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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 90.494)	RM-7986
of the Commission's Rules and)	
Regulations Concerning Shared)	
Use of 900 MHz Paging Frequencies)	

COMMENTS OF PACTEL PAGING

PacTel Paging ("PacTel"), by its attorneys, hereby submits its Comments in support of the above-referenced Petition for Rulemaking ("Petition") of the Association for Private Carrier Paging Section ("APCP") of the National Association of Business and Educational Radio, Inc. ("NABER") requesting the Commission to amend its Rules and Regulations concerning the shared use of 900 MHz private carrier paging ("PCP") frequencies.

PacTel is a licensee under Part 90 of the Commission's Rules for one-way private carrier paging frequencies. PacTel holds numerous 929 MHz private carrier paging authorizations. PacTel has established wide area 929 MHz private carrier paging systems in California, Nevada, and Arizona and PacTel has been authorized for additional 929 MHz private carrier paging systems in Georgia and Florida. PacTel serves in excess of 70,000 paging units over its PCP systems, making it one of the largest providers of PCP service in the nation.

PacTel strongly supports APCP's Petition and respectfully requests that the Commission immediately establish a rulemaking on exclusivity for 929 MHz PCP

No. of Units rec'd 0+4
LMABCDE

channels. By establishing exclusivity for 929 MHz PCP channels, the Commission will serve the public interest by incenting current PCP operators to migrate from the congested VHF PCP channels to the relatively unused 929 MHz PCP channels. Currently, VHF PCP operators are involved in numerous sharing squabbles that, in the absence of creative regulatory approaches, will continue for the indefinite future.¹ The best hope of alleviating the current problems with VHF PCP operators is to migrate some of the current VHF PCP operators to 929 MHz.

Adopting PCP exclusivity standards also will help to avoid sharing conflicts which often develop when two carriers offering service on a common frequency in nearby territories both expand over time toward one another.² By enabling a PCP carrier to define a natural service area and receive exclusive licensing there by building a sufficient number of transmitters to demonstrate a bona fide intention to serve the public, unnecessary frequency coordination

¹ There is little doubt that current PCP operators will need to expand their operations in the future. The current one-way messaging market is currently experiencing phenomenal growth unparalleled in its history. By some estimates, the one-way messaging market is growing 20-25% annually on a base of over 11 million units in service. By industry estimates, the current penetration rate for one-way messaging services is approximately 5% and is anticipated to grow to 10-15% in the next 5-10 years.

² The paging business is increasingly becoming a wide-area business with service territories routinely expanding to cover entire states, multiple states and, in some instances, the entire nation. Thus, "border disputes" are becoming increasingly frequent.

problems between geographically expanding carriers can be avoided.³

PacTel has carefully considered the construction thresholds that APCP proposes as the minimum requirements for receiving exclusive licensing rights in local, regional and national territories. While a number of approaches are possible, the proposed limits reflect a reasonable balance of competing considerations. Most important, PacTel believes that the proposed minimum number of transmitters in each case is sufficiently high to demonstrate a meaningful commitment to providing a beneficial service without being so high as to unfairly prejudice smaller operators.

Without exclusivity many carriers are reluctant to spend the necessary capital to build new systems on 929 MHz because they may be required to share their channel with others.⁴ This is supported by the comments filed in

³ Unfortunately, there are speculators who seek to complicate the expansion of a carrier by preempting the frequency in an adjoining area. These electronic real estate plays will be reduced, in PacTel's view, if a carrier can define a service area in advance and receive exclusive licensing there.

⁴ Sharing of channels does not allow a carrier to realize the full rewards of their investment. Some of the wide-area systems now required for marketing purposes, such as statewide California coverage, require over 100 transmitters -- an investment of over 3 million dollars and annual site rent of approximately \$360,000. If a carrier is required to share the channel 50-50, the carrier can, at best, only receive half of its possible investment return. As a publicly-held company, PacTel is particularly sensitive to regulatory uncertainties of this nature that can profoundly affect returns or investment.

response to the Commission's Freeze Order. A significant number of PCP operators stated that they were reluctant to build systems in the 929 MHz band without some protection from the problems currently experienced by licensees on 152.480 MHz.⁵ Therefore, granting exclusivity to licensees of these channels will motivate carriers to invest in systems in this band; thus, decreasing the problems currently experienced on VHF PCP channels.

Finally, PacTel believes that there is a regulatory benefit in having explicit exclusivity standards set forth in the Commission's rules. Faced with the responsibility of coordinating frequencies, NABER necessarily has adopted internal standards it utilizes in processing requests. PacTel believes these NABER standards have been adopted only after thoughtful and careful consideration. Nevertheless, informal standards of this nature do not have the same weight as those adopted by the regulatory agency after notice and comment rulemaking procedures. PacTel believes that the entire PCP industry will benefit if the ground

⁵ If current VHF operators do not migrate to 929 MHz channels and new licensees do not have incentives to license at 929 MHz, the Commission can expect, as one-way messaging penetration rates increase, to see a significant increase in squabbling among VHF PCP operators as each tries to secure the last seconds of available air-time on the shared channels. Furthermore, with increased penetration rates, the Commission should expect additional VHF PCP licensees seeking channels to offer one-way messaging services. All of this paints a bleak picture for VHF PCP channels. If some of the current licensees and new entrants are incented to move to 929 MHz, the Commission should see a net decrease in regulatory warfare among VHF PCP operators.

rules for allocating frequencies are established by rule and implemented subject to the structures of the Administrative Procedure Act, 5 U.S.C. Sec. 1001 et. seq.

PacTel, therefore, respectfully requests that APCP's Petition be granted and the Commission expeditiously establish a rulemaking on this matter.

Respectfully submitted,

PACTEL PAGING

By: 

Mark A. Stachiw
Carl W. Northrop
Its Attorneys

Mark A. Stachiw, Esq.
PacTel Paging
12221 Merit Drive, Suite 800
Dallas, Texas 75251
(214) 458-5200

Carl W. Northrop, Esq.
Bryan, Cave, McPheeters &
McRoberts
700 13th Street, N.W.,
Suite 700
Washington, D.C. 20005
(202) 508-6000

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CERTIFICATE OF SERVICE

I, Lois Trader, hereby certify that on this 10th day of June, 1992, I caused copies of these COMMENTS OF PACTEL PAGING to be sent by U.S. mail, postage prepaid, to the following:

Michael Cutler
Chairman
Association for Private Carrier
Paging Section of NABER
1501 Duke Street
Suite 200
Alexandria, Virginia 22314

David E. Weisman, Esquire
Alan S. Tilles, Esquire
Meyer, Faller, Weisman and
Rosenberg, P.C.
4400 Jenifer Street, N.W.
Washington, D.C. 20015
Counsel to ACP Section of NABER


Lois L. Trader
Lois Trader