationwide traveler to the major cities.<sup>13/</sup> Remember, Sprint's 5 year construction deadline for its A and B Block licenses (which are for a full 30 MHz in most areas) shows no construction at all even where they already have the spectrum for lower-tiered markets. Clearly they don't need "additional" spectrum in those markets when they do not even offer service.

D. The Proposed 10-10-10 Split Decreases Chances of DEs to Acquire 20 or 30 MHz of Spectrum.

Under the Joint Petitioners' proposal, the only assistance to small businesses and other "entrepreneurs" would be the maintenance of bidding credits for those participants. The Commission has recognized that small businesses cannot prevail at auction against large companies. The Commission set aside PCS spectrum "entrepreneur's block" because the Commission insightfully recognized that bidding credits would be insufficient to compensate for the large sums of money that PCS licenses would likely command.<sup>14/</sup> If the Commission nevertheless eliminates the DE set-aside, it must make major changes to the structure of its bidding credit rules.

As has been demonstrated on the record of the related proceedings,<sup>15/</sup> bidding credits at the current level are meaningless in the context of an auction open to non-DEs. A fifteen or twenty-five percent bidding credit to a company with a net worth equal to 1/100th of that of a Nextel, for example, is of no value in making a level playing field in the PCS marketplace. If a rulemaking proceeding results in the Commission's expansion of participation in the auction as

---

<sup>13/</sup>See, e.g. Exhibit I, Sprint "Nationwide" Coverage Map.

<sup>14/</sup>Implementation of Section 309(j) of the Communications Act – Competitive Bidding, PP Docket No. 93-253 *Fifth Report and Order*, 9 FCC Rcd. 5532, ¶ 96 (1994).

<sup>15/</sup>See, e.g., Carolina DE Eligibility Comments at 14.

the Petitioners' request, the Commission must institute a meaningful bidding credit system - one which takes into consideration the vast disparity among bidders and allows a true DE to make a competitive bid with a company the size of Nextel or SBC. Under such a system, the level of credits must reflect the relative financial strengths of all entities eligible to bid in the reauction.

Otherwise, there is no basis to believe that any DE would be able to obtain any license desired by a non-DE

. If a DE has a 30 MHz need in its business plan but is out-bid by the large carrier, non-DEs for one or two of the licenses but not the third, the DE is in the situation of being unable to meet its business plan for lack of spectrum but has to proceed to buy the remaining spectrum for which it is the high bidder. If anything other than the full 30 MHz is maintained for DEs exclusively, a DE should be able to withdraw a high bid WITHOUT PENALTY if and where it has been outbid for one or more additional 10 MHz blocks in the same market. Remember, the large carriers are seeking additional spectrum, and be it 10 or 30 MHz, it still helps. The new market entrant DE spectrum and its business plan might not be capable of working on less than 30 MHz (especially in the larger markets).

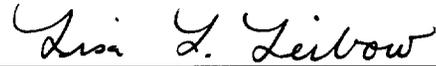
### III. CONCLUSION

Carolina respectfully requests that the Commission dismiss the Joint Petition as it is procedurally defective. In the event the Commission addresses the proposal raised in the Joint Petition on its merits, Carolina urges the Commission to deny the Joint Petition, and all other requests being considered in conjunction with the Joint Petition, and maintain the current 30

MHz license size, DE eligibility restrictions, and spectrum cap limitations for the upcoming C and F Block Auction (Auction No. 35).

Respectfully submitted,

CAROLINA PCS I LIMITED PARTNERSHIP



---

Michael K. Kurtis

Lisa L. Leibow

Its Attorneys

Kurtis & Associates, P.C.

2000 M Street, N.W.

Suite 600

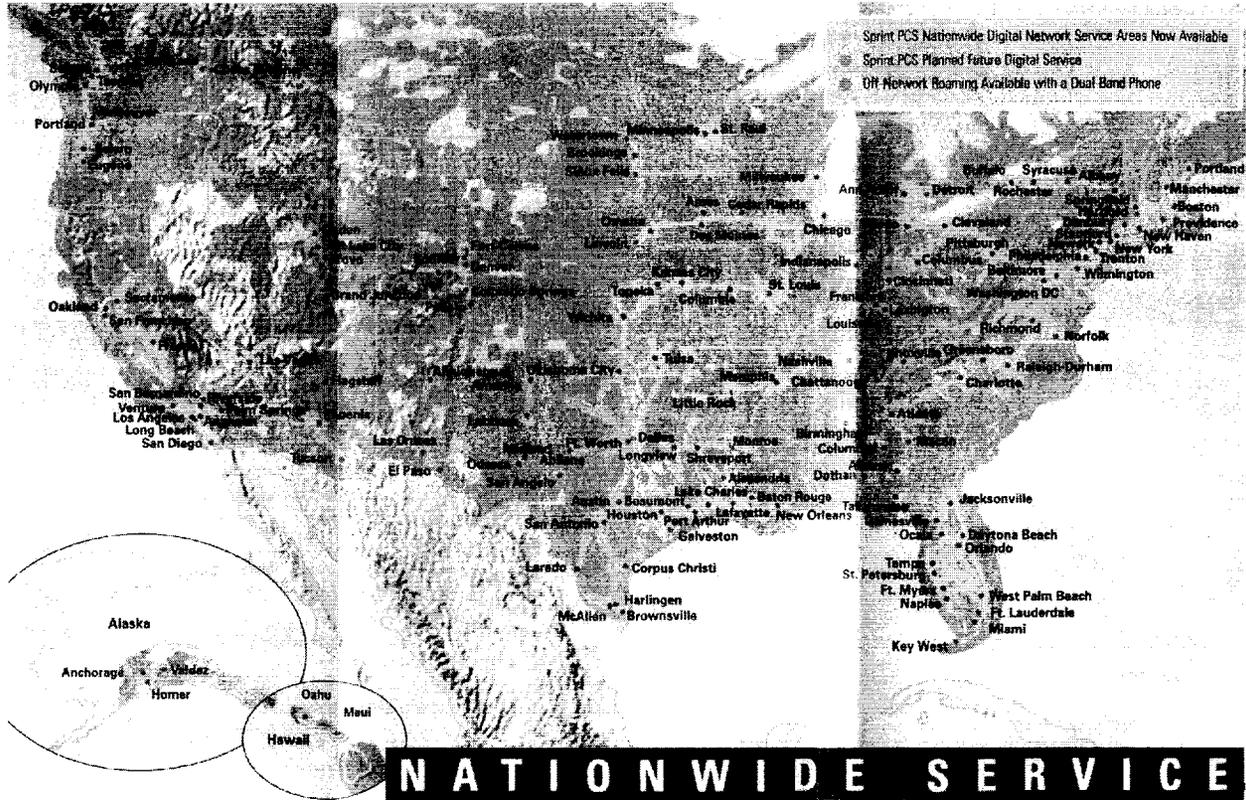
Washington, D.C. 20036

(202) 328-4500

April 17, 2000

**EXHIBIT I**

### SPRINT PCS "NATIONWIDE" NETWORK



Source: Sprint PCS - Local Calling Area (visited April 14, 2000)  
<http://s4.sprintpcs.com/learn/showmapdetail.asp?area=|>>.

CERTIFICATE OF SERVICE

I, Jennifer L. Clapp, a secretary with the law firm of Kurtis & Associates, P.C., do hereby certify that on this 17<sup>th</sup> day of April, 2000, had copies of the foregoing "OPPOSITION" sent via First Class United States mail, postage prepaid, to the following:

Chairman William E. Kennard  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8-B201  
Washington, D.C. 20554

Commissioner Gloria Tristani  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8-C302  
Washington, D.C. 20554

Commissioner Harold W. Furchtgott-Roth  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8-A302  
Washington, D.C. 20554

Commissioner Michael Powell  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8-A204  
Washington, D.C. 20554

Commissioner Susan Ness  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room 8-B115  
Washington, D.C. 20554

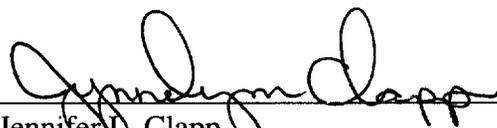
Magalie Roman Salas, Secretary  
Office of the Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room TW-B204  
Washington, D.C. 20554

Audrey Bashkin  
Legal Branch  
Auctions and Industry Analysis Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W., Room  
Washington, D.C. 20554

International Transcription Services, Inc.  
1231 20<sup>th</sup> Street, N.W.  
Washington, D.C. 20036

Julia K. Kane  
Jeffrey A. Brueggeman  
U S WEST Wireless, LLC  
1801 California Street  
Suite 5100  
Denver, Colorado 80202

Jonathan M. Chambers  
Sprint Spectrum L.P. d/b/a Sprint PCS  
401 9<sup>th</sup> Street, N.W.  
Suite 400  
Washington, D.C. 20004

  
Jennifer L. Clapp