

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

Re: Amendment of the Commission's Rules Regarding Installment Payment Financing for C Block Personal Communications Service (PCS) Licensees, WT Docket No. 97-82.

I support the multi-option approach that we adopt in this Second Report and Order and Further Notice of Proposed Rule Making. We provide some limited relief for those C-Block licensees that find themselves in financial distress. My goal throughout this lengthy and complex process has been to protect the integrity of our rules, including the auction processes, while providing some "breathing room" for those licensees that were in a cash flow crunch.

I originally proposed a much simpler plan, *i.e.*, to delay repayments for a period of time. That approach gathered no support -- here at the Federal Communications Commission, anyway. The Congressional leadership supported my position. I favored a plan that would have allowed our licensees to seek additional financing in the private markets by suspending the installment payments of principle and interest for some period of time. I believed that this is within our existing discretion, would be minimally intrusive, and comply with Congressional intent.

The Congressional leadership of both the House and Senate contacted the FCC to express its collective opinion that we treat our licensees equitably by considering a variety of plans but also reminded this Commission of the importance of protecting the integrity of the auction process. I shared these Congressional concerns.

I am acutely aware of the benefits in efficiency that licensing by auctions has brought to our processes. I was serving as Chairman when Congress decided to entrust the FCC with auctioning authority. The responsibility to translate this authority into practice by writing the auction rules was handled capably by the FCC under the subsequent leadership of Chairman Hundt.

I fervently believe that all parties -- applicants, auction winners and losers, licensees and this Commission -- should always "play by the existing rules". This is particularly true in the context of auctions where the applicants themselves make the business judgments that determine success or failure. It could be considered the epitome of bureaucratic irresponsibility to change the rules after the fact. This would subject the rewritten rules to challenge in the courts. Nevertheless, our rules should be and are flexible enough to accommodate unforeseen circumstances.

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For these reasons, I worked with the other Commissioners in reviewing many detailed and diverse plans over the course of many weeks to determine how to structure a plan for those licensees in financial distress. I entered into this process with the caveat of doing so only if we could formulate a plan within our existing rules. I did not favor re-writing our general rules to benefit any particular class of licensees. Additionally, I did not favor having the government re-structure our licensees' debt involuntarily. Anything that we did had to apply generally to all similarly situated licensees and to take into account the disappointed bidders who were not successful in the C-Block auction.

Accordingly, I could not support a mandatory reauction. I am reminded that this Commission resisted the pressure to intervene during the conduct of the C-Block auction when some critics opined that the bids were "too high" or "out of line". I believed that the Chairman spoke for us all when he stated that the Commission would not interfere with private sector decision making regarding monetary value of spectrum licenses and that all parties were aware of and would be held to the full measure of our rules. Furthermore, the overwhelming majority (over one hundred entities out of the approximately one hundred thirty-four licensees) asked us to simply enforce the existing rules.

Because this Commission acts by majority vote of the Commissioners, I have worked with my fellow Commissioners to craft a balanced and fair plan that provides options. I stress that these are options; they are not mandatory. If any one of the four of us would have had our own way, this item would be radically different. The wisdom of the administrative process, however, is that we must arrive at a joint decision. That we have done.

Is the multi-option plan "perfect"? No, but it is fair and balanced. We cannot let our desire for the perfect be the enemy of the good. Will these options ensure success by any licensee? No, but that is not our role. Our mission is to provide the opportunity for competitors to serve the communications needs of the American public. Therefore, I can and do support this multi-option plan for installment payment financing for C-Block PCS licensees and concur in the separate statements of Commissioners Chong and Ness.