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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 90.135(a)(8))
of the Commission's Rules and)
Regulations Concerning Modification)
of Licenses for Paging Operations)

PR 92-78
RM- 7749

ORIGINAL
FILE

To: The Commission

PETITION FOR RULE MAKING
OF THE
ASSOCIATION FOR PRIVATE CARRIER PAGING SECTION
OF THE
NATIONAL ASSOCIATION OF BUSINESS
AND EDUCATIONAL RADIO, INC.

The Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. ("APCP") by its attorneys, respectfully submits, pursuant to Section 1.401 of the Commission's Rules, 47 C.F.R. §1.401, a Petition for Rule Making which seeks to amend Section 90.135(a)(8) of the Commission's Rules to exempt Private Carrier Paging systems operating on paging-only frequencies from the license modification requirement contained in Section 90.135(a)(8). In support thereof, the following is shown:

I. BACKGROUND

NABER is a national, non-profit, trade association headquartered in Alexandria, Virginia, that represents the interests of large and small businesses that use land mobile radio communications as an important adjunct to the operation of their businesses and that hold thousands of licenses in the private land mobile radio services. NABER has five membership sections

representing Users, Private Carrier Paging licensees, Radio Dealers, Technicians and Specialized Mobile Radio operators. NABER's membership comprises over 6,000 of these businesses and service providers holding thousands of licenses in the private land mobile services.

For the past 19 years, NABER has been the recognized frequency coordinator in the 450-470 MHz and 470-512 MHz bands for the Business Radio Service. NABER is also the Commission's recognized frequency coordinator for the 800 MHz and 900 MHz Business Pools, 800 MHz "old" conventional channels for Business eligibles and conventional SMR Systems, and for the 929 MHz paging frequencies. In its Report and Order in PR Docket No. 83-737, the Commission designated NABER as the frequency coordinator for all Business Radio Service frequencies below 450 MHz and, in a joint effort with the International Municipal Signal Association ("IMSA") and the International Association of Fire Chiefs ("IAFC"), the Special Emergency Radio Service frequencies.

In 1989, NABER established the Association for Private Carrier Paging ("APCP"). Since that time, the Association has grown to include in its membership over 200 companies. This group has been actively involved in a variety of Commission proceedings, including filing separate Comments on behalf of APCP in PR Docket No. 88-548 (Frequency Coordination) and PR Docket No. 89-552 (Allocation of 220 MHz). APCP has developed committees which have met with Commission officials on several occasions to discuss issues of importance to APCP, and APCP committees are currently exploring

means by which paging systems can more efficiently share the scarce spectrum made available for private carrier paging.

Section 90.135(a)(8) of the Commission's Rules requires licensees of land mobile stations to modify their licenses when there is a change of 50 or more units in the number of paging receivers in the system. The rule was created by the Commission in 1986 as part of the Commission's revamping of the frequency coordination rules.¹ This section was in response to concerns raised by the Manufacturers Radio Frequency Advisory Committee, Inc. ("MRFAC") in the proceeding that coordinators would not be aware of licensees' changes in paging units which would affect the use of a frequency. The Commission selected 50 units as a "reasonable benchmark for changes that could affect a frequency recommendation."²

II. PCP SYSTEMS SHOULD BE EXEMPT FROM §90.135(A)(8)

In general, Section 90.135(a)(8) has been an effective means by which a coordinator can be made aware of changes in the number of paging receivers on a system which can affect the frequency coordination process. This is especially true with systems which are a mix of two-way and paging units. As such systems are necessarily licensed on frequencies which are available for both two-way and paging communications, changes in as little as 50 paging units can dramatically affect the utilization on the

¹Report and Order, PR Docket No. 83-737, 60 RR 2d 41 (1986).

²Memorandum Opinion and Order, PR Docket No. 83-737, 61 RR 2d 148 (1986) at para. 32.

channel, delaying or cancelling voice communications of other systems.

However, the rule has been less effective with regard to private carrier paging systems operating on paging-only frequencies. PCP Systems are designed as "go-forward" systems, in that entrepreneurs seek to place additional users on the system after licensing. Thus, when PCP systems are licensed, the applicant requests authorization for the number of mobile units which it believes it will place on the system within the first eight (8) months after issuance of the license.

Due to the success of PCP systems, the 50 unit threshold is reached in a very short time once the system is constructed. This results in constant modifications by the licensee. However, since PCP licensees are currently required by Section 90.179(e) of the Commission's Rules to submit a list of users on an annual basis, the coordinator is already in possession of the information which is needed to properly assess channel loading.³ Therefore, the modification requirement does not serve its intended purpose with regard to PCP stations.

In addition, on paging only frequencies, a change of 50 units does not significantly affect channel utilization. On paging

³See the attached letter from Terry L. Fishel, Chief, Land Mobile Branch, Licensing Division, Private Radio Bureau. It must be stressed that compliance with Section 90.179(e) by licensees is the most critical element in assuring efficient use of limited spectrum and enabling frequency advisory committees to issue accurate channel recommendations. APCP suggests that the Commission increase its oversight in this area to ensure the continued accuracy of the data base and future frequency recommendations.

frequencies, which can accommodate up to several thousand units (depending on the type of pagers used), an increase in 50 units by a PCP licensee will not impact future frequency recommendations. The need for PCP licensees to modify their licenses when there is such a small increase in relation to the number of receivers which the channel can accommodate is wasteful of the Commission's resources, as well as costly for the licensee.

APCP requests that the Commission modify Section 90.135(a)(8) to specify that private carrier paging systems (which are subject to the requirements of Section 90.179(e)) are exempt from the modification requirements of Section 90.135(a)(8).

III. CONCLUSION

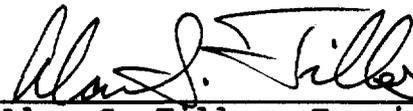
WHEREFORE, the Association for Private Carrier Paging Section of the National Association of Business and Educational Radio, Inc. respectfully requests that the Commission adopt a Notice of Proposed Rule Making and amend Section 90.135(a)(8) of its rules consistent with this Petition.

Respectfully submitted,

**ASSOCIATION FOR PRIVATE CARRIER
CARRIER PAGING**

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Date: June 6, 1991

Federal Communications Commission

Gettysburg, PA 17325

August 4, 1988

In Reply Refer To:

7110-16

Lukas, McGowan, Nace and Gutierrez
1819 H Street, NW
Seventh Floor
Washington, DC 20006

Attn: Marjorie J. Giller

Dear Ms. Giller:

This letter is in response to your recent correspondence concerning the requirements outlined in Rule 90.179(e).

Rule 90.179(e) indicates that licensees of shared radio stations must report to their frequency coordinator certain information concerning the users of their system. You questioned whether this was a requirement imposed on licensees of private carrier paging stations, such as your client, Communications Properties Associates. The Rule does not exempt private carrier paging licensees from this requirement and specifically states that all licensees of stations operated under the provisions of Rule 90.179 provide the necessary information to the frequency coordinator. It is expected that CPA will comply with Rule 90.179 by providing NABER with the necessary information.

It is hoped that this letter has been responsive to your inquiry.

Sincerely,


for Terry L. Fishel
Chief, Land Mobile Branch