

memorandum

DATE: January 12, 1982
TO: Commissioner James H. Quello *JHQ*
SUBJECT: Cellular Radio Order

TO: Commissioners: Washburn
Fogarty
Dawson
Rivera

The April Order contains some language which some parties have interpreted to mean that telephone companies with a minor presence within a SMSA would be eligible to compete for the wireline set-aside for that SMSA. I do not believe that was the Commission's intention when it adopted the April Order nor do I believe that it is consistent with the rationale for the set-aside. Therefore, I am proposing language attached to this memorandum to clarify the Order to expressly reserve wireline eligibility to the major carrier within each SMSA.

While I am not wedded to the specific language in this proposal, I strongly believe that it is necessary to include language to directly deal with this issue. This memorandum is directed to the supervising Commissioner and to other Commissioners who were in the majority voting for the adopted radio cellular item.

The Commission's decision to allocate spectrum for cellular systems in two separate blocks of frequencies--wireline and non-wireline--was predicated in large part on the need to provide service to the public in the shortest possible time. The wireline allocation was made to avoid comparative hearings so that wireline cellular systems would be able to begin operation in the very near future. Although there have been arguments to the contrary in petitions for reconsideration of our Report and Order, it was never intended that wireline carriers which serve only a small portion of a given Standard Metropolitan Statistical Area (SMSA) would be eligible for a wireline grant for that SMSA. Indeed, to include those carriers would seriously undercut the rationale for the set-aside. While many SMSA's include areas served by telephone companies other than the area's major carrier, these areas are generally small and their mere presence does not permit the inference that they are eligible under the Commission's rationale for the bifurcated allocation plan. Accordingly, we are clarifying the Report and Order to make explicit what we believed to be implicit regarding eligibility for the wireline set aside. Only those wireline carriers which serve a majority of the existing population of a given SMSA will be eligible for the wireline set-aside for that area. We intend and expect that the smaller wireline carriers in each area would participate in the provision of cellular service in a manner comparable to their provision of wireline service. Such cooperative arrangements, where appropriate, shall be negotiated between the major carrier and the smaller carriers.