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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

LAW OFFICES

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August 22, 1996

Federal Communications Commission
Office of the Secretary
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: ET Docket No. 95-183, RM-8553, PP Docket No. 93-253

MEMORANDUM OF NON-RESTRICTED ORAL EX PARTE PRESENTATION

Advanced Radio Telecom Corp., by its attorneys, met on this date with Ms. Suzzane Toller, Legal Advisor to Commissioner Chong, at the Commission's offices. The presentation was limited to a discussion of the proposed amendment of the Federal Communications Commission's Rules related to the licensing of spectrum in the 38 GHz frequency band, as contained in the Commission's *Notice of Proposed Rulemaking* in ET Docket No. 95-183, RM-8553, PP Docket No. 93-253 (released December 15, 1995) and collateral issues concerning spectrum sharing and interim operating authority. The materials attached hereto were distributed at the presentation and were also discussed during the course of the presentation.

Pursuant to Section 1.1206(b)(5) of the Commission's Rules, *ex parte* restrictions do not apply to the instant presentation (*see,* 47 C.F.R. 1.1206(b)(5)), however, in accord with Commission Rule Section 1.1206(a), Advanced Radio Telecom Corp. hereby files this disclosure (*see,* 47 C.F.R. 1.1206(a)). The original and four copies (two for each Docket number) of this disclosure have been submitted to the Secretary's office.

Respectfully submitted,
ADVANCED RADIO TELECOM, CORP.

for W. Theodore Pierson, Jr.
Pierson & Burnett, L.L.P.

James F. Rogers
Latham & Watkins

Its Attorneys

cc: Suzzane Toller
James F. Rogers

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PRESENTATION TO SUZZANE TOLLER

LEGAL ADVISOR TO CMSNR CHONG

August 22, 1996

By

W. Theodore Pierson, Jr., Esq.
Executive Vice President and General Counsel
Advanced Radio Telecom Corp.

and

James F. Rogers, Esq.
Latham & Watkins
Special Counsel to ART

ADVANCED RADIO TELECOM'S MISSION

- Leading Provider of Fixed Wireless Service
  - Nationwide and Worldwide
    - 39 GHz
    - Other Point-to-Point Microwave Frequency Bands

- Major Niche Local Telephone Company (Partnership with Other CLECs)
  - Customer Demands Require Ability to Provide Service on a Nationwide Basis

ADVANCED RADIO TELECOM'S GROWTH AND DEVELOPMENT

39 GHz HOLDINGS:

- 90 Licenses, 122 Channels
  - 60+ Pending Applications
- Authorizations in 41 out of the top 45 markets
- Authorizations in 73 out of the top 100 markets
- Aggregate population coverage of approximately 79 million people

ADVANCED RADIO TELECOM'S GROWTH AND DEVELOPMENT

(continued)

REGIONAL SALES OFFICES (as of June 1, 1996):

* Atlanta, GA
* Boston, MA
* Chicago, IL
* Dallas, TX
* New York
* Pittsburgh, PA
* Portland, OR
* San Francisco, CA
* Seattle, WA
* Washington, D.C.

STRATEGIC RELATIONSHIPS

- GTE
- Ameritech
- Harris-Farinon Microwave Division
- P-Com
- American Wireless Corporation
- Helioss Communications
- Advantage Telecom (Canada)
- Second-Tier IXCs
- CLECs

THE CURRENT 39 GHz MARKET

TECHNOLOGY:

- $20,000 - 25,000 per Installed Link
- One Bit per Hertz
  - One DS-3 per Channel Pair

SERVICES:

- Point-to-Point
  - Individual Links
- High Speed Data and Voice

THE CURRENT 39 GHz MARKET

(continued)

CUSTOMERS:

- Carrier's Carrier
  - CLECs
  - Electric Utilities
- Local Resellers
- PCS and Cellular
- ISPs (Internet)
- LECs
- High Volume Users

THE FUTURE 39 GHz MARKET

TECHNOLOGY:

- Substantial Reduction in Equipment Costs
- Substantial Increase in Equipment Capacity

SERVICES:

- Hybrid Wireless/Fiber Networks
  - Shared ATM Switches
- Point-to-Multipoint
  - Omni-Directional (sectorized)
- Multimedia

CUSTOMERS:

- Strategic Relationships with CLECs
  - Small Business and Residential

RECOMMENDATIONS

1. ACT **IMMEDIATELY** TO MAKE **ADDITIONAL SPECTRUM** AVAILABLE TO 39 GHZ PROVIDERS

   a. Auction remaining 39 GHz

   b. Permit Interim Operating Authority

[There is significant demand from CLECs and PCS providers in areas without 39 Ghz authorizations.]

2. DENY MOTOROLA PETITION FOR SEPARATE RULEMAKING

   a. Concerns of satellite providers can be addressed in existing 38 GHz rulemaking

   b. Whatever Commission does, it **cannot permit sharing** of spectrum between satellite downlinks and terrestrial microwave.

      i The restrictions upon 39 GHz would be unacceptable and require substantial changes in present and proposed (point-to-multipoint) operations

RECOMMENDATIONS

(continued)

3. IMPOSE CONSTRUCTION STANDARDS

18 months -----1.0 Mbps per each 750,000 segment of the population

48 months ----- 3.0 Mbps/750,000 population

60 months ----- **4.0 Mbps/750,000 population**

[minimum of 1.0 Mbps in 18 months regardless of population]

a. These criteria would be applied to each authorized 39 GHZ service area in the aggregate, on a channel by channel basis. The licensee would have to have a commercial contract in effect at the time of the benchmark. The time lines would be measured from the date of Commission adoption of the proposal.

b. Apply to new licensees by auction as well as incumbents.

4. REIMPOSE A REPORTING MECHANISM

a. At each construction benchmark, the licensee should be required to certify that it has met the standards.