

Separate Statement of Commissioner James H. Quello

**In the Matter of Amendment of the Commission's Rules to Establish
New Personal Communications Services**

I support the decision to award a pioneer's preference to American Personal Communications (APC), Cox Enterprises, Inc. (Cox), and Omnipoint Communications, Inc. (Omnipoint). Each of these entities have contributed significantly to the development of Personal Communications Service (PCS) technology. Awarding these pioneer's preferences will facilitate the deployment of PCS services to the public.

Since the initiation of the personal communication service docket, Congress has changed the rules on the procedures the Commission may use to award licenses. In addition to comparative hearings and lotteries, Congress gave the Commission the authority to license PCS and other services through competitive bidding (auctions) and the Commission has determined that competitive bidding will be used to award PCS licenses. Additionally, the Commission sought comment on how the issue of pioneer's preference should be addressed in a competitive bidding environment.

Today's decision to award three pioneer's preferences in the personal communications service is one of several options the Commission could have taken. For example, the Commission could have awarded the 20 MHz Basic Trading Area (BTA) to the tentative selectees; however, such action would have limited rural telephone companies, small businesses and businesses owned by women and minorities from participating in the offering of PCS services in the New York, Washington, D.C., and Los Angeles areas. Another approach would have had the Commission divide one of the Major Trading Areas (MTA) into BTAs and award the BTAs to the tentative selectees. Such an approach would have been inconsistent with the Commission's PCS allocation scheme and would likely have required another rulemaking. Alternatively, the Commission could have determined that under the competitive bidding scenario the tentative selectees pay a discounted price for spectrum, an option that the Commission may want to consider prospectively. Finally, the Commission could have determined that with competitive bidding, there is no longer a need for pioneer's preferences in the PCS proceeding.

Today's decision is one of fairness and equity. The tentative selectees have invested significant sums of money to further the development of PCS. Furthermore, the tentative



selectees were caught in the middle of rule changes that allow the Commission to award licenses by competitive bidding. Congress gave the Commission authority to continue to use Pioneer's Preference even under the competitive bidding authority. Some will argue that today's decision is nothing more than a give-away of valuable spectrum. In part, these critics are correct. The Commission is granting access to spectrum in selected areas without being subject to competitive bidding. The decision to award pioneer's preferences is based on an existing Commission policy designed to provide incentives to bring new or spectrum efficient technologies to market. Here we may have two policies coming into conflict -- auctions (generating revenues) and pioneer's preferences (incentives to develop new technology and spectrum efficiencies). The Commission in this proceeding is clearly voting to bring new, innovative technologies to market. Needless to say, all licensees will have obligations according to the service rules adopted by the Commission.

With the decision to award pioneer's preferences, the Commission must weigh the consequences with other Commission objectives articulated in the Commission's PCS decision, such as interoperability, roaming, and development of regional and national services. Furthermore, the decision to award these pioneer's preferences should not be construed as prejudging the decision the Commission must make on the future role of pioneer's preferences in those services that are licensed by competitive bidding.