

Separate Statement of
Commissioner James H. Quello

RE: Amendment of the Commission's Rules to Establish New
Personal Communication Services.

Today's action is a significant step forward in the process of making personal communication services (PCS) available to the public. Although I support this action, there are some aspects of this Notice that need additional attention. I am asking that participants in this proceeding address the specific concerns listed below.

The Commission recognizes that PCS is likely to be a family of services with a potential for a wide variety of applications. Without defining PCS more specifically than a family of services, the Commission is moving forward with specific proposals on PCS market size and eligibility. Such proposals, however, may have the unintended effect of limiting the full potential of PCS applications. Consequently, the Commission may be moving to structure the PCS market prematurely. Nonetheless, I recognize the need to move forward, and I encourage participants not only to address the proposals in the Notice, but also to present alternative proposals on PCS market size and eligibility criteria.

The Notice proposes four options for PCS service areas. One option not included in the Notice is the 734 cellular licensing areas. Cellular licensing areas were recently used in determining markets for the Interactive Video and Data Services. (See 7 FCC Rcd 1630 (1992)) Since some PCS operators are likely to use microcellular technology, perhaps smaller service areas would be more appropriate. Furthermore, smaller service areas may facilitate delivery of PCS to rural areas in a timely manner. I encourage commenters to address the possible option of 734 PCS service areas.

This Notice is significant not only for what it proposes for PCS, but also for what it proposed to do to the cellular industry. In my opinion, the proposals affecting the cellular industry have the potential of radically changing the industry as we know it today. The net result of such proposals has the potential to allow telephone companies with cellular subsidiaries to do anything they choose with their 25 MHz cellular allocation. If there is an interest or need to restructure the cellular industry, then perhaps the Commission should consider issuing a separate proceeding in this matter.

Regarding licensing, the Notice proposes a 10 year license term for PCS. It appears that licensees' responsibilities depend on how licensees are selected. For example, if licensees are

selected under a lottery scheme, construction requirements may be imposed. Under the auction proposal, PCS licensees would have no requirements other than protecting existing 1.8-2.2 GHz licensees from interference. Since license terms are for 10 years, a decade could pass before the Commission reclaims a license granted under the auction proposal due to failure to construct. This approach is taking the flexible use of spectrum concept to new levels that may not necessarily be in the public interest. I look forward to commenters' views on this issue.

While on the subject of licensing, I encourage commenters to submit proposals designed to strengthen the lottery process. Construction requirements, financial showings and anti-trafficking provisions are just a few examples of how the lottery process can be improved. I believe sound lottery criteria will stem the tide of speculative applicants and the application mills.

Finally, regarding auctions or competitive bidding, I am not convinced that those with the deepest pockets always have the most innovative ideas, especially when it comes to technology. What effect do auctions have on those who create new spectrum efficient technologies, but are unable to afford to compete for spectrum? What will auctions do to America's entrepreneurs? Those favoring auctions argue that the dollar value of spectrum will flow directly to the national treasury. There is some truth in that statement. In the American economy, however, it is more likely that profits derived from private transactions would be reinvested in the private market, creating employment opportunities, thereby sustaining American industry. This economic scenario has the potential of serving broad segments of the public. Alternatively, the possibility of auctions coupled with the proposal for national licenses (as proposed in the Notice) suggests that winners will be interested in serving only the most lucrative markets. Is this trickle-down spectrum management? What happens to mid-sized and rural markets? Again, I am concerned about the ability of small businesses to compete for spectrum under an auction proposal. I am interested in commenters' views on the merits of auctions as well as the specific questions contained on how auctions should be structured, if Congress grants the Commission authority to test the auction concept.