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See MCI v. FCC, 515 F 2d 385 (D.C. Circ 1974).

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BROADBAND PCS SPECTRUM AUCTION CLOSES, RAISING OVER \$2 BILLION

Auction Concludes Another Chapter in Resolving Bankruptcy Matters, Vital Spectrum Made Available for Additional Capacity and New Services

Washington, D.C. – The Federal Communications Commission's auction of broadband Personal Communications Services (PCS) licenses ended on Tuesday, February 15, 2005, raising gross revenues of \$2,253,802,000 and, after applying bidding credits, total net revenue of \$2,043,230,450. Pending the remaining steps in the application process, this auction marks the completion of an important chapter in putting these spectrum licenses to work for the American public. This auction included spectrum returned to the Commission through its recent settlements in bankruptcy litigation, including the settlement with NextWave Communications, Inc. (“NextWave”) reached last April and other license cancellations.

“The conclusion of this auction, along with settlements reached last year, represents a significant achievement for the American public. Together, these efforts will lead to the recovery of substantial revenue for the use of the public spectrum resource, and will ensure that this valuable spectrum will be available to serve the growing wireless telecommunications needs of the American consumer,” stated FCC Chairman Michael K. Powell.

In 1994, the Commission set aside certain portions of the broadband PCS spectrum for entrepreneurs, in response to its statutory mandate to make spectrum available to a wide variety of entities, including small businesses. After the first auctions of this spectrum, some of the winning bidders, including NextWave, declared bankruptcy, which tied up much of the C block of the broadband PCS spectrum in litigation. The Commission has since negotiated several settlements to resolve these matters, including one with NextWave, which resulted in a cash and spectrum recovery for the Commission of nearly \$4 billion. Shortly after this settlement was reached, the Commission announced that it would make the returned spectrum available through competitive bidding. With the completion of the recently concluded auction, spectrum formerly held by NextWave is ready to be licensed and put to use for the benefit of the American public.

Auction No. 58 began on January 26, 2005, and ended after 91 rounds of bidding. A total of 242 licenses for A, C, D, E, and F blocks of broadband PCS spectrum were offered, and 24 bidders won 217 licenses. These 217 licenses cover 114 markets across the country, including Los Angeles, St. Louis, Albuquerque, and Norfolk. Of the 242 licenses offered in the auction,

119 were available only to entrepreneurs in closed bidding, providing smaller businesses with an increased opportunity to participate in the provision of spectrum-based services. At the close of bidding, 13 entrepreneurs had won 111 licenses in closed bidding, and 12 small and very small businesses had won 47 licenses in bidding open to all bidders.

Building upon more than a decade of achievement, the Commission has now completed 55 auctions in the twelve years since the Commission was granted its competitive bidding authority. Consistent with its statutory mandate, the Commission continues to employ competitive bidding to capture billions of dollars in value for the public spectrum resource made available for commercial use. The rapid and efficient assignment of broadband PCS spectrum accomplished through this auction will benefit consumers by raising the overall level of competition in a number of markets and by providing carriers with additional capacity to improve their national coverage and provide enhanced voice and data services. The Commission will continue to auction critical spectrum over the next several years to ensure that providers of new and innovative technologies will have access to spectrum resources for the benefit of the public.

Further details about this and other FCC auctions can be accessed via the Commission's auctions web page at: <http://www.fcc.gov/wtb/auctions/>.

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News about the Federal Communications Commission can also be found on the Commission's web site www.fcc.gov.