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June 22, 2000

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Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

RECEIVED
JUN 22 2000
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: Further Notice of Proposed Rulemaking (FCC 00-197, rel. June 7, 2000)
WT Docket No. 97-82
SUBMISSION OF THE RURAL CELLULAR ASSOCIATION

Dear Madam Secretary:

In lieu of submitting formal comments in the referenced proceeding, the Rural Cellular Association (RCA), by its attorneys, hereby re-submits its comments filed in response to the proceedings which spawned this docket. Therein, RCA presented its objections to the various requests received by the Commission to revise certain aspects of the C and F block Personal Communications Service (PCS) eligibility rules. RCA maintains its position that the only rule changes necessary both to increase competition, and to ensure the prompt provision of innovative services to all areas of the Nation, including rural areas, are revisions designed to better implement Congressional directives to widely disseminate licenses. The recognized failure of the Commission's original approach to fulfilling Congressional goals does not justify abandonment of these goals.

RCA commends the Commission's acknowledgment that fundamental due process principles require the institution of a formal rulemaking proceeding to consider the proposed modifications to existing rules. In addition, RCA concurs with the Commission's recognition that "fairness requires the Commission to continue to maintain the present eligibility requirements."¹ Merely "taking into account" the requirements of fairness, however, is insufficient when the Commission's proposed compromise undermines the "deployment of new services . . . for the benefit of the public, including those residing in rural areas,"² and subverts the Congressional objective of "avoiding excessive

¹ In the Matter of Amendment of the Commission's rules Regarding Installment Payment Financing for Personal Communications Services (PCS) Licenses, WT Docket No. 97-82, Further Notice of Proposed Rulemaking (Further Notice) (rel. June 7, 2000) at para. 19 (citation omitted).

² 47 U.S.C. § 309(j)(3)(A).

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concentration of licenses.”³ It is particularly disturbing that the proffered compromise is an unprecedented acquiescence to the interests of big companies that boldly promote their own business goals, draping “capacity concerns” and increased “footprints” in public policy finery.

RCA is also dismayed that the Commission did not address RCA’s proposals to adopt meaningful revisions to existing rules designed to achieve Congressionally-mandated policy objectives. As set forth more fully in its prior comments attached hereto, RCA proposes the establishment of a meaningful limitation on the license assets that any single bidder can obtain, consistent with the entity size limitations already embodied in the rules. RCA vigorously objects to removal of the cap on the maximum number of licenses held by a specific entity as inappropriately encouraging the creation of would-be big businesses based on benefits designed to promote small business participation in wireless service provision.

RCA also objects to the proposed “clarification” of the grandfather clause to allow an otherwise ineligible merged entity to qualify as an entrepreneur if its predecessors, formerly separated entities, individually would have qualified as such. This “snapshot” approach is completely antithetical to the promotion of small business opportunities (intended to level the playing field), in addition to being and devoid of logic. The Commission’s proposals indicate its wholesale abdication of the policy objectives underlying the original entrepreneur rules, its lip service to “fairness” notwithstanding.

RCA’s other proposals, that the Commission open geographic areas unserved and underserved by A and B block to fill-in applications, and that the Commission initiate an inquiry into appropriate means to rectify the harm suffered by small businesses resulting from the abject failure of the Commission’s Rules and practices with respect to PCS spectrum opportunities, also appeared to have been overlooked by the Commission in the Further Notice. RCA trusts that the Commission will, at this time, give these proposals the full and fair consideration demanded by public policy objectives and the public interest.

Respectfully submitted,

THE RURAL CELLULAR ASSOCIATION

By: 
Stephen G. Kraskin
Sylvia Lesse

Its Attorneys

³ 47 U.S.C. § 309(j)(3)(B).

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

RECEIVED

FEB 22 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Petition of SBC Communications, Inc.)
for Waiver of the Eligibility Requirements)
of 47 C.F.R. § 24.709 for the PCS)
Frequency Blocks C and F Auction to)
Begin on July 26, 2000)

DA 00-145

Petition of Nextel Communications, Inc.)
for Expedited Rulemaking or, in the)
Alternative, Waiver of the Commission's)
Rules)

DA 00-191

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF THE RURAL CELLULAR ASSOCIATION

By: Stephen G. Kraskin
Sylvia Lesse

Its Attorneys

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February 22, 2000

Summary

SBC Communications Inc. ("SBC") and Nextel Communications, Inc. ("Nextel"), two large established telecommunications companies, each want to obtain more PCS spectrum in order to establish their own broader footprints of nationwide wireless service. Each of these companies views as desirable the PCS C and F Block spectrum that is to be reauctioned. This spectrum block was set aside by the Commission to be licensed to small businesses and other designated entities, and neither SBC nor Nextel are eligible to bid for the spectrum. In order to accommodate their respective business plans, SBC and Nextel have each asked the Commission to provide relief that will enable them to obtain C and F Block spectrum in the reauction process.

The Rural Cellular Association ("RCA") opposes the SBC and Nextel requests. In each of their respective requests, SBC and Nextel have forthrightly identified a malady that has befallen the C and F Block auctions. The Commission's rules and practices have, unfortunately, resulted in the imposition of impediments to the achievement of the objectives that Congress has mandated.

The grant of either of the SBC or Nextel requests, however, will in no way remedy the affliction. Permitting SBC, Nextel and other large companies to participate in the reauction of the C and F Block licenses will only serve the interests of those large companies without regard to the overall public interest and

existing statutory requirements.

RCA respectfully urges the Commission to give meaningful and thorough consideration to alternative rule modifications and actions that the Commission can undertake. In this regard, RCA offers three specific proposals:

1. Modification of the auction rules to address the problems that have resulted from the existing rules and practices.
2. Modification of the Commission's rules to promote service by small businesses and other designated entities in the underserved areas on A and B Block PCS spectrum.
3. Initiation of a Commission inquiry to consider additional specific actions both to rectify the harm that has resulted to small business and designated entity licensees and to evaluate the extent to which existing rules and practices have discouraged participation by small business in the deployment of spectrum services.

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of)	
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)	
Petition of Nextel Communications, Inc. for Expedited Rulemaking or, in the Alternative, Waiver of the Commission's Rules)	DA 00-191
)	

To: Chief, Wireless Telecommunications Bureau

COMMENTS OF THE RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"), by its attorneys, respectfully submits these comments in opposition to the requests submitted by Nextel Communications, Inc. ("Nextel") and SBC Communications Inc. ("SBC") in the above-referenced proceeding. RCA, on behalf of its small-business members and other potential small business members, has been a long-standing participant in the Commission's deliberations regarding the formulation and implementation of the auction rules applicable to the designated entity C and F block PCS licenses.

RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide

service in more than 100 rural and small metropolitan markets where approximately 13 million people reside. Formed in 1993 to address the distinctive issues facing rural cellular service providers, the membership of RCA currently includes rural PCS carriers, as well.

SBC and Nextel have proffered proposals to enable each of these large companies to participate in the reauction of C and F block licenses. The requests are cloaked in transparent shrouds of would-be public interest arguments that can not cover up that which is readily apparent. Each petitioner has merely set forth a request for relief that will promote its business plan, at the expense of the public interest. Each petitioner is bold enough to suggest that it knows better than Congress that which will serve the public interest. Each petitioner seeks to annul a policy established by the Commission to fulfill a Congressional mandate: the dissemination of spectrum licenses to small business and other designated entities.¹

I. The SBC and Nextel petitions accurately recount the failure of Commission rules and policies with respect to the auctions of spectrum designated for small businesses and other designated entities. But, this fact does not support a grant of either Petitioner's request.

SBC and Nextel each essentially argue that the Commission's rules and policies have failed with respect to the PCS designated spectrum blocks. Both petitions recite a litany of facts in order

¹ See, Section 309(j)(3)(B), Communications Act of 1934, as amended (47 U.S.C. §309(j)(3)(B)).

to support a conclusion with which no reasonable or rational being could disagree. RCA most certainly concurs in the diagnosis artfully described by each petitioner - the Commission has not succeeded in fulfilling the mandate to provide meaningful opportunities for small businesses and designated entities to participate in PCS. RCA, however, disagrees with the treatment prescribed by each petitioner.

In their respective petitions, both SBC and Nextel provide a thorough narrative of the debacle that has befallen the PCS auctions for spectrum designated for small businesses and other designated entities. Both petitioners attempt to utilize these facts to bolster their cause - i.e., creation of opportunities for their large companies in the next reauction of C and F Block spectrum. In order to persuade the Commission to their cause, each petitioner suggests, specifically contrary to existing Congressional intent, that the provision of wireless services is a "big boy game" and not one in which small businesses should be involved.²

SBC and Nextel claim that a set aside of spectrum blocks for small business and other designated entities was appropriate only

² See, e.g., SBC Petition, pp. 7-9 and 11; Nextel Petition, pp. 4-9.

in a "nascent" PCS market.³ Focused solely on their own business plans and their desire for more spectrum to achieve their business plans, both petitioners leap to the conclusion that the C and F block spectrum can be used efficiently only if it is dedicated to provide a fifth or sixth nationwide wireless competitive service.⁴

The absurdity of this conclusion can not rationally be ignored:

1. When Congress mandated spectrum opportunities for small businesses and designated entities, the mandate most clearly did not include an assumption that the licensees would utilize the spectrum solely to emerge as large companies competing nationwide with other large nationwide wireless providers.

2. SBC and Nextel each assume that their provision of a fifth or sixth nationwide wireless service will better serve the public interest than the dissemination of the reaucted spectrum to small businesses. Even if the Congressional mandate set forth in Section 309(j)(3) did not exist, the Commission has no basis to abandon its established policy in order to serve the interests of the petitioners.⁵

3. The conclusion drawn by SBC and Nextel for the Commission's approval is founded upon a factually flawed basis. The petitioners essentially base their self-serving conclusion on their assertions that market conditions (i.e., numerous nationwide wireless carrier offerings) preclude meaningful participation by small businesses. This allegation belies the

³ See SBC Petition, p. 10; Nextel Petition, p. 4.

⁴ See, e.g., SBC Petition, pp. 11-12; Nextel Petition, pp. 12-13.

⁵ Moreover, as discussed in Section II, *infra*, and as pointed out by each petitioner, the failure of the designated entity auction rules is the result of the failure of Commission rules and practices. The failure does not render the policy a failure to be discarded, but does demonstrate the need to refine the rules to more meaningfully attempt to achieve policy objectives.

reality of the ongoing commitment and success of the existing RCA membership - independent small business wireless carriers.⁶

The petitioners have demonstrated clearly how their proposals will serve their respective business plans, but they have failed to demonstrate that their requests will serve a meaningfully considered balance of public interests. The public interest can not automatically be equated with promoting a fifth or sixth large company nationwide wireless service provider.

II. The prior failure of the Commission's rules and practices to achieve a policy objective cannot warrant discarding the objective. Meaningful rule changes are necessary to achieve the defined objective of disseminating spectrum to small business and other designated entities.

The acknowledged failure of current Commission rules and policies to provide meaningful opportunities to designated entities hardly warrants the wholesale disregard of the Congressionally mandated policy. Recognizing this logical imperative, each petitioner offers the Commission the use of words and devices to justify the grant of its request, while concurrently maintaining that the Commission can still fulfill the Congressional mandate

⁶ RCA notes with appreciation that the initial success of its members in the provision of wireless services is largely attributable to the Commission's past achievement in crafting rules and practices that have fostered small business participation. RCA has participated in many pending proceedings in order to bring to the Commission's attention the concerns of small business with respect to several other Commission policies. RCA will continue its effort before the Commission with the hope of achieving renewed meaningful consideration for small business concerns.

with respect to designated entities. This strategy crumbles under its own weight.

Both SBC and Nextel argue that designated entity set asides of spectrum blocks are no longer viable because of changing market conditions.⁷ In reaching their conclusions, however, each petitioner omits consideration of the most significant facts which are otherwise brought to light by their own petitions. The failure of the designated entity auction process is directly attributable to identified flaws in the existing rules. The existing rules wrongly permit and promote participation by designated entity bidders that seek solely to become large companies. Ironically, and improperly, the Commission's rules were crafted in a manner that enabled a NextWave to enter the auction process as a qualified bidder, and to exit the auction process with so many license "wins" that its cumulative paper assets would have disqualified it from entrepreneurial status. Rules supposedly adopted to foster small business participation in spectrum clearly should not promote the creation of new large businesses.

Moreover, recognizing the failure of the Commission's rules and policies did not require hindsight.⁸ RCA and many other small

⁷ See, e.g., SBC Petition, p. 11; Nextel Petition, p. 4.

⁸ SBC incorrectly believes that the problem was not foreseeable. SBC Petition at p. 10. SBC ignores the fact that the rules encouraged individual bidders to utilize the C Block auction as a base from which to become a large company. Nextel,

business entities had the foresight to warn the Commission of the results of the policies it eventually adopted. During the initial stages of the auction rulemaking, RCA offered specific proposals to assist the Commission in fulfilling the obligation mandated by Congress - the dissemination of spectrum licenses to small businesses and other designated entities. When the Commission ignored substantive proposals by RCA and other parties representing designated entities to provide meaningful limitations on the quantity of assets any single entrepreneurial bidder could obtain, RCA warned that the rules required revision in order to ensure against perverse results.

A. The petitioners do not succeed in their attempts to demonstrate that their proposals fulfill the mandate of Section 309(j)(3)(B).

The petitioners contend that the Commission can both adopt their proposals and still fulfill the Congressional mandate to provide meaningful spectrum opportunities to small businesses and other designated entities. At best, the petitioners' arguments provide the Commission with empty words and gestures within which to cloak the abandonment of small business spectrum opportunities.

however, implicitly identifies the flaw in the Commission's rules. Nextel Petition at footnote 9 (stating, "Furthermore, an entity that believes itself capable of bidding and timely making license payment totaling billions of dollars is not a small business by any stretch of the definition.")

Both SBC and Nextel suggest that bidding credits for designated entities alone will constitute fulfillment of the Commission's responsibility to small businesses, citing rules the Commission has adopted for other spectrum auctions.⁹ Obviously, the fact that the Commission has established large license areas with no spectrum set asides for small businesses in other auctions by no means renders the Commission's rules sufficient to provide meaningful opportunity to small businesses within those or any spectrum auctions.

Specifically with respect to the reauction of C and F Block spectrum, however, the inequity of eliminating the set aside and allowing large companies into the auction at this juncture is blatant. The FCC, by adoption of its rules, told small business that there would be a set aside. Small businesses then refrained from participation in the auction of the A and B Block spectrum. In those auctions, ironically perhaps, the spectrum markets were divided among the large company participants at auction price levels generally much lower than those later achieved at the C Block auction where the Commission's rules encouraged the NextWaves to enter the auction as small businesses to become large businesses. The facts before the Commission support the revision of its rules to achieve the objective of small company

⁹ In support of this notion, SBC and Nextel cite the Commission's rules for auctions of the 746-764 and 776-794 MHz Bands. SBC Petition, p. 17; Nextel Petition, p. 18.

participation, and not the discard of the set aside for small business.

SBC and Nextel each pedantically suggest that their proposals will both promote the interests of small businesses and protect small business from straying into areas where petitioners clearly believe small business does not belong. SBC states that if small businesses are faced with auction competition from SBC and other large carriers, "smaller companies might choose to focus on smaller markets that they can afford to enter and where they stand a better chance of competing effectively."¹⁰

Nextel takes the concept a step further by suggesting the reconfiguration of available 30 MHz licenses into separate 20 MHz and 10 MHz authorizations. Nextel proposes that the newly created 20 MHz licenses, together with available 15 MHz licenses, be offered on a bulk bid basis, thereby promoting the creation of a fifth or sixth nationwide wireless carrier overnight.¹¹ The adoption of the proposal requires the Commission to conclude absolutely that the public interest is better served by the entry of still one more nationwide wireless carrier rather than by fulfilling the Congressional mandate for small businesses. The

¹⁰ SBC Petition, p. 16-17.

¹¹ Nextel Petition, p. 19.

adoption of either the SBC or Nextel proposal requires the Commission to:

1. Ignore the inequity to all small businesses that justifiably relied on the Commission's decision to set aside C and F Block spectrum for entrepreneurial ventures and designated entities.
2. Assume that small businesses could not succeed in larger markets.
3. Conclude that small businesses should be foreclosed from any possible opportunity to individually, or collectively, develop meaningful competitive alternatives to the numerous existing large business offerings.

SBC states that the adoption of its proposal will likely result in small businesses keeping out of more lucrative markets. Nextel's proposal would effectively preclude small businesses from the most meaningful spectrum opportunity (i.e., the bulk bid) and leave small businesses to contend with large businesses for the remaining 10 MHz licenses. No rational basis exists upon which the Commission can adopt either of these proposals and concurrently maintain that the intent of Section 309(j)(3)(B) of the Act has been genuinely fulfilled.

B. Adoption of either petitioner's request will be arbitrary and capricious in the absence of consideration of meaningful rule changes necessary to achieve established policy objectives.

While words and devices such as those offered by the petitioners may suffice for some, no word or device will ultimately overcome the single inalterable and most salient fact. The Commission has failed to give any consideration to rule changes

that could meaningfully correct the rules while maintaining current eligibility restrictions. At this juncture, it would be arbitrary and capricious to waive or change the rules to enable SBC, Nextel and other large businesses to bid for C and F Block licenses.

While no reasonable person would disagree with the petitioners' conclusions that the Commission's rules for the C and F Blocks have failed, how can the Commission make a wholesale change in the eligibility for this spectrum without first giving due consideration to making meaningful revisions to its rules that would be designed to achieve the established policy objectives?¹²

In this regard, the RCA offers several specific proposals for the Commission's consideration.

1. The Commission should maintain the C and F Block set aside, but provide a meaningful limitation on the license assets that any single bidder can obtain.

RCA and legitimate small business designated entities were concerned at the outset of the Commission's auction rulemaking process with ensuring that the Commission not adopt rules that would enable an entity to enter the auction as a designated entity

¹² In this context, it is especially ironic and unfortunate that the Commission placed the requests of SBC and Nextel on a fast track to accommodate its announced schedule for the reauction of C and F Block licenses. The Commission, however, has long been aware of the designated entity block problems, but has taken no action to revise its rules or to make inquiry of the public, and particularly of small businesses and other designated entities, regarding what rule changes may be appropriate in order to attempt a genuine implementation of the Congressional mandate set forth in Section 309(j) of the Act.

and abuse the process. Specifically, RCA proposed that the Commission establish meaningful limitations on the opportunity for any bidder to artificially (i.e., without financial wherewithal) bid up the spectrum price in order to amass license assets with an auction market value far in excess of the limitations that define a designated entity.

In other words, RCA and legitimate DEs voiced concern at an early juncture that the Commission was adopting rules that would promote the creation of new large nationwide businesses created by the auction process instead of rules that would genuinely promote the dissemination of licenses to authentic designated entities. The results of the auction demonstrated the legitimacy of this concern.

The resulting debacle does not, however, justify the abandonment of the objective of disseminating PCS spectrum to small businesses, especially within the context of the justifiable reliance of small businesses on the set aside. The failures of the past should be addressed, instead, by the adoption of a rule that would meaningfully limit the value of license assets obtained at auction to an amount that is consistent with asset limitations applied to the eligibility to participate in the C and F Block auction.

2. The Commission should adopt meaningful rules to promote the deployment of spectrum where it lies fallow.

All parties acknowledge that the promotion of competitive innovative and advanced spectrum services throughout all areas of the Nation, including high-cost and rural areas, is fundamental to the Commission's objectives and mandates. The SBC and Nextel proposals, however, maintain focus only on the nation's more lucrative markets and densely populated areas.¹³

In the formulation stages of the Commission's rulemaking regarding PCS, RCA and other small businesses offered proposals regarding the partitioning of spectrum in order to facilitate delivery of service where a licensee had not deployed facilities. Although the opportunity to voluntarily partition a license was adopted by the Commission, the more meaningful proposals by RCA and other small businesses were rejected.

Specifically, RCA proposed expedited fill-in rules where spectrum remains unused. The results of the past several years demonstrate that consideration should be given to this concept.

¹³ SBC acknowledges its likely focus on "major markets." SBC Petition, p. 16. Nextel, under the banner of serving "rural and underserved areas," offers to commit to serve "one-third of the population in each BTA within three, rather than the current five, years." Nextel Petition, p. 10. Nextel, however, makes no commitment as to the remaining two-thirds. While Nextel offers to "provide service to the many Native Americans living on reservation in the BTAs covered by the bulk bid package . . .," Nextel makes no reference or offer to those Reservations where spectrum lies fallow and the existing tribal organization may seek to provide services to its own members.

RCA members serve many of the more rural areas of the nation with wireless service. In many instances, their service areas are contiguous to areas where spectrum may be underutilized.

RCA respectfully suggests that its members, as well as many other small businesses and designated entities, would commit to the provision of service in these underserved areas if the spectrum were made available to them. Accordingly, RCA proposes that the Commission demonstrate its commitment to underserved areas by opening the A and B spectrum Blocks to expedited fill-in applications.

Specifically, rules should be adopted to enable small businesses and other designated entities to provide coverage on A and B block spectrum, where no coverage presently exists, on a mutually exclusive basis. The rights of existing licensees can be protected, and the public interest can be fully promoted, by offering the existing licensee an opportunity to seek denial of the fill-in application on the basis of its demonstration that it will cover the designated area on as timely a basis as that provided by the fill-in proposal.

The adoption of this proposal will provide additional opportunities for small businesses and designated entities while concurrently fostering service in underserved areas. Subsequent to the adoption of this proposal, the Commission can monitor the utilization of this newly created fill-in opportunity to determine whether a similar policy should be expanded to other PCS spectrum blocks as well as to other spectrum licenses.

3. The Commission should initiate an inquiry to rectify the harm caused to Small Businesses and other Designated Entities as a result of the failure of its rules and practices with respect to PCS spectrum opportunities.

In the fray of the debacle that has resulted from the auction processes, RCA has identified one additional concern that has been overlooked and disregarded. Ironically, the Commission's policies have resulted in a fully unnecessary diminution of the financial wherewithal of small businesses and designated entities legitimately attempting to respond to the Commission's promise of spectrum opportunities in exchange for a commitment to service.

As outlined above, RCA members and many other small businesses and designated entities fully participated in efforts to ensure that the Commission's rules would properly fulfill public interest policy objectives. Recognizing that the rules may not be perfect, many small businesses entered into the auction process with the understanding that the Commission would fulfill the mandate to

provide small businesses and designated entities with meaningful spectrum opportunities.

Many small business entities continued in good faith to provide the Commission with constructive proposals to address the C Block debacle. Unfortunately, the pattern of conduct that was followed could not have been more successful at discouraging small businesses and designated entities from continuing participation in C Block spectrum ownership had the policies been specifically and blatantly designed to achieve this purpose. Nor could the resulting actions have been more harmful to the legitimate small businesses and designated entities that obtained PCS licenses.

Small business C Block licensees met repeatedly with FCC staff and Commissioners in an attempt to address the dilemma that resulted from the Commission's C Block auction rules. Numerous designated entity C Block licensees explained the operational problems caused by permitting so many licenses to be won by "want to be" large companies that could not pay their bills.

The fact that the C Block licenses won by NextWave and several other large C Block winners lay dormant had, and continues to have, a significant impact on neighboring licensees that are left without meaningful roaming opportunities within the larger MTA where they

must compete with established large companies.¹⁴ In many instances, the Commission's action encouraged small businesses and designated entities to simply give up on all or part of their efforts with resulting significant financial loss.

The public record is replete with accounts of the C Block debacle and the root cause: the Commission's rules unfortunately permitted and promoted the entry of participants that had no intention of meeting the spirit of the Commission's rules.¹⁵ The SBC and Nextel petitions each set before the Commission the failure of the past resulting from the existing rules and practices. Existing rules and practices have not only resulted in a failure effectively to disseminate spectrum to small businesses and designated entities. In addition, many small businesses and other designated entities have been discouraged from participation and investment in spectrum, while other legitimate entities that attempted to participate have suffered significant and otherwise unnecessary harm. RCA respectfully urges the Commission to initiate an inquiry in order to address these concerns and to identify specific actions the Commission can undertake to rectify

¹⁴ RCA and other small business entities had initially urged the Commission to adopt rules whereby the designated entity C block would be licensed prior to the licensing of the A and B blocks. Doing otherwise would obviously place C Block licensees at a tremendous disadvantage, and this fact was clearly placed before the Commission, but disregarded.

¹⁵ See, e.g., Nextel Petition at footnote 9.

the results that have adversely affected small businesses, other designated entities, and the overall public interest.

III. Conclusion

Both the SBC and Nextel petitions are premised on the need for Commission action to rectify the small business and designated entity auction process. RCA respectfully submits that the petitioners have correctly identified a problem, but offered an inappropriate and incorrect solution that should be dismissed summarily.

RCA respectfully urges the Commission to seize the opportunity to address genuinely the existing problem and consider the adoption of the alternative proposals set forth above. The proposed rule modifications offered by RCA will promote effectively the fulfillment of Section 309(j)(3)(B) of the Act. The Commission can additionally demonstrate a genuine commitment to the Congressional mandate by initiating an inquiry to consider additional actions that should be undertaken to address and repair the harm that has resulted to C Block licensees.

Small business and designated entity C Block licensees and potential licensees have long waited in good faith for the Commission to take meaningful action to rectify the debacle that has occurred. Grant of the petitioners' requests would further exacerbate the existing problems and carry the Commission another

long distance from fulfillment of the Congressional mandate and public policy objectives.

Respectfully submitted,

The Rural Cellular Association

By: Stephen G. Kraskin

Stephen G. Kraskin
Sylvia Lesse

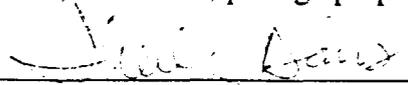
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February 22, 2000

CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Comments of the Rural Cellular Association" was served on this 22nd day of February 2000, by first class, U.S. mail, postage prepaid to the following parties:


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Washington, DC 20554

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Federal Communications Commission
445 12th Street, SW, Room 8-B115
Washington, DC 20554

Commissioner Michael Powell *
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CERTIFICATE OF SERVICE

I, Shelley Davis, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, do hereby certify that a copy of the foregoing "Submission of the Rural Cellular Association" was served on this 22nd day of June 2000, by hand delivery to the following parties:



Shelley Davis

Chairman William E. Kennard
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Commissioner Susan Ness
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Commissioner Michael Powell
Federal Communications Commission
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Commissioner Harold W Furchtgott-Roth
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Commissioner Gloria Tristani
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