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January 13, 2003

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
Room TW-B204
445 Twelfth Street, S.W.
Washington, D.C. 20554

Re: Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services
ET Docket No. 00-258
***Ex Parte* Communication**

Dear Ms. Dortch:

Pursuant to Section 1.1206(b) of the Commission's rules, I am writing on behalf of NEC America, Inc. ("NEC") to notify you of an *ex parte* communication with San Feder, Legal Advisor to Commissioner Martin, that occurred on January 10, 2003 in connection with the above-referenced proceeding. The *ex parte* communication was made to discuss comments and reply comments previously filed by NEC in this docket.

NEC is a manufacturer of private branch exchange ("PBX") and key telephone systems that incorporate wireless handset capabilities using spectrum allocated for unlicensed PCS ("UPCS"). The conversation focused on various proposals raised in this docket for use of the 1910-1920 MHz band, including the UTAM/UTStarcom proposal to allow isochronous UPCS and low-power Community Wireless Network ("CWN") operations in the band. An outline of the presentation is attached.

An original and one copy of this letter are submitted for inclusion in the proceeding record.

Respectfully submitted,

Ari Q. Fitzgerald
Counsel for NEC America, Inc.

cc: Mr. Sam Feder

NEC

PRESENTATION ON 1910-1920 MHZ

- NEC is currently severely constrained in its ability to provide isochronous UPCS systems for enterprises (like trading exchanges and manufacturing plants) where large numbers of users are located together in small or open environments, and in many multi-tenant, high-rise buildings, because of a lack of spectrum.

  - The lack of RF-attenuating walls in open-space facilities prevents frequency reuse through the creation of additional microcells.

  - The lack of additional spectrum makes it difficult to enter high-rise buildings where another UPCS system is already operating.

  - The lack of sufficient spectrum makes it difficult to serve customers desiring high bandwidth data and voice on a converged platform.

- Access to the full 1910-1920 MHz sought in the WINForum petition would assist in minimizing many of these constraints, and would put that spectrum band to better use.

- At the same time, NEC recognizes the potential for low power Community Wireless Networks ("CWNs"), such as those envisioned by the UTStarcom petition, to help fill the service gap in geographically isolated and underserved areas. Isochronous UPCS systems can coordinate shared operations in the 1910-1920 MHz band with CWNs, UTAM and UTStarcom have submitted proposed rules to make such sharing possible and NEC has been a driving force within UTAM for accomplishing shared use of the band.

- Creating a PCS G block and allowing higher-powered licensed PCS services in the 1910-1915/16 MHz band would:

  1. significantly reduce the additional benefit NEC would derive from being able to operate its isochronous systems in the 1915/16-1920 MHz band.

     - while erecting a guard band to reduce OOBEs into the licensed PCS band immediately below the isochronous UPCS band might not have been problematic when the FCC was considering allowing isochronous use of the entire 1910-1920 MHz band, the guard band becomes more problematic when the additional allocation for isochronous UPCS is severely reduced.

  2. significantly reduce the benefits associated with CWNs.

  3. raise the potential for mobile to mobile interference within the licensed PCS band.

- A better approach would be to expand the allocation for isochronous UPCS to 1910-1930 MHz and to adopt the UTAM/UTStarcom proposal for low-powered use of the 1910-1920 MHz band.

- Even if the FCC concludes that the 1910-1915/16 MHz portion of the 1910-1920 MHz band could potentially be used for high-powered licensed PCS, the proceeding record makes clear that only low-powered use of the type proposed by NEC and UTAM/UTStarcom is possible for the 1915/16-1920 MHz band. Indeed, none of the industry submissions to the FCC seek high-powered use of 1915/16-1920 MHz, and a large number (even filings by Nextel and the MDS community) suggest that the FCC could adopt the WINForum proposal for 1915/16-1920 MHz.

- Therefore, the FCC should, at a minimum, establish in its pending decision that 1915/16-1920 MHz can be used for isochronous UPCS low-power CWNs, consistent with the UTAM/UTStarcom proposal.