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August 15, 1996

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Notice of Ex Parte Presentation
ET Docket No. 95-183
RM-8553

Dear Mr. Caton:

On August 14, 1996, representatives of BizTel, Inc. ("BizTel") attended a meeting with Commission staff organized by the Chief of the Wireless Telecommunications Bureau. The main topic of the meeting was questions at issue in the above-referenced rulemaking relating to Fixed Service and Fixed-Satellite Service spectrum requirements in the 37.5 - 40.0 GHz band. Proposed Fixed Service construction requirements, and the interim processing policy adopted in the above-referenced rulemaking for pending Fixed Service applications, were also on the agenda. BizTel was represented by its president Don Franco, its chairman and CEO Mark Foster, and its undersigned counsel. The Commission was represented by the officials listed below on the distribution list for this submission.

In accordance with Section 1.1206(a)(1) of the Commission's Rules, attached hereto are copies of presentation slides used in BizTel's presentation. Pursuant to Section 1.1206(a)(2) of the Commission's Rules, one copy of this letter is being submitted herewith. Copies of this letter are also being simultaneously delivered to the Commission representatives listed below that were in attendance at the above-described meeting.

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Kindly direct any inquiries relating to this submission to the undersigned.

Very truly yours,

Walter H. Sonnenfeldt
Counsel to BizTel, Inc.

cc: Distribution

Distribution

Michele Farquhar, WTB
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BizTel, Inc.

ISSUES AFFECTING UTILIZATION OF THE 37 GHz & 39 GHz BANDS

Presentation To The
Wireless Telecommunications Bureau
Federal Communications Commission

August 14, 1996

CO-FREQUENCY FS/FSS SHARING IS NOT FEASIBLE

- No evidence on record demonstrates feasibility
- Ubiquitous blanket-authorized deployments in both services
- Temporary international FSS PFD Limits are inadequate
- FS will interfere into FSS earth station receivers
- FS/FSS co-frequency sharing would require drastic unjustifiable restrictions

BizTel, Inc.

FSS REQUIREMENTS MUST BE ADDRESSED BEFORE AUCTIONS

- Consolidate Motorola Petition for Rulemaking
- Develop a complete record on sharing issues
- Protect substantial incumbent investment
- Remove spectrum valuation uncertainty

BizTel, Inc.

SOLUTION:

- Do not license FSS in the 39 GHz band
  - Removes FS uncertainty
  - No measurable impact on FSS
- If a requirement is demonstrated, license FSS in a portion of the 37 GHz band
  - No incumbent FS operations
  - Allows substantial FSS capacity
  - Comports with international FSS allocation
  - Avoids 28 GHz-type turmoil

BizTel, Inc.

BUILDOUT RULES

- Must be reasonable
  - Based on actual deployment considerations
  - Milestones must be realistic
- Must be uniformly applied
  - Avoid punitive treatment of incumbent 39 GHz companies
  - Core LEC business at stake
  - Creates level field for LEC competition
  - Discourages diversion or warehousing
  - Spectrum caps will defeat <u>not</u> foster competition

BizTel, Inc.

SOLUTION:

- "Substantial service is the proper uniform standard"
  - Addresses all deployment options
  - Takes account of emerging service demand
- Five & Ten Year Milestones
- Permit alternative showings to demonstrate reasonable progress
  - Minimum path circuits per million POPs
  - Minimum BPS per million POPS

BizTel, Inc.

INTERIM PROCESSING POLICIES ARE INAPPROPRIATE

- Punitive treatment of incumbents is unwarranted
- Millions invested in reliance on Commission Rules
- Viable facilities-based LEC competition threatened
- Contravenes Communications Act
- Reconsideration pending since January 16, 1996

BizTel, Inc.

SOLUTION:

- Vacate retroactive amendment freeze & allow conflict resolutions
- Use Application freeze date as operative cut-off date for competing applications
- Permit service area/channel modifications of existing authorizations within a 100 x 100 mile service area
- Modify expiration date of all existing 39 GHz licenses to ten years from date of authorization

BizTel, Inc.