

METRO MOBILE

ORIGINAL

The Cellular Phone Company

20 Alexander Drive
P.O. Box 5029
Wallingford, CT 06492
203-269-8858

November 1, 1991

Joel M. Rinebold
Executive Director
Connecticut Siting Council
136 Main Street
Suite 401
New Britain, Connecticut 06051

RECEIVED

NOV - 4 1991

CONNECTICUT
SITING COUNCIL

Re: CONN-2 RSA Partnership - Ashford

Dear Mr. Rinebold:

CONN-2 RSA Partnership ("CONN-2" or the "Partnership") plans to install cellular antennas and related equipment at the existing tower facility owned by Tele-Media Company of Northeast Connecticut in Ashford, Connecticut. Please accept this letter as notification, pursuant to R.C.S.A. Section 16-50j-73, of construction which constitutes an exempt modification pursuant to R.C.S.A. Section 16-50j-72(b).

The existing facility is a 300' guyed tower located on a 9.268 acre parcel at 353 Pumpkin Hill Road in Ashford. CONN-2 plans to install four omni-directional whip-type antennas on the tower. The Partnership will also place a prefabricated 12' x 21' equipment shelter on the site to house its electronic equipment.

The addition of CONN-2's antennas, building and equipment to the tower site does not constitute a modification as defined in C.G.S. Section 16-50i(d) because the general physical characteristics of the facility will not be significantly changed or altered. Rather, the Partnership's planned use of the facility falls squarely within those activities which explicitly do not constitute a modification to an existing tower, as set forth in R.C.S.A. Section 16-50j-72(b).

First, the height of the existing facility will be unaffected. Four antennas, Model PD-10017, will be mounted on two sidearms with the antenna bases at the 225' level of the tower. The antennas will extend approximately 15' upward and downward from their mounting points. Thus, the antennas will extend no higher than the 240' level of the 300' tower. The tower will not require any structural modification to support the proposed attachments.

Second, the proposed addition will not extend the boundaries of the site (See attached site plan). The equipment shelter will be within the current boundaries of the parcel.

Third, the proposed addition will not increase the noise levels at the existing facility by six decibels or more. Except during construction, the only noise associated with the equipment will be from air conditioning and temporary emergency power equipment (portable generator), when in use.

Fourth, operation of the additional antennas will not increase the total radio frequency electromagnetic radiation power density measured at the tower site boundary to a level at or above the State Department of Environmental Protection standard. The following table summarizes the power density at the base of the tower from the various sources on the tower (including CONN-2's 875 MHz cellular transmission) in relation to the standard.

<u>Frequency</u> (MHz)	<u>Power Density</u> (mW/cm ²)	<u>Standard Limits</u> (mW/cm ²)	<u>% of Standard</u> (%)
12500	0.0004	5.00	0.008
885 (SNET Cell.)	0.0765	2.95	2.593
875	0.0367	2.92	1.257 *

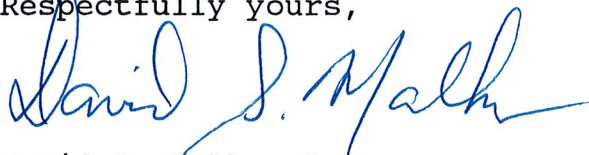
Site Total	0.1136	N/A	3.858

As the table shows, CONN-2's operation (*) would contribute 1.257% of the State exposure standard for the cellular frequency range, bringing the site total to 3.858% of the standard as calculated for a mixed frequency site.

For the foregoing reasons, CONN-2 respectfully submits that the planned addition of the Partnership's antennas and associated equipment to the existing facility constitutes an exempt modification under R.C.S.A. Section 16-50j-72(b). CONN-2 will secure building permits for the above mentioned activities subsequent to this filing, and prior to construction.

By copy of this letter, the First Selectman of the Town of Ashford is receiving written notice of the intent to construct an exempt modification to the Tele-Media facility, as required by R.C.S.A. Section 16-50j-73.

Respectfully yours,



David S. Malko, P.E.
 Manager, Engineering and Regulatory Services
 Metro Mobile CTS of the Northeast, Inc.,
 Manager for CONN-2 RSA Partnership

Attachments

cc: Mr. George Quirck, First Selectman of the Town of Ashford



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

136 Main Street, Suite 401
New Britain, Connecticut 06051
Phone: 827-7682

November 21, 1991

Mr. David S. Malko, P.E.
Manager, Engineering & Regulatory Services
Metro Mobile CTS of the Northeast, Inc.
20 Alexander Drive
Wallingford, CT 06492

RE: CONN-2 RSA Partnership notice of intent to modify an existing telecommunications tower and associated equipment owned by Tele-Media Company of Northeast Connecticut, located at 353 Pumpkin Hill Road, in the Town of Ashford, Connecticut.

Dear Mr. Malko:

At a meeting on November 20, 1991, the Connecticut Siting Council (Council) acknowledged your notice of intent to install four cellular antennas and related equipment at an existing CATV tower facility located at 353 Pumpkin Hill Road in Ashford, Connecticut, pursuant to section 16-50j-73 of the Regulations of State Agencies (RSA).

The proposed modifications are to be implemented as specified in your notice dated November 4, 1991. As proposed, the modifications are in compliance with the exception criteria specified in RSA 16-50j-72 as changes to an existing facility site that do not increase the tower height, extend the boundaries of the tower site, increase noise levels at the tower site boundary six decibels, and add radio frequency sending or receiving capability which increases the total radio frequency electromagnetic radiation power density measured at the tower site boundary to or above the standard adopted by the State Department of Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes.

The Council is pleased to note that the shared use of an existing tower meets the Council's long-term goal and the public interest to avoid proliferation of additional tower structures.

Please notify the Council upon completion of construction.

Very truly yours,

Mortimer A. Gelston
Chairman

MAG/TEF/bd

5664E

METRO MOBILE

The Cellular Phone Company

20 Alexander Drive
P.O. Box 5029
Wallingford, CT 06492
203-269-8858

November 1, 1991

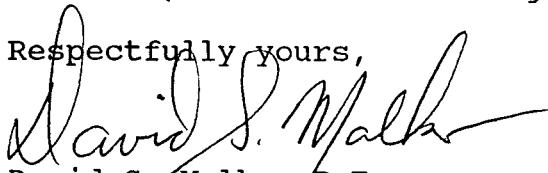
The Honorable George Quirck
Office of the First Selectman
Knowlton Memorial Town Hall
Rte. 44
P.O. Box 38
Ashford, Connecticut 06278

Dear Mr. Quirck:

CONN-2 RSA Partnership plans to install cellular antennas and related equipment at an existing tower site owned by Tele-Media Company of Northeast Connecticut in Ashford, Connecticut. As required by Section 16-50j-73 of the Regulations of Connecticut State Agencies (R.C.S.A.), please accept this letter and the attached letter to the Connecticut Siting Council dated November 1, 1991, as notice of intent of our exempt modification to an existing tower pursuant to R.C.S.A. Section 16-50j-72(b).

The attached letter fully sets forth CONN-2's proposal. However, if you have any questions or require any further information on our plans or the Siting Council's procedures, please contact the undersigned at 269-8858, or Mr. Joel M. Rinebold, Executive Director, Connecticut Siting Council at 827-7682.

Respectfully yours,



David S. Malko, P.E.
Manager of Engineering and Regulatory Services
Metro Mobile CTS of the Northeast, Inc.,
Manager for CONN-2
RSA Partnership

Attachments

9/30/91

WRITTEN CONSENT OF THE PARTNERS

OF

CONN-2 RSA PARTNERSHIP

Wyndcell Corporation, a Mississippi corporation ("Wyndcell"), and Metro Mobile CTS of Windham, Inc., a Connecticut corporation ("Metro Mobile"), being the only partners of CONN-2 RSA Partnership, a Connecticut general partnership, hereby approve the following resolutions:

WHEREAS, effective as of September 20, 1991, in accordance with the approval granted by the Federal Communications Commission (the "FCC"), Wyndcell transferred to CONN-2 RSA Partnership the authorization granted by the FCC to construct the non-wireline cellular telecommunications system in Rural Service Area Number 2 in the State of Connecticut (the "Permit") and all assets relating thereto, including without limitation all of Wyndcell's rights and obligations in and to that certain Management Agreement, dated as of April 17, 1991 (the "Management Agreement"), between Wyndcell and Metro Mobile CTS of the Northeast, Inc. a Connecticut corporation (the "Manager"); and

WHEREAS, CONN-2 RSA Partnership desires to be included in the tariff of Metro Mobile's affiliates (the "Metro Mobile Tariff") filed with the Connecticut Department of Public Utilities Control (the "DPUC");

NOW, THEREFORE, BE IT

RESOLVED, that the Management Agreement be, and it hereby is, ratified, adopted and confirmed by CONN-2 RSA Partnership, and all rights and obligations of Wyndcell thereunder are hereby accepted and assumed by CONN-2 RSA Partnership as the rights and obligations of CONN-2 RSA Partnership; and be it further

RESOLVED, that CONN-2 RSA Partnership, as owner of the Permit, apply to be included in the Metro Mobile Tariff; and be it further

RESOLVED, that the partners of CONN-2 RSA Partnership and the Manager be, and each of them acting individually hereby is, authorized and empowered, in the name and on behalf of CONN-2 RSA Partnership, to execute and deliver such applications or amendments to the Metro Mobile Tariff as may be necessary or appropriate for CONN-2 RSA Partnership to operate under and pursuant to the Metro Mobile Tariff; and be it further

RESOLVED, that the partners of CONN-2 RSA Partnership and the Manager be, and each of them acting individually hereby is, authorized and empowered, in the name and on behalf of CONN-2 RSA Partnership, to execute and deliver such additional applications, amendments, instruments or other documents, and to take such additional actions, as may from time to time be necessary or advisable in order to implement the intent and accomplish the purposes of the foregoing resolutions.

Dated: September 30, 1991

WYNDCELL CORPORATION

By: Arthur B. Clark, III
Name: Arthur B. Clark, III
Title: President

METRO MOBILE CTS OF WINDHAM, INC.

By: Michael W. Riley v/p
Name: Michael W. Riley
Title: Vice President of Operations

CONN-2 RSA PARTNERSHIP:

BY: WYNDCELL CORPORATION

By: Arthur B. Clark, III
Name: Arthur B. Clark, III
Title: President

BY: METRO MOBILE CTS OF
WINDHAM, INC.

By: Michael W. Riley v/p
Name: Michael W. Riley
Title: Vice President of
Operations

MANAGEMENT AGREEMENT

THIS AGREEMENT is made as of the 17 day of April, 1991, by and between METRO MOBILE CTS OF THE NORTHEAST, INC., a Connecticut corporation ("Metro Mobile"), and WYNDCELL CORPORATION, a Mississippi corporation with its principal address at 248 East Capital Street, Suite 740, Jackson, Mississippi 39201 ("Wyndcell") (Metro Mobile and Wyndcell being collectively referred to herein as the "parties" or individually as a "party").

W I T N E S S E T H:

WHEREAS, Metro Mobile and its affiliates manage and operate cellular radio telephone systems for the provision of mobile radio telephone service (the "Service") in various Metropolitan Statistical Areas in the United States ("MSAs").

WHEREAS, Wyndcell has been granted an authorization (the "Construction Permit") by the Federal Communication Commission (the "FCC") to construct a cellular communications system operating on Frequency Block A in Rural Area #2, comprised of Windham County, in the State of Connecticut (hereinafter the "RSA" or the "System").

WHEREAS, Wyndcell wishes to retain Metro Mobile as General Manager to construct, operate and manage the System and Metro Mobile is willing to perform such services;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements herein contained, the parties hereto agree as follows:

ARTICLE 1

OPERATIONS AND MANAGEMENT WORK

Wyndcell hereby retains Metro Mobile as its sole and exclusive General Manager to perform or cause to be performed all services necessary or appropriate in connection with the day-to-day construction, management and operation of the System including, without limitation, the construction of the System, acquisition or leasing of cell sites, the operation thereof, the acquisition or leasing of equipment necessary for the System, the entry into and performance of financing for construction, acquisition and operation of cell sites and equipment therefor, the employment of persons necessary to construct and operate the System and the taking of all other actions necessary or ancillary thereto, subject to consultation with and approval of Wyndcell. Without limiting the generality of the foregoing authorization, Metro Mobile is authorized to undertake the following specific acts and activities on behalf of Wyndcell in respect of the RSA:

1.1 Construction Work:

1.1.1 Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to the construction of the System (the "Construction Work"):

- (a) reviewing the Capital Plan (as contained in Wyndcell's application for the Construction Permit) and preparing recommendations to Wyndcell for its approval as to its revision as may be necessary to implement construction and operation of the System;
- (b) developing a capital budget and submitting the capital budget to Wyndcell for review and approval;
- (c) locating, and, subject to Wyndcell's approval, procuring in the name of Wyndcell antenna installation sites, a mobile telephone switching office ("MTSO") site, antennae, towers and such property appurtenant thereto as Metro Mobile determines in good faith to be consistent with prudent business judgment and system design and necessary for the successful operation of the System;
- (d) pursuing on behalf of Wyndcell such zoning authorizations and such other municipal, state or federal approvals, licenses, consents and authorizations as may be necessary for the construction, operation and maintenance of the antennae, towers and other

equipment installed on the properties procured by Metro Mobile;

- (e) supervising the construction of the System, including, with Wyndcell's approval, (i) procurement and installation of any and all items of real estate (either through purchase or lease), base station equipment, MTSO equipment, connection and interconnection equipment and related equipment (including radio frequency equipment, shelters, towers, cable, computers and related equipment, test equipment, batteries, multiplex equipment and other related equipment but not including subscriber equipment) (collectively, the "Equipment"), and (ii) retaining and supervising prime contractors and sub-contractors. Metro Mobile shall administer the construction contracts;
- (f) receiving and reviewing maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection which are to be assembled by the contractors pursuant to the various construction contracts;
- (g) conducting such inspections as Metro Mobile shall deem appropriate, acting as interpreter of the requirements of the various construction contracts and evaluating the performance of the contractors;

- (h) reviewing all applications for payment submitted by the contractors and making all payments pursuant thereto in accordance with Wyndcell's approved business plans or budgets;
- (i) testing the System upon completion of construction to verify that the System as constructed will operate within the technical performance standards required by the FCC and specified in the contract documents and making any necessary adjustments and modifications in order to meet such standards;
- (j) negotiating and arranging on behalf of Wyndcell, for Wyndcell's approval and signature, with exchange and intercity carriers for interconnect agreements or other arrangements, as Metro Mobile shall deem appropriate; and
- (k) in general, use its best efforts to complete construction of the System not later than November 1, 1991; provided that all steps necessary to complete construction are within the control of Metro Mobile; and further provided that Wyndcell has granted to Metro Mobile in a timely fashion all approvals and consents requested by Metro Mobile pursuant to this Agreement.

1.2 Management Work:

1.2.1 Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to the overall management of the System and the Service (the "Management Work"):

- (a) developing, reviewing, analyzing and, subject to Wyndcell's approval, modifying an overall business plan on an annual basis (each, a "Business Plan"), including preparing business projections and financial forecasts, developing a financial plan for operating and expanding the System (including evaluating financing alternatives, negotiating with prospective lenders, lessors, sellers and other financiers and reviewing related documentation), analyzing System expansion, evaluating additional services to be offered on the System and, in conjunction with such Business Plans, preparing and presenting annual operating budgets for the System and any special purpose budgets (such as a budget for System expansion);
- (b) preparing and delivering to Wyndcell quarterly unaudited and annual audited financial statements;
- (c) determining the accounting methods and procedures to be employed; and
- (d) preparing for Wyndcell's review, approval and, if necessary, execution, and filing, all applications,

notices, rates and tariffs, reports and other documents to be filed on behalf of Wyndcell with the FCC or any other governmental agency or instrumentality with respect to the System or the Service;

1.2.2 The Business Plans and capital, operating and special purpose budgets from time to time prepared by Metro Mobile pursuant to Sections 1.1 and 1.2 hereof shall be presented to Wyndcell for consultation and approval.

1.2.3 Metro Mobile shall use its best efforts to adhere to the Business Plans (as modified from time to time) described in Section 1.2.1 (a) hereof. It is understood, however, that the Business Plan is based on estimates only and that unforeseen circumstances such as, but not limited to, the costs of labor, material, services and supplies, casualty, operation of law, or economic and market conditions may make adherence to the Business Plan impracticable, and Metro Mobile shall be entitled to depart therefrom resulting from causes of the foregoing nature, subject to consultation with and approval of Wyndcell.

1.3 Technical Operations Work:

Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to the technical operations of the System (the "Operations Work"), subject to consultation with Wyndcell:

- (a) managing the operation of the System on a day-to-day basis;
- (b) employing computer systems and programs, formats, files and other software owned or licensed by Metro Mobile necessary for the operation and management of the System;
- (c) performing routine maintenance procedures (including testing, replacing or modifying failed components and preventive maintenance) for all components of the System in accordance with the specifications therefor and applicable manufacturer or vendor-suggested maintenance procedures;
- (d) maintaining, and periodically updating and verifying, the customer database;
- (e) maintaining an inventory of spare parts and testing equipment for the ongoing maintenance of the System;
- (f) monitoring and analyzing traffic patterns and volume of the System, determining size and timing of required additions and coordinating implementation;
- (g) performing necessary frequency coordination;
- (h) preparing and maintaining all documentation necessary for the technical operations of the System and for compliance with applicable laws and regulations;

- (i) performing all work required from time to time for the expansion of the System (as decided pursuant to Section 1.2 hereof);
- (j) analyzing and evaluating new equipment, hardware, techniques, procedures, software and other developments which may improve operations and/or generate additional revenue and coordinating the implementation of those features which are anticipated to be cost effective;
- (k) monitoring the technical performance and security of the System and dispatching emergency personnel, as required;
- (l) coordinating and handling ongoing relations with telephone companies, vendors and other suppliers;
- (m) acting as agent for Wyndcell in obtaining access to intercity carriers;
- (n) verifying mobile telephone equipment installation procedures, techniques and technical quality; and
- (o) performing such other tasks related to the foregoing as may be necessary or appropriate under the circumstances or as may reasonably be requested by Wyndcell.

1.4 Customer Service Work.

Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to customer service

for the customers and prospective customers of the System (the "Customer Service Work"):

- (a) accepting and recording customer orders from the Service;
- (b) in consultation with and with the approval of Wyndcell, establishing a distribution system of mobile telephone equipment dealers and other distributors ("Agents and Resellers") for installation of customer equipment, coordinating the installation of customer equipment and the commencement of the Service for each customer, monitoring quality control of the above customer service operations and making final entry of relevant data into inventory systems;
- (c) monitoring and maintaining appropriate inventory levels of customer equipment;
- (d) responding to customer inquiries, referring such inquiries to the appropriate entities and follow-up as appropriate to confirm customer satisfaction and fulfillment;
- (e) employing computer systems, programs, formats, files and other software for purposes of order entry, billing, traffic analysis, trouble reporting, accounts receivable, maintenance, equipment tracking and on-line inquiry of customer records (the

"Customer Programs"), as may be appropriate, in accordance with the Business Plans or budgets approved by Wyndcell;

- (f) in consultation with and subject to the approval of Wyndcell, developing and implementing programs to retain customers; and
- (g) developing and implementing customer credit and collection guidelines (it being understood and agreed that Metro Mobile will under no circumstances be liable to Wyndcell for the collection of amounts owed by customers, Metro Mobile to act only as the agent of Wyndcell in attempting to collect such amounts in such manner as Metro Mobile may determine).

1.5 Billing Work.

Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to billing for the Service (the "Billing Work"):

- (a) select and supervise the implementation and operation of a billing system;
- (b) employing Customer Programs to generate customer billing records, including equipment charges, service establishment fees, minimum monthly charges,

- airtime charges (including call detail records), toll charges, payments and account balances;
- (c) preparing, processing and mailing customer billing statements;
 - (d) collecting, processing, depositing and recording customer remittances; and
 - (e) responding to customer inquiries on billing matters and follow-up as appropriate to confirm resolution of any discrepancies or disagreements.

1.6 Sales and Marketing Work.

Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to selling and marketing the Service (the "Sales and Marketing Work"), subject to consultation with Wyndcell:

- (a) developing, evaluating and, subject to Wyndcell's approval, implementing marketing and advertising strategies for services provided or proposed to be provided over the System based upon periodic analyses and evaluation of market potential, competitive framework and increased market penetration opportunities;
- (b) developing and, subject to Wyndcell's approval, implementing promotional programs and activities, including promotional rates, offerings and potential

compatibility with goods and services provided by others;

- (c) soliciting potential customers through media advertising, mailings, promotional offers, telemarketing, direct sales calls and/or other means;
- (d) developing and implementing a sales plan, including the recruitment, training, motivation and management of a direct and indirect sales organization, as appropriate, identification, recruitment and contracting with Agents and Resellers for installation service and/or maintenance of customer equipment, as well as the sale of the Service and the development and implementation of programs to support Agents and Resellers to meet their portion of such sales plan;
- (e) subject to Wyndcell's approval, implementing pricing and product strategies, based upon research and analysis, designed to maximize market penetration;
- (f) advising customers and potential customers in capabilities, performance and costs of the Service and any other service provided or proposed to be provided over the System;
- (g) conducting research and providing periodic analyses of the market for the Service, any other service provided or proposed to be provided over the System and competitive services;

- (h) performing public relations activity, including, but not limited to, public appearances and participation in community and civic events for the purpose of increasing positive awareness of the Service;
- (i) creating collateral and sales support materials, advertising pieces, brochures and literature to accommodate the sales, advertising and promotion plans; and
- (j) performing such other tasks related to the foregoing as may be necessary or appropriate under the circumstances or as may be reasonably requested by Wyndcell.

1.7 Legal and Regulatory Relations Work.

Metro Mobile is authorized to perform, or arrange for the performance of, the following tasks related to legal and regulatory relations for the System (the "Legal and Regulatory Work"):

- (a) coordinating with Wyndcell's counsel respecting general civil and corporate legal matters and the conduct of all related proceedings;
- (b) coordinating with any counsel representing Wyndcell in local, state and federal administrative and

- regulatory proceedings relating to the System and/or the Service and the conduct of all such proceedings;
- (c) taking all reasonable actions within its control to assure compliance by Wyndcell with all applicable local, state and federal rules, regulations and laws which govern the operation of the System and the provision of the Service; provided, however, that Metro Mobile may, by appropriate proceedings, contest the validity or applicability to Wyndcell of any such regulation or law where such regulation or law or the application thereof would have a material adverse effect on Wyndcell and/or Metro Mobile and so long as the conduct of such proceedings does not result in the imposition of any material fines or other material penalties against Wyndcell and/or Metro Mobile or any material disability in the conduct of the ordinary course of Wyndcell's business;
- (d) preparing for Wyndcell's review and, if necessary execution, and prosecuting, all tariff and other regulatory filings relating to the Service;
- (e) representing Wyndcell in discussions and negotiations with local exchange and/or intercity carriers and, in consultation with and subject to Wyndcell's direction, representing Wyndcell in any civil or

regulatory proceedings arising from such negotiations; and

- (f) in consultation with and subject to Wyndcell's direction, representing Wyndcell before local, state and federal legislative bodies in matters relating to the nature or provision of the Service, in general and as such matters might affect the System or Service.

In performing the Legal and Regulatory Work, Metro Mobile shall promptly notify Wyndcell if and when Metro Mobile becomes aware of (i) any action, suit or proceeding pending or threatened against or relating to the System or the Construction Permit before any federal, state or local court, arbitration tribunal or governmental authority, (ii) any order, writ, injunction or decree of any federal, state or local court, arbitration tribunal or governmental authority outstanding or in effect against or relating to the System or the Construction Permit, other than orders of the FCC issued with respect to the cellular telephone industry generally and in the normal course of regulation and consents and approvals sought by Wyndcell and/or Metro Mobile or an affiliate of Metro Mobile, and (iii) any failure of the System to comply in all material respects with the provisions of applicable laws, regulations and administrative orders of the United States, including, without the limitation, the Federal Communications Act of 1934, as amended, and the rules and regulations promulgated by

the FCC thereunder and pursuant thereto, and any state, and each municipality, county or subdivision of any thereof, to which the System may be subject. Nothing in this paragraph shall impose a duty of investigation greater than that otherwise imposed by the terms of this Agreement and the relationship between the parties created hereby.

1.8 General

In connection with the performance by Metro Mobile of the Construction Work, the Management Work, the Operations Work, the Customer Service Work, the Billing Work, the Sales and Marketing Work and the Legal and Regulatory Work (collectively, the "Work"), Metro Mobile shall be responsible to Wyndcell for the overall operations of the System; provided, however, that nothing herein shall be construed to increase the obligations, duties and liabilities of Metro Mobile beyond those expressly stated under this Agreement.

1.9 Wyndcell to Retain Control.

All of the Work listed in Article 1 herein shall be rendered by Metro Mobile subject to the supervision and control of Wyndcell. Metro Mobile understands that the control over the System shall remain vested in Wyndcell, and Metro Mobile shall do nothing inconsistent therewith. Metro Mobile further agrees and understands that all facilities and equipment purchased, leased or otherwise obtained by or for Wyndcell used or employed in the

construction or operation of the System, other than leased equipment or equipment owned by Metro Mobile or a sub-contractor, affiliate or entity under common control thereof, shall remain the property of Wyndcell, and Wyndcell shall have the unfettered use of and access to all said facilities and equipment leased or owned by it.

ARTICLE 2

COSTS AND FEES

2.1 Costs to be Reimbursed.

2.1.1 Costs of the Work.

2.2 Management Fee.

2.3 Payments.

Relevant Period as were not paid out of Wyndcell's depository accounts.

2.4 Accounting Records.

Metro Mobile shall keep such full and detailed accounts of the components of the Costs and Cash Revenues as shall be necessary for the determination of the Amounts Due Metro Mobile to be paid hereunder by Wyndcell; provided, however, that the internal reporting formats, classifications, periods and methods used by Metro Mobile and its affiliates from time to time in their respective businesses shall be deemed to be adequate for the purposes hereof so long as such formats, classifications, methods and periods shall be adequate for the preparation of financial statements in accordance with generally accepted accounting principles.

2.5 Definitions.

For the purposes of this Article 2, the following terms shall have the following meanings:

2.5.1 "Amounts Due Metro Mobile" for any Relevant Period shall mean the sum of: (i) Costs not paid directly by Wyndcell during such Relevant Period; and (ii) the Fee due Metro Mobile for such Relevant Period as shown in the Statement for such Relevant Period.

2.5.3 "Commencement of Operations" shall mean the date of commencement of commercial operation of the System.

2.6 Deferral and Waiver.

It is understood and agreed by the parties that (a) payment of all Amounts Due Metro Mobile that are not paid out of Wyndcell's depository accounts in accordance with Section 2.3 hereof shall be deferred until the date which is the earliest of (i) the date the Construction Permit is owned by Metro Mobile or by an affiliate of Metro Mobile, subject to clause (b) of this Section 2.6, (ii) if an Option, as such term is defined in Section 3.1(e), is granted and such Option is not exercised during the Option Period, as such term is defined in Section 3.1(f), the earlier of (x) the first date following the termination of the Option Period on which financing for the construction of the System is in place and available to Wyndcell for such payment, and (y) the date which is 180 days after the termination of the Option Period, and (iii) December 31, 1992; and (b) if Metro Mobile or an affiliate of Metro Mobile acquires the Construction Permit, then Metro Mobile shall assume all Costs not theretofore paid out of Wyndcell's depository accounts and shall waive the Fee.

ARTICLE 3

TERM

3.1 Term

This Agreement shall be effective from the date hereof and shall terminate upon the first to occur of the following events:

- (a) The date which is forty-two (42) months after the date hereof (the period from the date hereof up to and including such date being referred to herein as the "Initial Term");
- (b) Upon a material breach by a party hereto of its obligations hereunder, the other party may give written notice of such material breach to such breaching party, whereupon this Agreement (except those provisions hereof which by their nature are continuing) shall terminate upon the giving by such other party of a notice of termination not earlier than the thirtieth day after the day such notice of breach is given (unless at such time such breach has been fully cured or, if such breach cannot be fully cured at such time, such other party has at such time commenced with due diligence to cure such breach);
- (c) On the date of any transfer by Metro Mobile CTS, Inc. ("MMCTS") of a controlling interest in Metro Mobile;
- (d) Unless either party hereto provides written notice of termination of this Agreement to the other party within one hundred eighty (180) days of the end of the Initial Term, this Agreement shall be automatically renewed for an additional term of ninety-

nine (99) years, subject to termination by either party hereto upon one year's prior written notice to the other party;

- (e) In the event that, prior to the Expiration Date (as hereinafter defined), MMCTS and/or an affiliate of MMCTS fail or refuse to enter into an agreement with Wyndcell (an "Option Agreement"), containing terms and conditions substantially as heretofore discussed among Wyndcell, MMCTS and Metro Mobile CTS of Windham, Inc. (the "Terms and Conditions"), pursuant to which MMCTS or an affiliate of MMCTS would be granted an option (an "Option") to acquire Wyndcell, by way of merger or otherwise, this Management Agreement shall automatically terminate on the date (the "Expiration Date") which is ninety (90) days after the latest of (x) the date on which MMCTS has effectively registered under the Securities Act of 1933, as amended (the "Securities Act"), any or all shares of its capital stock which may be issued to Wyndcell and/or its shareholders pursuant to the terms of such an Option Agreement, (y) the date on which any prospectus delivery requirements under the Securities Act or the rules and regulations promulgated thereunder (including without limitation any such requirements of the form to be used by MMCTS to so register such shares of its capital stock)

applicable to such issuance shall have been complied with and any related waiting periods shall have expired, and (z) the date as to which MMCTS determines in good faith that all other requirements of federal and state securities laws and regulations applicable to such issuance have been complied with; provided, however, that the failure of MMCTS and/or an affiliate of MMCTS to enter into such an Option Agreement prior to the Effective Date due to (i) the actions or inactions of Wyndcell, (ii) insistence by Wyndcell on terms or conditions to be included in the Option Agreement substantially different from the Terms and Conditions, or (iii) actions beyond the control of MMCTS and/or such affiliate shall not result in termination of this Management Agreement pursuant to this Section 3.1(e);

- (f) In the event that (i) an Option Agreement is entered into prior to the Expiration Date, and (ii) the Option is not exercised during the period (the "Option Period") in which such Option is exercisable in accordance with the terms of such Option Agreement, Wyndcell shall have the option, exercisable after the end of the Option Period, to terminate this Management Agreement upon ninety (90) days written notice to Metro Mobile, provided that the exercise of the Option at such time is within the

control of the holder of the Option and would not violate any applicable laws, including federal and state securities laws, applicable to the holder of the Option, and provided further that the determination of such holder not to exercise the Option is not based on the actions or inactions of Wyndcell;

(g) Wyndcell shall have the option, exercisable after November 1, 1991, to terminate this Management Agreement upon thirty (30) days written notice to Metro Mobile, if the System is not constructed by November 1, 1991, provided that all steps necessary to complete the construction are within the control of Metro Mobile and that the failure to complete construction by such time is not due to the refusal of Wyndcell to grant in timely fashion approvals and consents requested by Metro Mobile pursuant to this Management Agreement.

3.2 Effect of Termination

3.2.1 Upon termination of this Agreement, Metro Mobile shall promptly submit to Wyndcell a Statement of all Costs, Cash Revenues and Fees accrued through the date of termination and not covered by a previous Statement and shall pay to Wyndcell the amount, if any, to which Wyndcell is entitled pursuant to the terms hereof in respect of the period covered by such Statement. Within thirty (30) days of the receipt of such Statement, Wyndcell shall

pay to Metro Mobile any Amounts Due Metro Mobile as determined in such Statement. Wyndcell may conduct an audit (or cause an audit to be conducted) of the amounts specified in such Statement.

3.2.2 Subject to Article 4 hereof, promptly upon such termination, Metro Mobile shall turn over to Wyndcell all data, specifications, drawings and other related writings in its possession generated in the course of its performance of the Work and related to the Work. Metro Mobile shall be entitled to retain copies of such writings as it may, in its sole discretion, deem necessary or advisable. Metro Mobile shall continue to treat as confidential all such information retained by it.

ARTICLE 4

PROPRIETARY INFORMATION

4.1 Confidentiality.

In light of the confidential nature of the non-public, proprietary information which will be developed and owned by Wyndcell during the term of this Agreement, or which will be used by Metro Mobile in the performance of the Work and this Agreement, each party hereto will (and will not cause or permit any of its officers, employees or agents of its Affiliates or their officers, employees or agents (including without limitation any accountants performing an audit under Section 2.6 hereof) to do otherwise), receive and treat all confidential, proprietary, nonpublic

information so developed, including, without limitation, the Customer Programs, software, engineering and other technical data, business records, correspondence, cost data, customer lists, estimates, market surveys, trade secrets and other trade information (the "Information") as confidential, and keep, file and store such Information together with any notes or other material incorporating or relating to the Information, in a manner consistent with its confidential nature. Any information that (i) is now in or subsequently enters the public domain through means other than direct or indirect disclosure by any party hereto in violation of the terms of this Agreement or by any other person or entity in violation of an obligation of confidentiality; (ii) is already in the possession of the party receiving such information free of any obligation of confidence to any party; or (iii) is lawfully communicated to the party receiving the information by a third party, free of any confidential obligation, shall not constitute "Information" hereunder. The parties may use for internal purposes only any and all of the Information in any manner (including, without limitation, in their other business enterprises) which does not render the Information available to unaffiliated persons or entities and each party hereto may disclose the Information to unaffiliated persons or entities for use in the business and operations of such parties and their Affiliates under circumstances which restrict the use of such Information by such unaffiliated persons or entities to such business and operations; provided, however, that Wyndcell may not use or disclose any software or any

engineering or other technical data developed by Metro Mobile. Notwithstanding the foregoing provisions of this Section 4.1, any party may disclose Information required to be disclosed by any applicable law or any rule or regulation of any governmental entity having jurisdiction; provided, however, that the party making such disclosure shall (i) use its best efforts to limit such disclosure, (ii) in any event make such disclosure only to the extent required and (iii) give prior written notice to the other party of such requirement and the contents of the Information to be so disclosed.

4.2 Right to Equitable Relief

Each party acknowledges and agrees that neither monetary damages nor any other remedy at law will be adequate or sufficient to protect the other party from any threatened or actual breach of any of the respective obligations contained in Section 4.1 hereof. Accordingly, each party agrees that, in the event of a breach or threatened breach of any such obligation by a party, the other party shall have, in addition to and not in lieu of any damages sustained by such other party or any other remedies such other party may have, the right to equitable relief, including, without limitation, the issuance by any court of competent jurisdiction of an injunction against the commission or continuance of any such breach or threatened breach or an order compelling specific performance by such party of such obligations, in either case without the necessity of proving actual damages or posting a bond.

4.3 Patents.

All patents and patentable inventions owned or licensed by Metro Mobile or developed by Metro Mobile (not separately purchased or licensed by Wyndcell) in the course of performing the Work shall remain the sole property of Metro Mobile and Wyndcell shall have no right, title or interest in any such reasonable cooperation as may be requested in writing by the other party to protect such other party's rights in any material developed or used by such other party hereunder which may be protected under patent, copyright or other similar laws.

ARTICLE 5

LIMITATION ON LIABILITIES; REMEDIES

5.1 Limitation on Liability.

5.1.1 Metro Mobile shall perform the Work with diligence and with its then best knowledge and expertise. Notwithstanding any other provision contained herein, Metro Mobile shall in no event be liable for any incidental, special, indirect, exemplary or consequential damages (including, but not limited to, loss of use or lost profits), whether foreseeable or not, occasioned by Metro Mobile's failure to perform hereunder, delay in its performance or any other cause whatsoever, except as arise as a result of Metro Mobile's gross negligence or willful misconduct. Metro Mobile's liability for any acts or omissions occurring during any Year of Operations under or in connection with this Agreement, or

the consequence thereof, shall in no event exceed in the aggregate the aggregate Fee paid to Metro Mobile with respect to such Year of Operations or, with respect to any such liability arising prior to the Commencement of Operations, an amount in the aggregate equal to the aggregate Fee paid to Metro Mobile with respect to the first Year of Operations. No Fee shall be payable in respect of any period during which Metro Mobile is in material default of its obligations hereunder any Fee due with respect to any Year of Operations covering such period shall be reduced pro rata in proportion to the length of such period.

5.1.2 ANY AND ALL EXPRESS AND IMPLIED WARRANTIES RELATING TO THE WORK, THE EQUIPMENT AND THE SERVICE OF THE SYSTEM, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE OF USE, ARE EXPRESSLY EXCLUDED AND DISCLAIMED. IT IS EXPRESSLY AGREED THAT METRO MOBILE'S SOLE OBLIGATION, AND WYNDCELL'S EXCLUSIVE REMEDY, FOR ANY CAUSE WHATSOEVER ARISING OUT OF OR RELATING TO THE WORK, THE EQUIPMENT, THE SERVICE, THE SYSTEM AND THE TRANSACTIONS PROVIDED FOR HEREIN ARE EXCLUSIVELY SET FORTH HEREIN AND ALL OTHER REMEDIES, WHETHER LEGAL, EQUITABLE OR OTHER, OF ANY KIND ARE EXPRESSLY EXCLUDED. Metro Mobile makes no warranty, express or implied, to any person or entity concerning any of the Work, the Equipment, the Service or the System.

5.1.3 The limitations on liability set forth herein shall apply to all affiliates and subsidiaries of Metro Mobile.

5.2 Remedy.

5.2.1 Except as may have resulted from the acts or omissions of Wyndcell, Metro Mobile shall defend, indemnify and hold harmless Wyndcell from any claims, actions or other proceedings and any losses, damages or liabilities asserted by third parties in respect of personal injury or physical damage to property and arising out of or based upon the Work performed by Metro Mobile. Wyndcell shall defend, indemnify and hold harmless Metro Mobile from any claims, actions or other proceedings and any losses, damages or liabilities asserted by third parties in respect of personal injury or physical damage to property and arising out of or based upon any or act of Wyndcell, its affiliates, subsidiaries, agents and employees. These respective indemnities shall include any amounts paid in settlement of any such claims, actions, proceedings, losses, damages or liabilities and any legal fees and expenses incurred by Wyndcell or Metro Mobile.

ARTICLE 6

WARRANTIES AND REPRESENTATIONS

6.1 Representations and Warranties of Wyndcell: Wyndcell hereby represents and warrants to Metro Mobile as follows:

Legal Existence.

Organization; Good Standing.

Wyndcell is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Mississippi. Wyndcell has the corporate power and authority to own and use its properties and to transact the business in which it is engaged, to enter into this Agreement and any other agreements contemplated by this Agreement and to consummate the transactions contemplated hereby.

6.2 Authorization, Execution and Delivery of Agreement.

The execution, delivery and performance of this Agreement and all other agreements and transactions contemplated hereby have been duly authorized by Wyndcell and do not violate the Certificate of Incorporation or by-laws of Wyndcell. This Agreement constitutes a legal, valid and binding obligation of Wyndcell, enforceable against it in accordance with its terms.

6.3 Consents.

No provision of the Certificate of Incorporation or by-laws of Wyndcell requires the consent or authorization of any other

person or entity as a condition precedent to the consummation of the transactions contemplated by this Agreement, which consent or authorization, if not obtained, would have a substantial adverse effect on the consummation of the transactions contemplated by this Agreement.

6.4 Governmental Consents, Etc.

No consent, approval, order or authorization of, or registration, qualification, designation, declaration, or filing with, any governmental authority is required to be obtained by Wyndcell in connection with the transactions contemplated by this Agreement. Wyndcell has validly and legally obtained and duly holds all necessary licenses, certificates, consents, permits, approvals and authorizations of public or governmental bodies including, without limitation, the FCC and the states served by the System. Exhibit A hereto sets forth a true and accurate description of the Construction Permit as in effect on the date of this Agreement.

6.5 Representations and Warranties of Metro Mobile.

Metro Mobile hereby represents and warrants to Wyndcell as follows:

Legal Existence.

Metro Mobile is a corporation duly incorporated, validly existing and in good standing under the laws of the State of Connecticut. Metro Mobile has the corporate power and authority

to own and use its properties and to transact the business in which it is engaged, to enter into this Agreement and the other agreements contemplated hereby.

6.6 Authorization, Execution and Delivery of Agreement.

The execution, delivery and performance of this Agreement and all other agreements and transactions contemplated hereby have been duly authorized by Metro Mobile, and do not violate the corporate charter or by-laws of Metro Mobile. This Agreement constitutes a legal, valid and binding obligation of Metro Mobile, enforceable against it in accordance with its terms.

6.7 Consents.

No provision of the Certificate of Incorporation or by-laws of Metro Mobile requires the consent or authorization of any other person or entity as a condition precedent to the consummation of the transactions contemplated by this Agreement, which consent or authorization, if not obtained, would have a substantial adverse effect on the consummation of the transactions contemplated by this Agreement.

6.8 Governmental Consents, Etc.

No consent, approval, order or authorization of, or registration, qualification, designation, declaration, or filing with, any governmental authority is required to be obtained by

Metro Mobile in connection with the transactions contemplated by this Agreement.

ARTICLE 7

MISCELLANEOUS

7.1 Notice.

Any notice, request, demand, report, consent, offer or other document or instrument which may be required or permitted to be furnished to or served upon a party hereunder shall be in writing which shall be personally delivered or sent by electronic mail, telegram, facsimile transmission (upon confirmation of receipt), cable or telex or deposited in the United States mail, registered or certified mail, return receipt requested, postage prepaid, addressed to the party entitled to receive the same at its address set forth below (or such other address as such party shall designate by notice to the other party given in the manner set forth herein):

If to Wyndcell to:

Wyndcell Corporation
248 East Capital, Suite 740
Jackson, Mississippi 39201
Attn: Mr. Arthur Clark III

If to Metro Mobile to:

Metro Mobile CTS of the Northeast, Inc.
c/o Metro Mobile CTS, Inc.
110 East 59th Street
New York, New York 10022
Attn: Vice President-General Counsel

Any notice given by telephone shall be confirmed promptly in writing in the manner set forth above.

7.2 Construction.

The article and section numbers and captions appearing in this Agreement are inserted only as a matter of convenience and are in no way intended to define, limit, construe or describe the scope of intent of such articles or sections, or in any way affect this Agreement. Words in the singular shall be read and construed as though in the plural and vice versa, and words in the masculine, neuter or feminine gender shall be read and construed as covering each of the other genders, where the context so requires.

7.3 Severability.

If any provision of this Agreement, or the application thereof to any person or circumstance, shall, for any reason or to any extent, be invalid or unenforceable, such invalidity or unenforceability shall not in any manner affect or render invalid or unenforceable the remainder of this Agreement, and the application of that provision to other persons or circumstances shall not be affected but, rather, shall be enforced to the extent permitted by law.

7.4 Force Majeure.

Any failure by Metro Mobile to perform any aspect of the Work shall not be breach of this Agreement if such failure results from any act or omission to act by Wyndcell or by labor disputes, fire, unusual delay in transportation, adverse weather conditions, casualty, act of God or any governmental authority or any cause beyond Metro Mobile's control delay authorized by Wyndcell.

7.5 Further Assurances.

Each party hereto shall cooperate and shall take such further action and shall execute and deliver such further documents as may be reasonably requested by the other party hereto in order to effectuate or facilitate the purpose and intent of this Agreement and each party shall use its best efforts to obtain any regulatory approvals required for the performance of this Agreement in accordance with the terms hereof.

7.6 Assignment.

The parties hereto may not assign any of their respective rights or interests hereunder to any person, corporation, firm, trust or other entity without the prior written consent of the other party, which consent shall not be unreasonably withheld. Notwithstanding anything herein to the contrary, if Wyndcell and an affiliate of Metro Mobile form a partnership (the "Partnership") and Wyndcell assigns the Construction Permit to the Partnership, this Agreement shall automatically be assigned to the Partnership,

without the necessity of obtaining the consent of Metro Mobile, at such time as the Construction Permit is assigned to the Partnership.

7.7 Entire Agreement.

This Agreement contains the complete agreement between the parties hereto with respect to the subject matter hereof, and all prior agreements, covenants, representations and warranties between the parties hereto respecting the subject matter hereof, whether written or oral, are merged herein and shall be of no further force or effect and no representation or warranty shall have force or effect or shall survive unless specifically and expressly stated herein. This Agreement cannot be changed, modified, discharged or terminated, except by an instrument in writing signed by all of the parties hereto.

7.8 No Third Party Beneficiaries.

This Agreement shall be binding upon, and insure solely to the benefit of, the parties hereto and their respective successors and permitted assigns and no other person acquire or have any right under or by virtue of this Agreement.

7.9 Governing Law.

This Agreement, and all amendments hereof and waivers and consents hereunder, shall be governed by, and construed and enforced in accordance with, the internal law of the State of

Connecticut without giving reference to principles of conflict of laws.

7.10 Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall constitute an original and all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

METRO MOBILE CTS OF THE
NORTHEAST, INC.

By: Michael W. Riley
Name:
Title:

WYNDCELL CORPORATION

By: Arthur B. Chubb
Name:
Title: *President*

SWITCH USE AGREEMENT

SWITCH SHARING AGREEMENT, dated as of this 5th day of August, 1991, between Wyndcell Corporation, a Mississippi corporation ("Lessee"), and Metro Mobile CTS of Hartford, Inc., a Connecticut corporation ("Lessor").

WHEREAS, Lessor has constructed a non-wireline cellular radio system to serve the Hartford, Connecticut Metropolitan Statistical Area (the "Lessor MSA") pursuant to a construction permit from the FCC; and

WHEREAS, Lessee has been authorized to construct the Block A cellular radio system to serve the Frequency Block A in Rural Area #2, comprised of Windham County, in the State of Connecticut (the "Lessee RSA") pursuant to a construction permit from the FCC (the "Permit"); and

WHEREAS, the parties desire to enter into an agreement to provide for the non-exclusive license and lease by Lessor to Lessee of the Switch (as hereinafter defined) all on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained, it is hereby agreed as follows:

ARTICLE I

Definitions

- 1.1 "Lessee System" shall mean all equipment (including, but not limited to, microwave equipment), hardware, software, and related facilities required to construct and operate a cellular radio system in the Lessee RSA other than a Switch, and to deliver voice and data signals transmitted thereon to the Switch (as defined below). "Lessee System" shall not include any type of hardware, software, equipment or facilities, required to operate the cellular radio system serving the Lessor RSA, and necessary to such service whether or not the Lessee System was using the capacity of the Switch.
- 1.2 "Switch" means the Motorola Cellular Processor switching equipment purchased by Lessor, including, without limitation, all hardware, software and ancillary and associated equipment and facilities located at the Switch and required for the Switch to operate in accordance with its specifications. "Switch" does not include any equipment and facilities which are part of the Lessee System, and specifically excludes (a) all antennae, cell site, and cell-site-to-switch-interconnection equipment associated with the Lessee System, and (b) any other

equipment or facilities necessary or appropriate to deliver data traffic from the Lessee System to the Switch.

ARTICLE II

Purchase and Installation

- 2.1 The Switch has been purchased by and is owned by Lessor, subject to the limited rights of Lessee to share basic switching capacity as hereinafter provided.
- 2.2 Lessee shall be fully responsible for the purchase, financing and replacement of the Lessee System, and shall own the Lessee System free and clear of any rights of Lessor. All costs incurred by Lessor in connection with installation and connection of the Lessee System to the Switch, including but not limited to the time of Lessor's employees, shall be borne by Lessee and shall be billed to Lessee as costs hereunder.
- 2.3 Lessee shall bear all costs of constructing the Lessee System and delivering the voice and data traffic carried thereon to the Switch. If any item of equipment or software, i.e., VGI cards and skip cards, etc., must be added to the Switch or to the Lessee System in order to facilitate Lessee's use of the Switch hereunder, Lessee shall bear all costs associated with such item provided that Lessee shall retain ownership of such item unencumbered by Lessor or any party claiming through Lessor.
- 2.4 If at any time the parties are unable to agree whether an item or equipment is part of the Switch or part of the Lessee System, such dispute shall be submitted to arbitration in accordance with Article IX hereof.
- 2.5 Lessee acknowledges that Lessor is entering into this Agreement and calculating the rate of Rental payable hereunder based upon the assumption that the Switch has adequate switching capacity to provide basic switching for both Lessor's System, the Lessee System, and other cellular radio systems without additional capacity or upgrades. If the demand for cellular radio services in the Lessor MSA, the Lessee RSA, and areas served by other cellular radio systems reaches the point that the switching capacity of the Switch is surpassed, Lessee agrees that Lessor may allocate switching capacity in such manner as Lessor deems appropriate.

ARTICLE III

Lease, Operation and Maintenance

- 3.1 Lessor hereby leases to Lessee the non-exclusive use of the Switch on the terms and conditions herein set forth. Lessor also hereby grants Lessee a license, for the Term of this Agreement, to attach the Lessee System to the Switch.
- 3.2 Subject to the rights reserved to Lessor in Paragraph 2.5, Lessor hereby covenants and agrees that during the Term of this Agreement, it shall operate the Switch so as to cause the Lessee System to be run off the Switch, without the need for an additional switch. The Switch shall be operated and maintained to perform the same functions with regard to the Lessee System as the Switch performs with respect to the Lessor's systems (collectively "Lessor's System"). Those functions will include, without limitation, processing calls, cell-to-cell handoff, control of interconnection with the landline telephone system, production of computer tapes (or comparable medium) containing basic billing information and (when available from Vendor and when applicable to Lessor's System) intersystem handoff and automatic roaming. Any and all changes, improvements, modifications, updates to and new capabilities of the Switch shall be made available to Lessee on an equal and non-discriminatory basis. Lessee, however, shall have no right to cause Lessor to purchase or provide Lessee any additional feature or improvement which Lessor chooses not to install for its own use in serving the Lessor MSA.
- 3.3 Lessor shall operate the Switch as a reasonably prudent cellular operator similarly situated would operate such Switch, without discriminating in favor of or against any system.
- 3.4 Lessor shall at its sole expense maintain, or cause to be maintained, the Switch, and shall repair or cause to be repaired all components of the Switch. Lessee shall, at its sole expense, maintain, or cause to be maintained, the Lessee System. Lessor shall reasonably cooperate with Lessee in Lessee's efforts to maintain or repair the Lessee System, but shall have no other obligation to remedy a defect in the Lessee System, except as separately provided.
- 3.5 If Lessee requests, Lessor shall provide to Lessee direct access to the Switch for purposes of activating a Lessee's subscriber's telephone number, for registration of roamers, for discontinuing, or turning off, a Lessee's

subscriber's telephone number, and (upon reasonable notice and at a reasonable time) for inspection, maintenance and repair of the Lessee System and inspection of the Switch. Lessor shall define the procedures to be followed by Lessee with regard to its access to the Switch; provided, however, that such access shall be reasonable considering all of the circumstances. Lessor shall at its option connect Lessee in such a manner to screen its commands (such as through Lessor's computer) such that Lessee has access to its own system, and not to the common equipment or data of others on the Switch. All costs incurred with regard to direct access for Lessee (including, without limitation, all hardware and software modification charges relating to the Switch or otherwise, all installation charges, the costs of any other equipment or labor to permit such direct access, and all continuing costs directly related thereto) shall be identified by the parties at the time of ordering direct access, and shall be the sole responsibility of Lessee. If at the time of ordering direct access, the parties are unable to agree upon identification of the costs incurred with regard thereto, such dispute shall be submitted to arbitration in accordance with Article IX hereof.

3.6 In accordance with reasonable procedures to be defined by Lessor, Lessee, upon request to Lessor, shall have the right to obtain from Lessor information on Lessee's subscriber accounts; such information to be made as available to Lessee as the same information with respect to Lessee's subscribers is available to Lessor. Lessor shall provide Lessee with computer tapes (or comparable media) containing basic billing information, but Lessee shall bear all costs associated with converting such information into subscriber bills. Lessor shall have no authority or responsibility to arrange or manage production of Lessee's subscriber bills, except as provided for separately.

3.7 Lessee may contract separately with Lessor or an affiliate of Lessor to maintain and repair Lessee's System. However, notwithstanding anything to the contrary contained in this Agreement, if there is any failure in the interconnection (whether via microwave, cable or other means) between the Switch and any cell in Lessee's System, Lessor's sole obligation under this Agreement with respect to such failure shall be to repair or replace any faulty portion of the Switch, if any, and to use reasonable efforts to cooperate with Lessee in facilitating Lessee's efforts to correct such failure. Other than Lessor's duty of cooperating, Lessee shall have the sole responsibility for correcting any

such failure. Promptly upon discovery of any such failure, the party that discovered such failure shall notify the other party thereof.

- 3.8 The Switch shall be operated in accordance with all applicable state and federal rules and regulations, including those of the FCC, in such a manner as to effectuate the intent and purpose of this Agreement. Lessor, therefore, with the advice and assistance of Lessee, shall maintain in full force and effect all necessary federal, state or local regulatory agency authorizations, and shall make timely filing of all requests for renewals or replacements thereof, and shall supply all such agencies with all other required information, which relate to the operation of the Switch as provided in this Agreement. In addition, during the Term of this Agreement, each of the parties will observe and comply with all laws, rules, regulations, ordinances, codes, orders, licenses and permits relating to any of their respective properties or applicable to their respective businesses.

ARTICLE IV

Compensation

- 4.1 For the lease and license granted to Lessee by Lessor hereunder, Lessee shall pay to Lessor Rental and Costs as specified in Attachment "A" hereto.
- 4.2 There shall be no charge for uncompleted calls, including calls which are not answered by the party called, or on which the caller receives a busy signal.
- 4.3 "Costs" payable by Lessee hereunder shall include all long-distance or other toll charges including roamer charges or charges which are otherwise attributable to use of the Lessee System by Lessee or its subscribers. Lessee shall also be responsible for all cell-site-to-switch interconnection costs and for all switch-to-PSTN ("Public Switched Telephone Network") interconnection costs which are attributable to use of the Switch by Lessee or its subscribers. Lessor shall have no responsibility for the costs of such interconnection. Costs shall also include any costs incurred by Lessor in the installation and connection of the Lessee System or in providing Lessee with direct access to the Switch (as described in Sections 2.2 and 3.5 hereof).
- 4.4 If, at any time during the Term of this Agreement, Lessee desires to review the calculation of Rental and Costs

hereunder, it shall have the right, upon reasonable notice, at reasonable intervals, and during normal business hours, to review with Lessor the calculation of Rental and Costs.

- 4.5 Lessor shall submit to Lessee within 30 days after the end of each month an invoice listing Rental and Costs payable by Lessee hereunder (provided that any invoices for Switch-to-PSTN interconnection or toll charges which are received by Lessor after such 10-day period shall appear on a later month's invoice to Lessee). Lessee shall pay such invoice in full within 30 days of receipt thereof, without deduction or offset. Any disputes regarding amounts payable by Lessee for Rental and Costs which cannot be resolved by the parties shall be resolved by arbitration in accordance with Article IX hereof.
- 4.6 Lessor may from time to time set up handoff between various systems on the Switch to facilitate a better service to the subscriber. A call shall be attributed, with respect to cost and customer billing, to the system on which the call is shown to originate on the billing tape. If software is made available to proportion the time used on each system, then, at Lessee's request, an arrangement will be entered into which allows sharing of revenue.

ARTICLE V

Representations and Warranties

- 5.1 Each of the parties hereto hereby represents and warrants to the other, which representations and warranties shall survive the execution of this Agreement and the consummation of the transactions contemplated hereby, as follows:
- a. It is a corporation organized and validly existing under the laws of the jurisdiction of its organization;
 - b. It has full power and authority to execute and perform this Agreement;
 - c. The execution, delivery, and performance of this Agreement have been duly authorized by all necessary action on its part and is binding and enforceable against it;
 - d. The execution, delivery, and performance of this Agreement will not conflict with, result in a

breach of, or cause a default under, with or without the giving of notice or the passage of time, or both, of its Articles of Incorporation, By-Laws or any material agreement or instrument to which it is a party or by which it or any of its property is bound, nor will it conflict with or violate any statute, law, rule, regulation, order, decree, or judgment of any court or governmental authority which is binding upon it or its property;

- e. There are no undisclosed actions, suits or proceedings pending against it, or to its knowledge threatened against it, which might have a materially adverse effect upon its business operations or financial condition or its ability to perform its obligations under this Agreement; and
- f. It is, and will for the Term hereof remain, qualified to hold a Block A cellular construction permit or operating license, as appropriate, pursuant to FCC and state regulatory rules and regulations.

ARTICLE VI

Term and Termination

- 6.1 The Term of this Agreement ("Term") shall commence on the date hereof and shall terminate on the second anniversary date hereof and thereafter shall be renewed automatically for successive terms of one (1) year each unless either party gives written notice to the other party of its intention to terminate this Agreement at least ninety (90) days prior to the end of the then-current term.
- 6.2 If at any time during the Term of this Agreement Lessor breaches this Agreement, and such breach remains uncured for forty-five (45) days after written notice thereof by Lessee, then in such event, in addition to other remedies available to it, Lessee shall have the right to terminate this Agreement upon not less than 15 days' notice to Lessor, without payment of any penalty or other amount to Lessor (except for amounts due Lessor hereunder for periods prior to the expiration date).
- 6.3 In the event: (i) Lessee fails to make payment of Rental and Costs hereunder, which failure continues for a period of 20 days after notice of such failure; (ii) Lessee, or any transferee (by operation of law or otherwise) of the Lessee System, loses its license or authority to operate such system by final order of the FCC or court of

competent jurisdiction for a period of more than 30 days, or (iii) Lessee or any transferee (by operation of law or otherwise) of the Lessee system discontinues its business of operating such system for a period of more than 30 days, then in any of such events Lessor shall have the right to terminate this Agreement upon 10 days written notice.

- 6.4 In the event Lessee materially breaches that certain management agreement between Lessee and an affiliate of Lessor (the "Affiliate"), dated April 17, 1991 (the "Management Agreement"), which breach gives Affiliate the right to terminate the Management Agreement, or if the Management Agreement otherwise terminates or expires, the Lessor shall have the right to terminate this Agreement upon thirty (30) days notice to Lessee.
- 6.5 After termination of this Agreement, Lessor shall own the Switch (excluding any component which is part of the Lessee System) free and clear of all liens, claims or rights of Lessee.
- 6.6 Notwithstanding anything to the contrary contained in this Agreement, except as specifically provided herein, in the event of any dispute between the parties hereunder, there shall be no interruption of Lessee's use of Switch unless so ordered by an arbitrator, by the Federal Communications Commission, by any state regulatory authority, or by any other governmental or regulatory agency having jurisdiction.
- 6.7 Notwithstanding anything to the contrary herein contained or in any other agreement, except as provided herein, Lessor shall not have any right, whether by reason of its bankruptcy, dissolution, loss of its license to operate a cellular system in the Lessor MSA, or otherwise, to discontinue operating the Switch for the benefit of Lessee as herein provided. In the event that (a) Lessor (or its successors or assigns) loses its license to operate a cellular system in the Lessor MSA, (b) an event of a default by Lessor (or its successors or assigns) occurs under any agreement pursuant to which any person is granted a lien on or other security interest in the Switch, or any other rights to the Switch, the Switch shall nevertheless be operated by Lessor (or its successors or its assigns), or such other party, for a period of at least nine (9) months, on a month-to-month basis, so as to operate the Lessee System as herein provided; provided, however, that in any such event, the amount payable by Lessee hereunder for its use of the Switch shall include not only Rental and Costs but also all other costs incurred by Lessor or such other party in

connection with the continued possession and operation of the Switch, including, without limitation, rent, personnel, salaries, expenses, financing expenses, maintenance costs and the like.

ARTICLE VII

Limitation of Liability

- 7.1 Neither of the parties hereto will be liable for non-performance or defective or late performance of any of its obligations hereunder to the extent and for such periods of time as such non-performance, defective performance or late performance is due to circumstances outside such party's control, including without limitation, acts of God, war (declared or undeclared), acts (including failure to act) of any governmental authority, riots, revolutions, fire, floods, explosions, sabotage, nuclear incidents, lightning, weather, earthquakes, storms, sinkholes, epidemics, strikes, or delays of suppliers or subcontractors for the same causes.
- 7.2 Neither party will be responsible for direct or consequential damages arising out of this Agreement except to the extent caused by the willful misconduct or gross negligence of such party.

ARTICLE VIII

Miscellaneous

- 8.1 Each of the parties hereto hereby covenants that, during the Term of this Agreement and thereafter, neither it, nor any of its employees, agents, officers or directors, will at any time make use of, divulge or disclose to any person, firm or corporation any confidential or proprietary information about the other party, its businesses, financial condition, operations or otherwise (including, without limitation, any information concerning the other party's subscribers, their names, addresses or telephone numbers), whatever the source of such confidential or proprietary information; provided, however, that this confidentiality agreement shall not apply to information which is in the public domain through no act of the party desiring to disclose such. Nothing herein shall restrict the right of any party to disclose confidential or proprietary information which is ordered to be disclosed pursuant to judicial or other

lawful governmental action, but only to the extent so ordered, or as otherwise required by applicable law or regulation. Upon termination of this Agreement, each party shall return to the other all confidential and proprietary information concerning the other which exists in written form. Each of the parties acknowledges and confirms that any failure on its part to adhere strictly to the terms and conditions of this paragraph is likely to cause substantial and irreparable injury to the other party. Accordingly, each party confirms and agrees that, in addition to all other remedies to which the other party may be entitled under this agreement or at law or in equity, the other party shall be entitled to specific performance and other equitable relief, including temporary and permanent injunctive relief to enforce the provisions of this paragraph.

- 8.2 Nothing herein is intended, or shall be construed, to create a joint venture, partnership or other common business entity as among Lessor and Lessee, and nothing herein is intended or shall be construed, to impair or diminish Lessee's control over its non-wireline cellular radio system in the Connecticut RSA No. 2, Lessee's control over the Lessee System, or Lessor's control over the Lessor System or the Switch. This Agreement is not intended, nor shall it be construed to make Lessor the agent or co-licensee of Lessee, nor Lessee the agent or co-licensee of Lessor. Neither of the parties shall have the authority to bind or commit the other party in any respect or to accept legal process on behalf of the other party. Nothing herein gives Lessee or Lessor claim to the subscribers of the other or to revenues of the other derived from its respective non-wireline cellular radio system. Moreover, Lessor and Lessee agree that nothing herein is intended, nor should be interpreted, to vest in third parties any of the rights conferred on Lessor or Lessee hereunder, except as to successors and assigns.
- 8.3 The performance of any obligations of any party hereunder or the exercise of any rights hereunder by a party hereto that may require Federal Communications Commission or state or local regulatory authority approval shall be subject to obtaining such approval. Until such Federal Communications Commission or state approval is obtained, neither party will do anything which is contrary to the interests of the other party with respect to the subject matter hereof.
- 8.4 Notices provided for by this Agreement shall be in writing and shall be effective only if hand delivered, sent by overnight courier service, or sent by certified

U.S. Mail, postage prepaid, return receipt requested, to the following addresses:

If to Lessor: Metro Mobile CTS of Hartford, Inc.
c/o Metro Mobile CTS, Inc.
110 East 59th Street
New York, New York 10022
Attention: Vice President and General Counsel

If to Lessee: Wyndcell Corporation
248 East Capital, Suite 740
Jackson, Mississippi 39201
Attn: Mr. Arthur Clark, III

8.5 This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns; provided, however, that Lessee shall not be permitted to assign any of its rights without the prior written consent of Lessor, which consent will be not unreasonably withheld. Notwithstanding anything herein to the contrary, if Lessee and an affiliate of Lessor form a partnership (the "Partnership") and Lessee assigns the Permit to the Partnership, this Agreement shall automatically be assigned to the Partnership, without the necessity of obtaining the consent of Lessor, at such time as the Permit is assigned to the Partnership. Nothing contained herein shall be deemed to create any rights enforceable by any person other than (i) a party hereto or (ii) the permitted successor or assign of a party hereto.

8.6 This Agreement expresses the entire understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior agreements among them relating to the subject matter hereof and no representations, oral or written, other than those contained herein, shall have any force or effect. Amendments hereto shall be effective only if made in writing and executed by all parties.

ARTICLE IX

Arbitration

9.1 In the event any dispute arises hereunder which cannot be settled by the parties, the parties agree than any such controversy or claim arising out of or relating to this Agreement or the breach hereof shall be settled by arbitration before three arbitrators in accordance with the Commerical Arbitration Rules of the American Arbitration Association then in effect. The arbitration shall take place in the Lessor MSA. Judgment on the award may be entered in any court in the state in which the Lessor MSA is located having jurisdiction over the party against which the judgment has been rendered, which judgment shall be conclusive and binding on the parties hereto. The arbitrators shall be limited, in granting any relief, to comply with the express provisions of this Agreement relating to damages or the limitation thereof.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LESSOR:

METRO MOBILE CTS OF HARTFORD, INC.

By: 

Name: MICHAEL W. RILEY
Title: VICE PRESIDENT OF OPERATIONS

LESSEE:

WYNDCELL CORPORATION

By: 

Name: ARTHUR B. CLARK III
Title: PRESIDENT

ATTACHMENT "A"

WINDHAM COUNTY, CONNECTICUT

RSA NO. 358

BASIC SYSTEM CHARGES

News Release**Ⓢ Bell Atlantic**

Contact: Bell Atlantic

Jay Grossman 215-963-6521 office
 215-925-7929 home

Nancy Stark 215-963-6777 office
 908-542-4459 home

Metro Mobile

John E. Brennan 212-605-0800 office

FOR RELEASE: Tuesday, September 24, 1991

BELL ATLANTIC TO ACQUIRE METRO MOBILE FOR \$2.5 BILLION

PHILADELPHIA/NEW YORK -- Bell Atlantic Corporation (NYSE:BEL) today announced that it has agreed to acquire the cellular telephone and certain other operations of Metro Mobile CTS, Inc. (AMEX:MMZ.A, MMZ.B) for approximately \$1.65 billion pursuant to a stock-for-stock merger agreement. In addition, Bell Atlantic will assume some \$800 million in Metro Mobile debt.

Metro Mobile is expected at closing to own or control 11.5 million populations served -- or pops -- in Connecticut, Rhode Island and Massachusetts (the northeast property), North Carolina and South Carolina (the southeast property) and Arizona, New Mexico and El Paso, Texas (the southwest property).

"We are tremendously pleased at being able to acquire one of

(more)

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the premier wireless communications properties available in the United States today," said Bell Atlantic Chairman and Chief Executive Officer Raymond W. Smith. "With this acquisition, our wireless enterprise, Bell Atlantic Mobile Systems, will grow by 50% to become one of the largest cellular telephone carriers in the nation with 34 million pops.

"What's more, this will consolidate our position as the leading cellular company on the east coast, permitting us to meet customer requirements for a supra-regional wireless footprint over key markets. This, and our expanded operations in new geographic areas, will allow more aggressive development and higher prospective penetration rates.

"With this step, Bell Atlantic Mobile Systems will move closer to its vision of becoming a leading wireless communications provider. This acquisition will enhance Bell Atlantic's ability over the longer term to achieve our earnings goal at the upper end of our 6% to 9% target range."

Metro Mobile Chairman and Chief Executive Officer George L. Lindemann said, "We are extremely pleased to announce this merger. This transaction is a triple win -- for Metro Mobile shareowners, customers and employees.

"Our desire has been to achieve maximum value for all our shareowners, which we believe this transaction provides. We will become partners with a dynamic communications company, on the cutting edge of new technologies.

(more)

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"Our customers will also benefit over the long term with Bell Atlantic as their supplier. Bell Atlantic has a history of quality service. Its expertise in the communications field and its financial resources will well serve our existing and potential customers," Lindemann said.

"Finally, this opens new horizons for our employees. They will become part of a much larger organization, providing new opportunities for career developments."

Metro Mobile is the nation's second largest independent owner and operator of cellular telephone systems.

Currently, Bell Atlantic Mobile Systems has 22.1 million pops. With this acquisition, that number will rise to 33.6 million and will include two thirds of the pops in major cities in the Massachusetts to South Carolina corridor and some of the most lucrative roaming markets on the East Coast.

Bell Atlantic Corporation, based in Philadelphia, is the parent company of New Jersey Bell, Bell of Pennsylvania, Diamond State Telephone (Delaware), and the Chesapeake and Potomac Telephone Companies of Maryland, Virginia, West Virginia and Washington, D.C.

Bell Atlantic also is the parent of companies that provide business systems services for customer-based information technology, including software, systems integration, hardware and software services and support, and financial services throughout the U.S. and internationally. In addition, Bell Atlantic

(more)

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International offers network services and consulting to telephone authorities throughout the world and, in conjunction with Ameritech, owns a majority interest in Telecom Corporation of New Zealand.

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