

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Amendment of the Commission's)	WT Docket No. 97-82
Rules Regarding Installment Payment)	
Financing For Personal Communications)	
Services (PCS) Licensees)	

ORDER

Adopted: January 7, 1998

Released: January 7, 1998

By the Commission: Commissioners Ness and Powell issuing separate statements.

1. On September 25, 1997, the Commission adopted the *Second Report and Order and Further Notice of Proposed Rule Making* ("Second Report and Order"), WT Docket No. 97-82, FCC 97-342 (rel. October 16, 1997), establishing January 15, 1998 as the deadline for broadband Personal Communications Services (PCS) C block licensees to elect to continue under their existing installment payment plan or to elect one of the three options.¹ C block licensees must file a written notice of their election with the Wireless Telecommunications Bureau on or before January 15, 1998.² The requirements for the contents of the election notice vary depending upon which election is made.³ For licensees electing the prepayment option, any new monies that will be applied toward the prepayment of retained licenses must be submitted with the election notice on the election date.⁴

2. Pursuant to Section 1.3 of the Commission's rules, the Commission hereby changes the election date from January 15, 1998 to February 26, 1998.⁵ Moving the election date will serve the public interest by permitting licensees to submit their election after final disposition of arguments raised on reconsideration. We believe that it is important to provide regulatory stability so that C block licensees and potential bidders can proceed with their plans to finance their business. Licensees

¹ Petitions for reconsideration have been filed and the deadline for filing replies to oppositions is January 14, 1998.

² *Second Report and Order* at para. 70.

³ *Id.* at paras. 72-76.

⁴ *Id.* at para. 75.

⁵ 47 C.F.R. § 1.3. Section 1.3 provides that the Commission's rules may be "suspended, revoked, amended, or waived for good cause shown, in whole or in part, at any time by the Commission, subject to the provisions of the Administrative Procedure Act . . ." The Commission may act on its own motion.

are cautioned that this change in the election date is in no way an indication that the Commission plans to depart in any material way from the decisions set forth in the *Second Report and Order*. We are changing the election date solely in the interest of fairness to all parties.

3. We take this opportunity to announce that the C block reauction will begin on September 29, 1998. At the appropriate time, we will announce the reauction procedures. We also take this opportunity to clarify that our delegation of authority to the Chief of the Wireless Telecommunications Bureau "to prescribe and set forth procedures for the implementation of the provisions" that were adopted in the *Second Report and Order* includes the authority to provide for electronic filing of an election notice specified in paragraph 70 of the *Second Report and Order* and other procedures and instructions to reduce paperwork burdens.⁶

4. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 303(r), and 309(j) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 309(j), and Section 1.3 of the Commission's rules, 47 C.F.R. § 1.3, the date for C block licensees to file a written election notice, in accordance with the requirements set forth in the *Second Report and Order*, is changed to February 26, 1998. Since it is necessary for this change to become effective before January 15, 1998, we will make this change effective upon publication of this *Order* in the *Federal Register*.⁷

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary

⁶ See *Second Report and Order* at para. 112. In addition, we note that we have received approval from the Office of Management and Budget ("OMB") to collect the information required by the *Second Report and Order*. The OMB approval number is 3060-0801. Approval is valid through March 31, 1998.

⁷ See 47 C.F.R. § 1.427(b) (if good cause exists, rule changes may become effective sooner than 30 days after publication in the *Federal Register*).

**Separate Statement
of
Commissioner Susan Ness**

*Re: Amendment of the Commission's Rules Regarding Installment Payment Financing for
Personal Communications Services (PCS) Licensees*

Last September, the Commission reaffirmed its bedrock commitment to the integrity of the auction process, yet found it possible to offer C-block licensees a limited menu of options for handling the commitments they undertook when they bid successfully at auction. Today, the Commission defers the date by which licensees must elect among these options.

Our decision to delay the election date should *not* be misconstrued. It should *not* be read as a signal that substantial changes to the options devised in September are probable. Based upon the record to date, I believe it unlikely that such changes will be made.

Our decision today is based solely on the desirability of resolving reconsideration petitions before licensees make their elections. We expect to complete that process in advance of the revised February 26, 1998 election deadline to ensure that licensees and their financial partners have all of the information they need to make informed choices. Doing so promotes fairness, certainty, and finality.

It should be noted that there is no change in the March 31, 1998 date for resumption of installment payments. Moreover, by this notice we have set September 29, 1998 as the date for the reauction of those licenses that have been returned or forfeited.

Our decision in September affirmed our commitment to administer the auctions process with fairness and integrity. In my view, fairness is best served by deferring the election date until we have acted on the reconsideration petitions now before us. A rapid conclusion will bring much-needed certainty to the financial markets and permit licensees to get back to the business of bringing additional choices to the American consumer.

SEPARATE STATEMENT OF COMMISSIONER MICHAEL POWELL

Re: Amendment of the Commission's Rules Regarding Installment Payment Financing For Personal Communications Services (PCS) Licensees (WT Docket No. 97-82)

I support this Order extending the election date for C block licensees to choose from the options adopted in the Commission's September 25, 1997, *Second Report and Order and Further Notice of Proposed Rule Making ("Second Report and Order")*, WT Docket No. 97-82, FCC 97-342 (released October 16, 1997). I do so because I believe it is critical that we complete our reconsideration of this important matter prior to the parties making their election. It would be unwise for anyone to read into this extension a willingness by this new Commission to vary significantly from the Commission's original *Second Report and Order* in response to the pending petitions for reconsideration, and I caution parties and the financial markets not to do so.