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March 16, 1993

Ms. Donna R. Searcy  
Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: CC Docket No. 93-2

Dear Ms. Searcy:

Transmitted herewith for filing are an original and ten copies of the Comments of Western Tele-Communications, Inc. in response to the Commission's Notice of Proposed Rulemaking, released February 9, 1993, in the above referenced proceeding.

If there are any questions concerning this matter, please contact this office directly.

Yours sincerely,

  
Richard H. Strodel

RHS/ned

Enclosures

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before The  
**Federal Communications Commission**  
Washington, D.C. 20554

In The Matter Of )  
 )  
Amendment of Part 21 of the ) CC Docket No. 93-2 ✓  
Commission's Rules for the )  
Domestic Public Fixed Radio )  
Services )

**Comments of Western  
Tele-Communications, Inc.**

Western Tele-Communications, Inc. (WTCI), by its attorneys, hereby submits its Comments in response to the Commission's Notice of Proposed Rulemaking (NPRM), released February 9, 1993 in the above docket proposing changes in Part 21 of the Rules. The NPRM specifies that Comments are to be filed by this date, March 16, 1993.

**I. Introduction**

WTCI supports and urges the Commission to adopt the proposed Rule changes that would permit pre-authorized construction upon the filing of a Form 494 application, and would not allow operations or service to commence at the new or modified facilities until a grant of the application and the issuance of an authorization. WTCI fully agrees with the Commission's assessment that it is extremely important to preserve the integrity of the frequency coordination process and that pre-authorized construction, but not pre-authorized operation,

will protect that vital process and at the same time reduce the time required for the introduction of new services.

WTCI opposes the proposed Rule change that would exempt licensees in the point-to-point microwave service from sending any notification of the completion of construction and a statement that the facilities are operational and ready to provide a service to the public. WTCI agrees that Form 494A itself has not proven to be a particularly helpful form as far as the Commission is concerned. Nonetheless, WTCI is of the firm belief that some means of notification to common carrier licensees affected by the construction and operation of the newly licensed facility, as well as to the Commission, should be provided in lieu of Commission Public Notice of the Form 494A filings for the benefit of other licensees and the Form 494A certification for the Commission's records.

WTCI also recommends that the license period for completion of construction and operation of new or modified facilities be at least twelve months rather than the six months proposed by the NPRM. WTCI also is submitting suggested changes in the content and arrangement of the proposed new Form 494.

## II. General Comments

### A. Pre-Authorization Construction, But Not Operation, is in the Public Interest

As previously indicated, WTCI favors and wholeheartedly endorses the Commission's proposal in the NPRM to authorize

construction to proceed at owner's risk upon the filing of a Form 494 application. WTCI is equally supportive of the Commission's decision to prohibit any operations or service until an application has been granted and an authorization issued.

The Commission was correct in rejecting the proposal of McCaw Cellular Communications that the temporary fixed operation Rule be modified to allow applicants to use the temporary fixed operation procedures to construct facilities and then to operate those facilities for a five month period before filing a Form 494 application requesting permanent authorization for those facilities. The complex process of avoiding frequency interference, and of enabling closely engineered operations in mature frequency bands, requires careful planning and compliance with agreed upon frequency selection procedures. As the Commission properly found, common carriers in the point-to-point microwave services rely on the Commission's Public Notices to verify that the prior coordinated frequencies are in fact the applied for frequencies. This verification process assures that the step-by-step coordination process, which is provided for by the Commission's Rules but is performed by the private sector, is followed by all users of common carrier frequencies. Because of the heavy use of common carrier frequencies, it is absolutely essential that the frequency coordination procedures prescribed by Section 21.100(d) of the Rules and the overall integrity of the eminently successful frequency selection and coordination process be maintained and not derogated by changes in the Commission's filing and authorization Rules.

**B. Notice of Construction/Operation to the Commission  
and Affected Licensees Should Replace Form 494A**

While WTCI does not believe that the Form 494A itself is necessary, WTCI firmly believes that notice of completion of construction and operation of the new facilities should be given both to the Commission and to the others affected by the new facilities. Without such notice, carriers in the area would have no way of knowing whether or not the facilities have actually been constructed, and the lack of any requirement for verification of completion could well result in the warehousing of frequencies, as the NPRM points out. The validity of Commission authorizations also would be in question without a means of determining initial compliance with such authorizations.

The giving of notice of completion of construction and readiness for operation thus should continue to be a condition subsequent of common carrier authorizations issued by the Commission. The Commission will not have knowledge of whether a license authorization is valid and outstanding if there is no means of confirming that construction has taken place and is completed and the facility is operational. The letter notification of completion procedure also should prevent warehousing of frequencies, because of the substantial forfeitures associated with false misrepresentations to the Commission.

Equally important, the notice of completion of construction is a final and vital part of the frequency coordination process. Common carriers, and particularly frequency coordination organizations and database managers, follow the Public Notices of the filing of certificates of

completion to verify that prior coordinated frequencies are, in fact, in use and are no longer available for other applicants. Thus, WTCI proposes that point-to-point microwave licensees be required to send notifications to the Commission and other licensees/applicants (who have previously received frequency coordination information) that the authorized facilities have been completed and the station is now operational and ready to provide service to the public, and that the facilities will remain operational during the license period unless the license is submitted for cancellation, as required by the Commission's Rules in the event of non-use or dismantlement. Such notification is necessary to complete the frequency coordination process as well as to preserve the integrity and accuracy of the Commission's licensing procedures.

Accordingly, WTCI proposes that the requirement for the aforementioned notice to the Commission and point-to-point microwave licensees be incorporated in the Commission's Rules. See Appendix B hereto suggesting a further revision to Section 21.43 of the Rules.

C. The Construction Period for Common Carrier Licenses Should be at Least 12 Months

WTCI does not believe that the proposed six month authorization period provides adequate time for the completion of many common carrier facility proposals. In many instances, particularly where new channels are added to an extensive point-to-point microwave system or a number of new stations are involved, the period of construction can extend over a period of nine to twelve months. While construction can commence at the time of the filing of applications under the NPRM's pre-

authorization proposal, six months just does not provide sufficient time to complete other than minor construction, particularly where FAA notification is required and Commission antenna structure specifications are also required. See Section 21.43(c)(3)(iv) of the NPRM's proposed Rule revisions. Unless license authorizations are issued for twelve months or more, carriers often will be required to file applications for extension of the authorizations, causing additional paperwork and unnecessary staff time for the Commission. Thus, WTCI strongly recommends that the period of license authorizations for common carriers be at least twelve months.

D. Changes to Newly Proposed Form 494 are Necessary

WTCI has a number of suggestions for refinement of the newly proposed Form 494. As an example, while WTCI is not opposed to the elimination of Form 430 calling for ownership information, WTCI believes that the proposed Item 29 substitute, entitled "License Qualification Report", should provide for an indication of prior filed information and should not require applicants to provide in each application submitted the information called for by Items 29(a) through 29(l). WTCI suggests in this regard that applicants be required to file this information in the first application filed in a calendar year (and thereafter), and upon the issuance of a file number for that first application, the applicant in subsequent applications would merely insert the file number, call sign and date of Public Notice of the application containing the ownership information.

WTCI is most concerned about the proposed format of Page 1 of Section II of the new Form 494 which contains the critical technical information for a new or modified facility. WTCI recommends that all the initial and technical information (Items 1 through 11), as has previously been the case, be included on Page 1 of the application. While all of the prior forms have used the portrait format (top to bottom) for this technical information, WTCI believes the Commission should consider adopting the landscape format (side to side) for this technical information, which is and has been the format used for license authorizations. These and other suggestions of WTCI with respect to the proposed new Form 494 are set forth in Appendix A attached hereto.

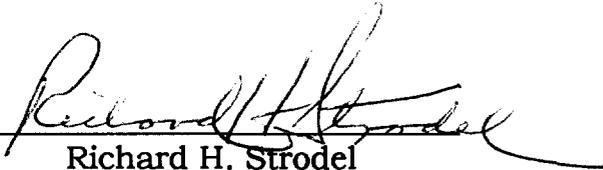
### III. Conclusion

WTCI supports the NPRM's proposal to permit pre-authorized construction, but not operations or service, upon the filing of a Form 494 application for a permanent authorization for the facilities to be constructed. WTCI also agrees with the proposal to exempt point-to-point microwave common carrier licensees from the filing of Form 494A. However, in lieu of the filing of such Form, licensees must be required to send letter notification to the Commission and other licensees of the completion of construction so that accurate information can be maintained of licensed and operating facilities.

WTCI generally applauds the Commission's proposals herein to reduce number of Forms used by Part 21 licensees. To assist the Commission in designing a new Form 494 and to facilitate the completion and processing of that Form, WTCI is suggesting various

changes in the proposed new Form 494 included with the NPRM. See particularly Appendix A hereto.

Respectfully submitted,  
**Western Tele-Communications,  
Inc.**

  
Richard H. Strodel  
Its Attorney

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March 16, 1993

## APPENDIX A

### Recommended Format and Content Changes for Form 494

WTCI recommends the following on an item by item basis:

#### Items 1-11

WTCI recommends that Items 1 through 11 be included on Page 1 of the Form. This is the critical engineering information for the proposed facility and a proper and simplified layout reduces the time required to prepare the form and the possibility of typographical errors. The use of just one page for the technical information simplifies Commission processing and the record keeping of all concerned.

WTCI believes it would be particularly helpful and allow the proper spacing for the engineering information if the format of Page 1 was on a landscape or side to side basis. The technical information in Items 8 through 11 is necessarily crowded because of the portrait format; the use of the landscape format would allow for additional spacing for this information. See suggested format for Page 1 (Exhibit 1 hereto) of the Application Portion (Items 1-11) of the proposed new Form 494.

#### Item 6

This section should clarify the purpose of the application by specifying either new station, a major modification, a minor modification or that you are adding a MDS booster station. "Nature of Application", as previously referred to in Item 3, has been relocated to Item 6 per Exhibit 1 hereto.

#### Items 7 (f), (g) and (h)

This information should be listed as feet or meters only, not both.

#### Item 8

The Item 8 information regardless of the format used should be all on one continuous line, and not on two lines as is the case on the current Form 494. All technical information, as currently proposed on the new Form 494 and by WTCI in Exhibit 1 hereto, should be on one line. Wrap arounds make it difficult to align action codes and antennas with the proper frequencies.

Items 8 (g), (i), (k) and (m)

This information should be listed as feet or meters only, not both.

The spaces for these Items are not sized for both feet and meters as required in the instructions, these sections should be enlarged.

Items 8 (b), (d) and (n)

These spaces could be reduced, because the information required in these sections does not exceed two characters.

Items 9 (i), (j) and (k)

This information should be listed as feet or meters only, not both.

Item 29

This item should be changed to read as follows:

Does the applicant have current "Licensee Qualification Report" information on file? If "Yes" indicate the date of such filing \_\_\_\_\_, the application file No. and call sign of the facility \_\_\_\_\_ and the date of the Public Notice accepting the application \_\_\_\_\_.

If "No" complete questions (a) through (l).

<b>1. Applicant Name:</b> Mailing Street Address or P.O. Box, City, State, and Zip Code	<b>2. (Area Code) Telephone No.</b>	<b>FCC USE ONLY</b>		
	<b>3. This application is no. _____ of a set of _____ applications.</b>	Service	File No. & Call Sign	
		<b>4. See Instructions for codes to use</b>	(a) Service	(b) Type of Service
<b>5. Number of months to construct:</b> _____ mo.				

**6. Request is for**

<input type="checkbox"/> New Station	<input type="checkbox"/> Major Modification (a) File No. _____	<input type="checkbox"/> Minor Modification per Section _____ <small>Complete Only Page 1 and Page 4 of FCC Form 494</small>	<input type="checkbox"/> Add MDS Booster Station	Nature of Application
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**7. TRANSMIT STATION INFORMATION**

(a) Station Name:	(b) Street:	(c) City:	(d) State:	
(e) County:	(f) Ant. Str. Ht.	(g) Bldg Ht.	(h) Grnd Elev.	(i) Call Sign
(j) Latitude:	(k) Longitude:	(l) Latest File No. If app.:		

**8. FREQUENCY PATH INFORMATION**

(a) Frequency & Polarization	(b) Xmitr No.	(c) Receive Station Name	(d) OP Code	(e) Line Loss	TRANSMITTING ANTENNAS				RECEIVING ANTENNAS				(n) Action Code	
					(f) Primary Code	(g) Height	(h) Diversity Code	(i) Height	(j) Primary Code	(k) Height	(l) Diversity Code	(m) Height		

**9. RECEIVE STATION INFORMATION**

(a) Receive Station Name	(b) State	(c) Call Sign	(d) Type Fac.	(e) Path Dist.	(f) Path Az.	(g) Latitude	(h) Longitude	(i) Ground Elevation	(j) Struct Height	(k) Bldg Height	(l) Action Code

**10. TRANSMITTER INFORMATION**

(a) Xmitr No.	(b) Transmitter FCC Code	(c) Quantity	(d) Name of Manufacturer	(e) Type or Model Number	(f) EIRP/ Output Power	(g) Emission Designator	(h) Frequency Stability	(i) Module Code	(j) Action Code

**11. ANTENNA INFORMATION**

(a) Antenna Code	(b) Name of Manufacturer	(c) Type or Model Number	(d) Beam Tilt	(e) Azimuth

## APPENDIX B

### Suggested Section 21.43(b)(2)

Revised Section 21.43(b) becomes Section 21.43(b)(i)

- (b)(2) Licensees in the Point-to-Point Microwave Radio Service shall send letter notice of completion of authorized facilities, within thirty (30) days of such completion, to the Commission and to other licensees, applicants, or their representatives, receiving frequency coordination notifications pursuant to §21.100(d). Such letter notice, which is a condition of the authorization for the subject facilities, shall contain the information called for by §21.43(b)(i) and include the following:
- (i) The call sign and station name of the completed facilities.
  - (ii) The FCC file number of the application for such facilities.
  - (iii) The date of completion of construction and the operational date for service.
  - (iv) Any technical parameters that have changed since the issuance of the authorization for the facilities and that constituted a minor change within the reporting provisions of §21.42.

CERTIFICATE OF SERVICE

I, Nancy E. Davies, a secretary in the law offices of Haley, Bader & Potts, hereby certify that the foregoing "Comments of Western Tele-Communications, Inc." were hand-delivered, to the following:

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Federal Communications Commission  
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Robert James  
Chief, Domestic Radio Branch  
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Washington, D.C. 20554



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Nancy E. Davies

March 16, 1993