

**Separate Statement
of
Commissioner James H. Quello**

November 12, 1996

*Re: In the Matter of Amendment of the Commission's Rules to Establish Part 27,
the Wireless Communications Service, GN Docket No. 96-228*

The underlying statutory basis for this *Notice of Proposed Rulemaking* is unusual in several respects. Significantly, the relevant sections of the Omnibus Consolidated Appropriations Act of 1997 are highly specific. Congress directed the Federal Communications Commission to reallocate the 2305-2320 and 2345-2360 MHz frequency bands to wireless service and to assign the use of such frequencies by auction.¹ Furthermore, I am mindful that, for the first time, Congress directed this Commission to take into account the communications needs of the public safety providers.² Accordingly, we draw very few tentative conclusions; instead, we seek comment on many alternative proposals and invite suggestions for other regulatory schema. We are issuing this NPRM at this time to comply with corollary statutory requirements that the FCC begin the auction of these frequencies by no later than April 15, 1997 and ensure that all proceeds be deposited by no later than September 30, 1997.³

Although I support the issuance of this NPRM as the initial step in creating the new Wireless Communications Service, I write separately to reiterate my concern that other Commission processes, including licensing of other wireless services for which auctions have already been concluded, not be impeded or delayed. I refer, specifically, to the licensing of the successful bidders in the "C block" PCS auctions. Moreover, I note that we will soon begin licensure of the D, E, and F Block PCS winners.

This Commission is in the middle of assigning significant amounts of new spectrum to potentially competitive wireless communications service providers. Accordingly, we must ensure to the extent possible that any decisions we make, including the creation of new potentially competitive services not prejudice existing licensees by suggesting that we have somehow predetermined winners and losers by deeming one service or other more deserving of regulatory flexibility or beneficence. For this reason, I emphasize that this NPRM is intentionally very general. We earnestly seek guidance on the best use of this spectrum and the most efficient and efficacious regulatory regime, *e.g.*, the size of service areas and spectrum blocks, within the statutory strictures.

¹ *See supra* at Section II, subpart A.

² *Id.* at paras. 19-22.

³ *Id.* at Section II, subpart A.

