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

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

COMMENTS

American Telephone and Telegraph Company ("AT&T") respectfully submits the following comments in response to the Notice of Proposed Rulemaking ("NPRM") FCC 93-5, released February 9, 1993.

The NPRM proposes to amend Part 21 of the Commission's Rules to permit construction of Point-to-Point Microwave Service ("PPMS") stations to commence upon filing the license application (Form 494), for unopposed license applications that meet certain conditions. The NPRM also proposes to shorten the period for construction of PPMS stations and to delete or modify certain Commission forms.

AT&T supports the proposal to permit construction prior to Commission authorization. This will enable applicants to bring new services to the market more promptly. The Commission already permits pre-authorization construction in other services such as the Public Mobile Service. (47 CFR § 22.43(d)). The proposal would also serve

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the public interest by requiring that environmental, frequency coordination and hazard marking and lighting concerns be addressed prior to filing the application, and, in all events, would require Commission authorization before actual operation is permitted. With respect to the hazard marking and lighting requirements, however, AT&T believes that a simple change is needed to insure that the benefits of the proposed rule are available in practice. In addition, the Commission's proposals to shorten the period of construction and delete certain forms should be modified as suggested in these Comments.

In those cases where the height of a tower or proximity to an airport require notification to the FAA, the proposed rule requires that the applicant has received: (1) a "no hazard" determination from the FAA, and (ii) a Commission determination of required tower marking and lighting specifications. Because the FAA's "no hazard" determination already specifies tower marking and lighting requirements, an additional determination by the Commission is not necessary.[1] In addition, because the purpose of the proposed rule is to permit construction upon filing the application (NPRM, ¶ 1), requiring the additional Commission determination as a condition for construction defeats the

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[1] The Commission's Rules for determining tower marking and lighting requirements were developed in conjunction with the FAA (47 CFR § 17.1(b)).

purpose of the rule. Therefore, the requirement of a Commission determination of tower marking and lighting specifications prior to commencement of construction should be deleted.[2]

The NPRM proposes (¶17) to reduce the time to complete construction from eighteen to six months after license grant on the bases that permitting pre-authorization construction provides applicants additional time, and most construction is completed within a few months of grant of authorization. However, the shortened six-month period would equally apply to cases in which the proposed rule would not permit pre-grant construction. In those cases, applicants would get only six months. Moreover, even where pre-authorization construction is permitted, the proposed time period would vary depending on how long it took the Commission to process a particular application, and would likely be only a few months longer than six. Weather delays, problems with suppliers, and other circumstances beyond the applicant's control could delay completion beyond the new proposed time. AT&T suggests that where the rule does not allow construction prior to Commission authorization, the present eighteen month period be retained. On the other

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[2] Even with this proposed change, the Commission would retain the power in the proposed rule orally to require immediate cessation of construction for any reason (§ 21.43(c)(2)(ii))), and to require alteration, relocation or dismantling of the facility (§ 21.43(c)(4)(iii)).

hand, where pre-grant construction is allowed a shorter period would be justified because applicants will obtain some additional time for construction prior to grant. Based on AT&T's experience of about a five month period until an application is granted, a period of twelve months from license grant would be adequate.

The Commission also proposed to eliminate the requirement to file a Certificate of Completion of Construction (Form 494-A) because construction is completed for almost all licenses granted. However, the Commission recognized that this could leave the public without adequate notice of frequencies which became available because of license forfeiture resulting from failure to construct. Accordingly, the Commission asked for Comment on this proposal (NPRM ¶ 16). AT&T shares the Commission's concern and suggests a simplified form of exception reporting required only when construction has not been completed on time. This notice should go on Public Notice in the same manner as the present Completion Certificate. This proposal would reduce administrative burdens on applicants and Commission staff while permitting other PPMS applicants to identify frequencies that have become available.

In addition, the Commission asked for comment on whether the proposed rules should apply to applications for modifications, as well as to new construction (NPRM, ¶ 7). Because the benefits of the Commission's proposal, and the

conditions to safeguard the public interest, would apply equally to license modifications, the proposed rules should also apply to such modifications.

Finally, AT&T supports simplifying the Commission's forms. The specifics of the Commission's proposal do not, however, achieve maximum feasible simplification. For example, although the Commission proposes to eliminate the Licensee Qualifications Report (Form 430), it proposes to add more burdensome license qualification information to Form 494. The proposal to combine present Forms 702 and 704 into a new Form 705 does not take the opportunity to delete unnecessarily burdensome information from the new form. AT&T suggests that the Commission direct the staff to work with the industry to redesign the forms so as to make them as convenient as possible to use while still providing the Commission with necessary information.

CONCLUSION

For the reasons discussed above, the Commission should adopt the proposals in the NPRM with the changes suggested in these Comments.

Respectfully submitted,

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