Commission's competitive bidding authority, and with the clear policy priority most recently articulated by the Commission.[61]

First, the policy modifications sought in the instant petition will simplify and expedite the proper processing of all pending 39 GHz applications. The resulting issuance of licenses will allow BizTel and other pioneers to fully deliver important new competitive local telecommunications services to the public, thereby enhancing marketplace offerings and, thus, creating thousands of new jobs. Second, Commission action consistent with the instant petition will provide an unambiguous basis for determining the availability of 39 GHz spectrum, in the event that competitive bidding is ultimately implemented in the 39 GHz band. Third, the remedies sought herein are *compelled* by the Communications Act, the Administrative Procedure Act, the controlling case law, and the public interest. Fourth, grant of the instant petition will avoid extensive further litigation that will otherwise inevitably ensue. For all of these reasons, the modifications sought in the instant petition will serve the public interest, convenience and necessity.

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[61] The Commission, through the Chief of its Office of Plans and Policy, stated emphatically at a recent FCC public forum that, rather than seeking to maximize revenues to the U.S. Treasury from spectrum auctions, the Commission's *sole* policy objective in exercising its statutory competitive bidding authority is to speed the issuance of licenses and the delivery of services to the public. Address by Robert Pepper, Chief of FCC Office of Plans and Policy, FCC Auctions '97 Conference, Washington Marriott Hotel, Washington, D.C. (February 19, 1997).

IX. CONCLUSION

As fully demonstrated herein, the Reconsideration Order failed to adequately consider BizTel's procedurally ripe challenges to the policies adopted in the Processing Order. The policies relating to pending 39 GHz applications adopted thus far in the Rulemaking lack legal or public policy justification, and clearly contravene the applicable statutes, regulations, and case law. Accordingly, the Commission must find on reconsideration that: (1) all pending 39 GHz applications are cut-off from the further filing of competing applications and are ripe for processing; (2) all amendments of right filed within a thirty (30) day period following release of a Final Order in the Rulemaking must be processed; at a minimum, all amendments of right filed before the release of a Final Order must be processed; and (3) licenses must be issued to all non-mutually exclusive applicants that otherwise meet the threshold licensing qualifications established under the pre-existing rule structure. For all of the above-stated reasons, grant of the instant petition and the resulting modification of the Processing Order

and Reconsideration Order in the manner set forth above will serve the public interest, convenience, and necessity.

Respectfully submitted,

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April 1, 1997

CERTIFICATE OF SERVICE

I, Kevin J. Walsh, hereby certify that on the 1st day of April, 1997, a true copy of the foregoing "PETITION FOR RECONSIDERATION OF BIZTEL, INC." was mailed, first-class postage prepaid, to the following:

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