

Dated: December 28, 1994.

**David J. Kling,**

*Acting Director, Office of Pollution Prevention and Toxics.*

[FR Doc. 95-252 Filed 1-4-95; 8:45 am]

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**FEDERAL COMMUNICATIONS COMMISSION**

[CC Docket No. 94-136, FCC 94-298]

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice of Hearing Designation Order.

**SUMMARY:** Cellular application of Ellis Thompson Corporation (Thompson) is designated for hearing. The Commission has determined that a substantial and material question of fact exists as to whether American Cellular Network Corporation (Amcell) is a real-party-in-interest in Thompson's application. The hearing will examine the relationship between Thompson and Amcell and determine whether Thompson has the requisite character qualifications necessary to hold the cellular license for Frequency Block A in Market 134, Atlantic City, New Jersey.

**ADDRESSES:** Federal Communications Commission, Washington, D.C. 20554.

**FOR FURTHER INFORMATION CONTACT:** Joseph Weber, Mobile Services Division, Common Carrier Bureau (202) 418-1300.

**SUPPLEMENTARY INFORMATION:** This is a summary of Memorandum Opinion and Order and Hearing Designation Order in CC Docket 94-136, adopted November 18, 1994, and released November 28, 1994.

The full text of Commission decisions are available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, D.C. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, D.C. 20037, (202) 857-3800.

**Summary of Memorandum Opinion and Order and Hearing Designation Order**

The Commission has designated for hearing the application of Ellis Thompson Corporation for facilities in the Domestic Public Cellular Radio Telecommunications Service on Frequency Block A in Market No. 134, Atlantic City, New Jersey. The Commission found that the evidence in

the case disclosed a pattern of circumstances raising a substantial and material question of fact as to whether Thompson permitted American Cellular Network Corporation (Amcell) to become a real-party-in-interest in its application. Those circumstances included: (1) Amcell's status as the prospective purchaser of the system; (2) the failure of Thompson to receive profits; (3) Amcell's substantial financial exposure; (4) Amcell's specific assumption of control over litigation related to its management; (5) Amcell's broad management responsibilities under a long-term agreement; and (6) the consolidation of the facilities and staff of the Atlantic City system and Amcell's operations in adjacent areas.

Because the Commission believes that a substantial and material question of fact exists about the relationship between Thompson and Amcell, it has designated an issue for hearing to determine whether Amcell is a real-party-in-interest in Thompson's application. The hearing will also determine, based upon the evidence, whether Thompson has the necessary qualifications to hold the license for Block A in Market No. 134, Atlantic City, New Jersey.

Pursuant to Section 309(e) of the Communications Act of 1934, as amended, Thompson's application has been designated for hearing upon the following issue listed below:

To determine whether American Cellular Network Corporation is a real-party-in-interest in the application of Ellis Thompson Corporation for a cellular radio system on frequency Block A in Atlantic City, New Jersey and, if so, the effect thereof on Ellis Thompson corporation's qualifications to be a Commission licensee.

The Commission further noted that the applicant and parties to this proceeding may avail themselves of an opportunity to be heard by filing written notices of appearance under 47 CFR 1.221(c), within 20 days of the mailing of this order by the Secretary of the Commission.

**William F. Caton,**

*Acting Secretary.*

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[Report No. 2049]

**Petition for Reconsideration and Clarification of Actions in Rulemaking Proceedings**

December 30, 1994

Petition for reconsideration have been filed in the Commission rulemaking

proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3800. Opposition to these petitions must be filed January 20, 1995. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject:

Implementation of Sections 3(n) and 332 of the Communications Act. (GN Docket No. 93-252)

Regulatory Treatment of Mobile Services.

Amendment of Part 90 of the Commission's Rules To Facilitate Future Development of SMR System in the 800 MHz Frequency Band. (PR Doc. No. 93-144)

Amendment of Parts 2 and 90 of the Commission's Rules To Provide for the Use of 200 Channels Outside the Designated Filing Areas in the 896-901 MHz and 935-940 MHz Band Allotted to the Specialized Mobile Radio Pool. (PR Doc. No. 89-553)

Number of Petitions filed: 16.

Subject:

Revision of Part 22 of the Commission's Rules Governing the Public Mobile Services. (CC Docket No. 92-115)

Amendment of Part 22 of the Commission's Rules to Delete Section 22.119 and Permit the Concurrent Use of Transmitters in Common Carrier and Non-Common Carrier Service. (CC Docket No. 94-46, RM-8367)

Amendment of Part 22 of the Commission's Rules Pertaining to Power Limits for Paging Stations Operating in the 931 MHz Band in the Public Land Mobile Service. (CC Docket No. 93-116)

Number of Petitions filed: 36.

Federal Communications Commission.

**William F. Caton,**

*Acting Secretary.*

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