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April 15, 2004

The Honorable Michael K. Powell
Chairman
Federal Communications Commission
445 12th Street, SW, Room 8-B201
Washington, DC 20554

Re: Promoting Efficient Use of Spectrum Through Elimination of Barriers to
the Development of Secondary Markets
WT Docket No. 00-230

Dear Mr. Chairman:

On October 6, 2003, the Commission released its *Report and Order and Further Notice of Proposed Rulemaking* in the above-referenced docket. The item allows wireless licensees to utilize the spectrum under their authorization in a more efficient manner through the leasing of excess capacity. Unfortunately, this Order only pertains to certain wireless licensees.

As noted in the Order at footnote 181, Business and Industrial/Land Transportation licensees (under Part 90) with exclusive service areas above 470 MHz are permitted to lease spectrum. Many B/ILT licensees below 470 MHz, however, have obtained exclusivity through applicable frequency coordination rules. While many B/ILT licensees above 470 MHz gained an exclusive service area through channel "loading," the effect remains the same – licensees with exclusivity below 470 MHz enjoy the same "clear" spectral environment under their authorization as those with exclusive service areas above 470 MHz. There does not appear to be any rationale for this disparate treatment of similarly situated licensees.

In an effort to promote regulatory parity, we urge the Commission to permit all B/ILT licensees with an exclusive spectrum authorization to enjoy the same leasing and efficiency opportunities.

Sincerely,

Duncan C. Kennedy, III
President