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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In The Matter of:	)	
	)	
Amendment of the Commission's Rules to Create a New Radio Service "Public Facsimile Service" and Allocation of Channels therefor	)	ET Docket 92-100 PP-83

TO: The Commission

OPPOSITION

Mobile Telecommunication Technologies Corporation ("Mtel"), by its attorneys, respectfully submits these comments in opposition to Montauk Telecommunications Company's ("Montauk") Request for a Pioneer Preference for a Public Facsimile Broadcast Service ("PFBS").[1] As discussed below, Montauk's request clearly fails to meet the Commission's pioneer preference requirements and should therefore be dismissed.

I. STATEMENT OF INTEREST

Mtel has long been an innovative and leading provider of messaging services. Through its SkyTel™ and Mtel

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[1] Montauk Telecommunications Company (formerly FAX-MAX Services Co.) Request for Pioneer's Preference, filed May 29, 1992. [hereinafter "Pioneer Preference Request"]. See also FAX-MAX Services Co. Petition for Rulemaking, filed May 22, 1991, requesting the Commission to allocate frequencies for PFBS and promulgate regulations for such a service.

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International subsidiaries, Mtel provides nationwide paging service to more than 180,000 subscribers across the United States and overseas.[2] In addition, Mtel has filed a Petition for Rulemaking and Request for Pioneer's Preference for a new Nationwide Wireless Network ("NWN") service. NWN will use innovative enhanced modulation techniques and an innovative advanced dynamic frequency management scheme to provide highly efficient, two-way messaging capabilities for laptop, palmtop, and other portable computing devices.

The Commission's pioneer preference policies have attracted a wide range of petitioners seeking to provide advanced messaging services. Many of these petitioners, including Montauk, have submitted perfunctory requests evidencing relatively little effort, innovation, or attention to the requirements of the Commission's Rules. In filing this Opposition, Mtel urges the Commission to avoid expending time and resources contemplating these less substantial requests. Accordingly, Montauk's petition should be dismissed.[3]

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[2] Mtel's recent accomplishments include the first 2400 bps simulcast messaging technology and providing nationwide one-way wireless electronic mailbox ("e-mail") service to AT&T Safari™ and HP95LX computers through the SkyTel™ network.

[3] By seeking dismissal of Montauk's Pioneer Preference Request, Mtel does not take a position on whether the proposed service deserves spectrum. It simply contends that Montauk's request clearly does not merit the

(continued...)

II. MONTAUK HAS FAILED TO DEMONSTRATE THAT IT MERITS A PIONEER'S PREFERENCE.

A. Description of Montauk's Proposal

Montauk requests the Commission to reserve a minimum of 100 kHz within the 930 MHz band for its proposed PFBS. PFBS is an "advertiser-supported service which would deliver, via radio, a newspaper-like publication to FAX machines equipped with special receivers tuned to one of several channels providing the service."[4]

According to Montauk, the ideal allocation would provide for two nationwide, and two or more local, licenses. Montauk requests one of the nationwide licenses.[5] Montauk further suggests that guard bands would permit each licensee "to broadcast a 9600 baud Group III FAX signal to a receiver."[6] Placement of PFBS between two existing paging allocations -- for example, RCC at 931 MHz and PCP at 929 MHz -- would purportedly ensure low cost receiver availability. Thus, the channels could be reassigned to paging services if PFBS were to fail commercially.

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[3](...continued)
extraordinary relief represented by grant of a pioneer's preference.

[4] Pioneer Preference Request at 2.

[5] Id. at 4.

[6] Id.

B. Montauk's Pioneer Preference Request Is Insufficient Under the Commission's Rules.

Mtel respectfully submits that Montauk's Pioneer Preference Request is plainly insufficient under Section 1.402(a) of the Commission's Rules.[7] These rules were adopted to "provide preferential treatment in [the Commission's] licensing processes for parties developing new communications services and technologies."[8] The Commission has emphasized that the determination of whether to grant a preference is discretionary,[9] and that preferences will not be routinely granted.[10]

Montauk's Request fails to comply with the Pioneer Preference Rules in three major respects:

First, there is no technical showing.[11] While reference is made to a previously filed experimental license application, Montauk, by its own admission, has conducted no on-air testing of the proposed service.[12] Moreover, despite

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[7] 47 C.F.R. §1.402(a) (1991).

[8] Establishment of Procedures To Provide a Preference to Applicants Proposing an Allocation for New Services, 7 FCC Rcd 1808 (1992) ("Reconsideration Order").

[9] 47 C.F.R. § 1.402(a) (1991).

[10] Reconsideration Order, 7 FCC Rcd at 1808.

[11] 47 C.F.R. §1.402(a) (1991).

[12] Pioneer Preference Request at 2, fn. 1.

being given the opportunity to submit a technical supplement, Montauk has failed to do so. This hardly evidences the degree of commitment necessary to warrant grant of a preference.

Second, the Pioneer Preference Request fails to demonstrate that Montauk has developed PFBS or any underlying technology. This is contrary to the Commission's policy that each applicant "must demonstrate... that it... has brought out the capabilities or possibilities of the technology or service or has brought them to a more advanced or effective state".[13]

Third, Montauk does not note any conflicting licensing rules, even though its proposal is clearly inconsistent with the Commission's Table of Allocations.[14] The frequencies at 929-932 MHz are primarily allocated to land mobile services, yet Montauk proposes to operate a broadcast service in the 930 MHz band without proposing an amendment to Section 2.106. Montauk offers no explanation why the Table of Allocations should be waived and does not explain why its proposed broadcast offering would not be better situated in a frequency band that is already allocated for such services.

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[13] 47 C.F.R. §1.402(a) (1991).

[14] 47 C.F.R. §2.106 (1991).

III. CONCLUSION

Montauk's Pioneer Preference Request is clearly inadequate under Section 1.402 of the Commission's Rules. Accordingly, it should be dismissed.

Respectfully submitted,

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June 19, 1992

CERTIFICATE OF SERVICE

I hereby certify that on this 19th day of June, 1992, I caused copies of the foregoing "Opposition" to be mailed via first-class postage prepaid mail to the following:

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