



Twenty parties filed comments in this proceeding.<sup>2</sup> All commenters expressed strong support for the Commission's proposal to permit PPMS construction prior to grant of an authorization. Several parties agreed with USTA that similar flexibility (and restrictions) be extended to applicants who seek modification of an existing license,<sup>3</sup> and that the construction time be reduced from 18 to 12 months.<sup>4</sup>

The general consensus, however, is that the Commission should go one step further to reduce the length of time required for authority to commence operations once the facility is built.<sup>5</sup> USTA agrees that the Commission's Part 21 rules should be amended to achieve timely implementation of the PPMS operations. If some cellular cell sites can now be constructed relatively quickly

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<sup>2</sup>The filing parties are: American Telephone & Telegraph Company (AT&T), Bell Atlantic Personal Communications, Inc. (Bell Atlantic), BellSouth Corporation (BellSouth), ComSearch (Comsearch), EMI Communications Corp. (EMI), GTE Service Corp. (GTE), Local Area Telecommunications, Inc. (LOCATE), McCaw Cellular Communications, Inc. (McCaw), MCI Telecommunications Corp. (MCI), National Telephone Cooperative Association (NTCA), NYNEX Mobile Communications Company (NYNEX Mobile), OCOM Corporation (OCOM), Pacific Telesis Group (Pacific), Southwestern Bell Corporation (Southwestern Bell), Sprint Corporation (Sprint), Telecom Services Group, Inc. (Telecom), United States

without the lengthy delay in pre-authorization, it makes good sense that, absent any frequency mishaps, they should be interconnected to one another or to the mobile switching center in a timely manner. Moreover, scant Commission resources could be saved through streamlining the PPMS licensing process.

I. **THE COMMISSION SHOULD FURTHER ELIMINATE UNNECESSARY DELAYS IN PPMS FACILITIES OPERATIONS.**

The original McCaw proposal in this proceeding asked for use of the current temporary fixed microwave licensing procedures to initiate permanent point-to-point microwave service. It would permit a carrier to begin operation of its PPMS facilities by notifying the Commission at least five days prior to the facilities becoming operational. The Commission, however, is concerned that a carrier using the temporary-fixed procedures could have its microwave facilities in operation without other parties having an opportunity to verify that the frequencies have been adequately coordinated. A few parties also expressed their concerns that the frequency coordination process may be compromised if PPMS licensees are permitted to operate without a formal authorization.<sup>6</sup>

Effective frequency coordination is a vital step in the licensing process and must be completed before a PPMS facility goes into operation (and in all

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<sup>6</sup> See AT&T at 2, WTCI at 3. (But see USTA's 4-step proposals below. Frequency coordination would not be compromised and could indeed be undertaken simultaneously with the notification process.)

instances, before construction even begins). Hence, frequency coordination per se should not be the cause of regulatory delays or be treated as a deterrent to revising Section 21.3 of the rules, 47 C.F.R. § 21.3.

The Commission's present proposal to allow pre-authorization construction is a good beginning, but it needs to go further. Construction of PPMS facilities is not always a lengthy, complex undertaking. Sometimes, they are placed on existing structures such as towers, cell sites and require, on average, about 10 days to construct.<sup>7</sup> Under existing rules, operational grants can still take as long as 120 days or more after completion of construction. To streamline the PPMS licensing further, USTA recommends adoption of the following four-step process. Step (1), a "blanket" pre-qualification authorization option, is entirely optional, and is designed for those PPMS providers who may wish to construct a large number of facilities on a routine basis. For those PPMS providers who may not wish to do so, there is no need to apply for a "blanket" authorization as proposed. In that instance, the applicant should initiate the licensing process by following steps (2), (3) and (4) below.

**USTA's Four-Step Proposal**

- (1) The Commission should permit, at any time, the filing of an application

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<sup>7</sup> See NYNEX Mobile at n.3.

for an overall, "blanket" pre-qualification PPMS authorization. The application should identify the specific frequency bands and the geographic areas in which the PPMS applicant proposes to operate. It should also contain pertinent information on frequency coordination as well as detailed financial qualifications of the applicant.<sup>8</sup> A listing of the preliminary applications will be routinely published through the Commission's Daily Digest within 7 days from the date of filing.<sup>9</sup> The listing should contain station names, coordinates and frequency information. If no party objects to the application within a period of 30 days after public notice, the "blanket" application is deemed to be conditionally accepted.<sup>10</sup>

(2) To begin the process of construction, the PPMS applicant files a Form 494 with the Commission. The Form 494 should demonstrate that frequency coordination has been completed and other pertinent

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<sup>8</sup> One significant benefit in devising the preliminary "blanket" pre-qualification application is that it provides the Commission with comprehensive technical and financial information regarding the applicant. Hence, in filing each subsequent Form 494 application for construction and operation, that applicant should not have to repeat the same detailed information. Rather, the applicant should simply cross-reference the information already on file with the Commission.

<sup>9</sup> The Commission's Tariff Division routinely publishes a daily log which lists tariff transmittals filed by carriers on the previous day. Under the Commission's tariff notice requirements, 47 C.F.R. § 61.58, a tariff becomes effective in a specific number of days if no petition to reject is filed.

<sup>10</sup> The Commission's public notice should be used as a tool to inform the public, and not to delay operations of systems which otherwise meet Part 21 application requirements.

Commission conditions are met.<sup>11</sup> It is, of course, understood that absent final authorization, the applicant is building at its own risk. A listing of Form 494 applications will be routinely published in the Commission's Daily Digest within 7 days from the date of filing.

(3) If no party objects to the Form 494 within a period of 30 days after the notice listed in the Daily Digest, the PPMS applicant should be permitted to begin operation at any time. Upon commencement of operation, the applicant should notify the Commission by letter to this effect.<sup>12</sup> The letter should contain the date the operation commences, a statement of frequency coordination being completed, and any other technical parameters being complied with. The Commission then publishes a listing of completed and fully operational PPMS facilities in its Daily Digest within 7 days upon being notified.<sup>13</sup> This listing should also contain the station names, coordinates and frequencies.

(4) Absent any operational irregularities that warrant an investigation, the conditional authorization will automatically become permanent after 30 days of

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<sup>11</sup> The applicant must have successfully completed frequency coordination for the exact facilities to be deployed with other licensees; ensure that the site has the necessary FAA clearances; determine that the proposed facility will not have a significant environmental effect; and establish that the facilities are not within 35 miles of Canada or Mexico.

<sup>12</sup> Should the construction be abandoned for whatever reason, the applicant should also be obliged to notify the Commission.

<sup>13</sup> See n.11 above.

continuous operation.

## II. SIMPLIFICATION OF LICENSING FORMS

Many commenters agreed with USTA's proposal to eliminate the Form 494A and replace it with a simple notification letter.<sup>14</sup> They also observed that the Form 494, as presently proposed, still lacks merit. Although the Commission desires to streamline Form 494, it is nonetheless adding more burdensome requirements to it. For instance, the proposed Item 15 places an undue burden on the applicant to provide an exhibit in response to a negative indication that no environmental assessment is required. It would be simpler to state affirmatively that an exhibit should only be required to be attached if the application itself needs environment assessment.<sup>15</sup> Another commenter stated that the Form 494 needs to be further structured into sections,<sup>16</sup> while others argued that both the Commission and the PPMS applicants will be better served by having a single annual Form 430 filing, rather than repeating that extensive information on every Form 494 to be filed.<sup>17</sup> Under Step (1) of USTA's four-step licensing proposal, a

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<sup>14</sup> See McCaw at 20 (McCaw also supports replacement of FCC Forms 702 and 704 with a new Form 705); NTCA at 3; OCOM at 2; Southwestern Bell at 13.

<sup>15</sup> See Pacific at 9.

<sup>16</sup> See MCI at 4.

<sup>17</sup> See U S WEST at 12 (The FCC's proposed Form 494 is 50% longer than the current form); Southwestern Bell at 14; BellSouth at 4-5; WTCI at 6-7.

new form of preliminary "blanket" pre-qualification application needs to be designed to capture all requisite technical and financial information regarding the applicant.

The Commission should take advantage of this opportunity to dispense with unnecessary requests for information, requiring only those licensing data that are relevant for Commission review. Because of the diverse opinions and proposals offered by commenters to revise the various PPMS forms, USTA agrees that the Commission should work with industry representatives to redesign the forms so as to make them as user-friendly and as relevant as possible.<sup>18</sup> In accordance with streamlining the PPMS licensing process, this task should be finalized expeditiously.

### **III. CONCLUSION**

The Commission's proposal to streamline the PPMS licensing process is a sound regulatory undertaking. To accomplish its goal, the Commission ought to take one step further beyond its original proposal to permit PPMS construction prior to authorization. Under the present scheme, public interest is harmed when valuable time is lost due to unwarranted delays in authorizing operation of the facility once it is constructed. The Commission should reform the Part 21 PPMS licensing through reasonable streamlining of each step in the process. Furthermore,

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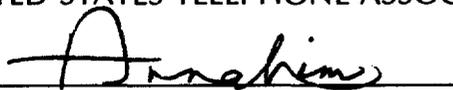
<sup>18</sup> See AT&T at 5; Comsearch at 7-8.

the forms used in the licensing process are cumbersome to use, while some of the information sought appears to be irrelevant. They need to be revised. USTA respectfully requests that the Commission adopts the recommendations made in these reply comments.

Respectfully submitted,

UNITED STATES TELEPHONE ASSOCIATION

BY

A handwritten signature in black ink, appearing to read "Anna Lim", is written over a horizontal line.

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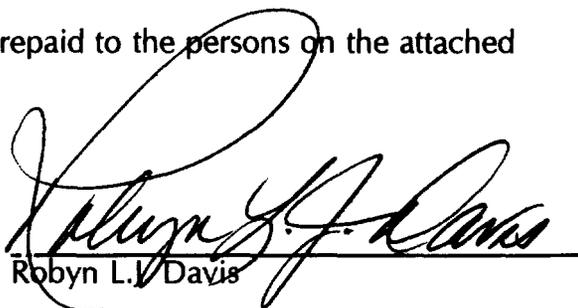
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April 16, 1993

**CERTIFICATE OF SERVICE**

I, Robyn L.J. Davis, do certify that on April 16, 1993 copies of the foregoing Reply Comments the United States Telephone Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.

  
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