



FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554

November 12, 2003

BY FAX AND U.S. MAIL

Michael R. Wack
NextWave Personal Communications, Inc.
and NextWave Power Partners, Inc.
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Washington, DC 20005
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Cingular Wireless LLC
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Suite 1700
Atlanta, GA 30342
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In Reply Refer To: WT Docket No. 03-217

Dear Mr. Wack and Mr. Richards:

The Wireless Telecommunications Bureau (the "Bureau") has under consideration thirteen related and simultaneously filed applications ("Applications") dated September 26, 2003, from NextWave Personal Communications, Inc. and NextWave Power Partners, Inc. (together with NextWave Telecom, Inc. collectively referred to herein as "NextWave") and subsidiaries of Cingular Wireless LLC ("Cingular") seeking approval for the assignment from NextWave to Cingular of certain C and F Block Personal Communications Services licenses (file numbers 0001461949, 0001462008, 0001462060, 0001462065, 0001462358, 0001462360, 0001462372, 0001462378, 0001462417, 0001462499, 0001462500, 0001462559, 0001462570). Each of the Applications includes a request for waiver of sections 1.2111 and 24.714 of the Commission's rules,¹ to the extent necessary to allow for consummation of the transaction.²

¹ 47 C.F.R. §§ 1.2111, 24.714

² We note that the request for waiver of the above-mentioned rules is attached as an exhibit to file number 0001461949, which has been designated as the lead application for this transaction ("Lead Application"). The Applications, with the exception of the Lead Application, incorporate this waiver request by reference.

To assist the Commission in making a determination on these pending Applications and the associated request for waiver, NextWave and Cingular are required, pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ to answer fully the questions listed below.

- (1) Describe how the "FCC Direct Payment" referenced in the "Term Sheet for Agreement Regarding the §363 Sale of Rights and Interests In Certain Licenses" ("Term Sheet") and the request for waiver of sections 1.2111 and 24.714 of the Commission's rules should be apportioned among the "Designated Licenses."
- (2) Provide evidence for the representations stated in the request for waiver, including the representations made in footnotes 3 and 30 and accompanying text of the request, that the Department of Justice has approved the Term Sheet in accordance with its authority under the Debt Collection Improvement Act of 1996.
- (3) Describe specifically how any exercise by the Department of Justice of its authority under the Debt Collection Improvement Act of 1996 impacts the Commission's resolution of the request for waiver of sections 1.2111 and 24.714 of the Commission's rules.

NextWave and Cingular are requested to respond fully to the foregoing requests for information in writing no later than November 26, 2003. NextWave and Cingular may provide any additional information that the parties believe is relevant to this matter. The failure of NextWave and Cingular to respond timely and fully will result in the dismissal of the Applications.

Please direct your response to:

Katherine M. Harris
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554.

Your response should also be submitted, preferably electronically through ECFS, in WT Docket No. 03-217. Additionally, please send a copy of your response electronically, by e-mail or facsimile, or if delivered as paper copy, by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (according to the procedures set forth in the October 6, 2003 Public Notice)⁴ to: (1) the Commission's duplicating contractor, Qualex International, at qualexint@aol.com or (202) 863-2898 (facsimile); (2) Erin

³ 47 U.S.C. § 308(b).

⁴ Cingular Wireless and NextWave Seek FCC Consent for the Full and Partial Assignment of Thirty-Four Broadband Personal Communications Services Licenses, *Public Notice*, WT Docket No. 03-217, DA 03-3031, at 3-4 (rel. Oct. 6, 2003).

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McGrath, Commercial Wireless Division, Wireless Telecommunications Bureau, at erin.mcgrath@fcc.gov, or (202) 418-7447 (facsimile); (3) Joel Rabinovitz, Office of General Counsel, at joel.rabinovitz@fcc.gov, or (202) 418-2822 (facsimile); and (4) Rita Cookmeyer, Auctions and Industry Analysis Division, Wireless Telecommunications Bureau, at rita.cookmeyer@fcc.gov or (202) 418-0890 (facsimile). The above-captioned proceeding is restricted under the Commission's *ex parte* communications rules.⁵ If you have any questions about this matter, you may contact me at (202) 418-0620.

NextWave and Cingular are advised that 18 U.S.C. § 1001 and Section 1.17 of the Commission's Rules,⁶ prohibit misrepresentations and/or willful omissions of material facts in response to Commission inquiries.

Sincerely,



Katherine M. Harris
Deputy Chief
Commercial Wireless Division
Wireless Telecommunications Bureau

cc: Robert S. Foosaner
Regina M. Keeney
Henry Goldberg
Thomas Gutierrez
Jonathan V. Cohen

⁵ See 47 C.F.R. § 1.1208.

⁶ 47 C.F.R. § 1.17