

WASHINGTON PERSPECTIVE

FCC Takes Pro-Active Role Under Acting Chairman Quello

by Elizabeth R. Sachs, Esq.
AMTA General Counsel

It could have been a caretaker administration—former Chairman Sikes exited the Federal Communications Commission just as President Clinton was being sworn in. Commissioner Marshall, seemingly convinced that she will not be reappointed by a Democratic administration, appears to be weighing a number of opportunities outside the commission. Collectively, those prospects have caused her to recuse herself from virtually all substantive FCC decision making because of potential conflicts of interest. This means that the agency is effectively down to three working commissioners.

In the interim, Commissioner Quello has been tapped as the acting chairman. The appointment is a satisfying cap to a long and illustrious career as an FCC commissioner and, from all appearances, a most invigorating one. He is definitely not acting as a caretaker, simply maintaining the status quo until a permanent chairman—whoops, chairperson—is in place. He and his staff are not taking a pass on controversial subjects, deferring them until the agency has a full complement of voting commissioners. Instead, they are pursuing matters and attempting to establish a new-found spirit of cooperation and collegiality among the commissioners' offices. Quello's regime may prove to be a tough act to follow.

The FCC is not sitting tight waiting for the new chairperson to set, or perhaps reset, the PCS agenda. With Quello's office leading the charge, the agency has established an optimistic timetable for completing various aspects of the rulemaking proceeding.

Rumors fly fast and furiously about who will be named to replace Sikes as chairman. Any number of names have been floated; some have substantial communications expertise, others have only a passing familiarity with the subject. The odds-on favorite is unquestionably Toni Cook, who is both highly qualified and visibly pregnant. From all accounts, if named, she is not likely to come on board full-time until September.

Because it is the most familiar, the PCS proceeding may be the best example of this activist spirit for those following land mobile issues. PCS is precisely the type of issue that a caretaker administration would like to duck. The potential stakes are enormous. Many of the prospective players are telecommunications behemoths. The matters involved are complex with far-reaching ramifications. And that's before you toss the



Elizabeth R. Sachs, Esq.

competitive bidding controversy into the pot. Acting Chairman Quello wasn't midwife to the PCS concept and won't be chairman when PCS becomes a reality, so he'll likely get only a footnote if PCS is successful enough to warrant historical reference.

Nonetheless, the FCC is not sitting tight waiting for the new chairperson to set, or perhaps reset, the PCS agenda. With Quello's office leading the charge, the agency has established an optimistic timetable for completing various aspects of the rulemaking proceeding. A series of PCS-related items is scheduled for action at commission meeting from now through the end of the summer. If all goes according to plan (and if the plan is consistent with the new chairperson's position), the FCC hopes to have substantive licensing rules in place by the fall of 1993.

Any number of matters could delay or derail this very ambitious program. The dog days of summer could, by themselves, cause a setback of a month or two. The newly appointed chairperson may want to be the architect of the PCS regulatory structure, which would push completion of the proceeding into 1994 at best. Finally, the

The outcome of the 1992 elections made it abundantly clear that the American public was not satisfied with the status quo. Neither is the FCC's acting chairman.

administration is likely to target PCS as an irresistible opportunity to implement an auction or competitive bidding process. Moving auctions from a concept to a reality will be both time consuming and controversial. If PCS licenses are to

be assigned by competitive bidding, they will be some time in coming.

The outcome of the 1992 elections made it abundantly clear that the American public was not satisfied with the status quo. Neither is the FCC's acting chairman. Under his stewardship, we can apparently expect even complex, strongly contested matters to be addressed. Even without a permanent chairperson, the FCC has already embraced the spirit of change for which America had hoped. •

Elizabeth R. Sachs, Esq., AMTA's General Counsel, is a partner in the Washington, D.C. law firm of Lukas, McGowan, Nace & Gutierrez. She can be reached at (202) 857-3500.

LEGISLATIVE UPDATE

Senate Hearing Highlights Spectrum Auctions

A hearing on the Emerging Telecommunications Act of 1993 on Capitol Hill showed that the Clinton Administration is leaving little room for imagination when it comes to its stand on the use of auctions for allocating spectrum.

Among the witnesses at the hearing on Senate bill 335 was Thomas P. Stanley, the Federal Communication Commission's chief engineer, who said that S-335 represents an innovative solution to the problem of freeing up additional spectrum for Personal Communications Services and other new technologies. Stanley said that the commission currently is seeking comment on the implications of auctions in the PCS area.

"The FCC has taken, or is in the process of taking, whatever steps it can to obtain more efficient use of the spectrum currently allocated to commercial use," Stanley said. "Once these steps have been fully implemented, there will be little more the FCC can do to free up additional spectrum."

If passed, S-335 would reallocate 200 MHz of federal spectrum, most of which would not be available for years. However, the bill would give the FCC the authority it needs to hold auctions by 1994, about the time PCS licenses are expected to be issued.

As reported last month in *Open Channels*, S-335 includes a plan for testing the idea of auctions on a small scale, such as with 30 MHz of spectrum already within the Federal

continued on page 6

800/900 MHz Frequency Available In Major Urban Areas (1)

City	I/LT 800 MHz	I/LT 900 MHz	General Category
Atlanta	0	21	3
Baltimore	0	14	0
Boston	0	79	0
Chicago	0	1	0
(2)Cleveland	1	41	N/A
Dallas/Ft. Worth	0	0	0
Denver	0	91	1
(2)Detroit	1	37	N/A
Houston	0	10	0
Kansas City	36	90	91
Las Vegas	0	75	0
Los Angeles	0	0	0
Miami	0	0	0
Minneapolis/St. Paul	4	51	16
New Orleans	0	58	2
New York	0	0	0
Orlando	0	0	0
Philadelphia	0	3	0
Phoenix	0	88	1
Pittsburgh	9	51	117
(2)San Diego	0	N/A	N/A
San Francisco	0	1	0
(2)Seattle	0	0	N/A
St. Louis	0	49	70
Tampa/St. Petersburg	0	74	0
Washington, D.C.	0	15	0

(1) Subject to Change Daily (2) Indicates Canadian or Mexican Border Regions
Source: Industrial Telecommunications Association, Inc. (ITA)