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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 the Commission's Rules to Establish New Personal Communications Services	)	**General Docket No. 90-314**
	)	**ET Docket No. 92-100**
	)	

To: The Commission

REPLY TO OPPOSITIONS

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Dated: January 13, 1994

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REPLY TO OPPOSITIONS

The American Petroleum Institute ("API"), by its attorneys, and pursuant to Section 1.429(3)(g) of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission") respectfully submits the following Reply to Oppositions ("Reply") filed in the above-captioned proceeding.

API has participated throughout this proceeding and reiterates its concern with the relocation of Private Operational-Fixed Service ("POFS") licensees from current spectrum assignments to allow deployment of personal communications services (PCS) in the 2 GHz band(s). In its Petition for Reconsideration API requested that the Commission act to ensure minimization of interference to the operations of fixed facilities during the PCS transition

period. API explained that the telecommunications activities now conducted by incumbent fixed 2 GHz licensees are highly sensitive and are vital to the public health and safety.[1] API is pleased to note that other commenters have supported its position that an adequate PCS/POFS interference criterion is essential to protect 2 GHz POFS systems and ensure a smooth 2 GHz transition.[2] Nonetheless, API is concerned that statements made in the Opposition of MCI Telecommunications Corporation ("MCI") could lead the Commission to pursue an unsound 2 GHz transition policy, and API responds to specific positions of MCI as detailed below.

I. THE COMMISSION MUST ENSURE ADEQUATE PROTECTION OF FIXED MICROWAVE OPERATIONS DURING THE TRANSITION PERIOD.

1. Surprisingly, MCI urges the Commission not to adopt formal frequency coordination rules for PCS/POFS operation in shared spectrum, arguing that "no demonstration has been made" that PCS systems designed to meet the TIA Bulletin 10-E (and in the future 10-F) protection criteria will afford inadequate protection to fixed operations. MCI also argues that a formal third party coordination process offers no benefits which might

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[1] API Petition for Reconsideration at 2.

[2] See, e.g., generally, Responses/Comments on Petitions for Reconsideration of Telecommunications Industry Association (TIA) Fixed Point-to-Point Communications Section); Utilities Telecommunications Council (UTC); Association of American Railroads (AAR); and Alcatel Network Systems, Inc.

outweigh "associated delays" in PCS deployment.[3/] API reminds the Commission that microwave coordination by independent contractors as is now required in the Private and Common Carrier Microwave Services has served the public well. MCI has undoubtedly benefited from these procedures as a microwave licensee. The independent coordination system has ensured that critical telecommunications systems may operate in an environment relatively free of objectionable interference.

2. Accordingly, API remains convinced that independent coordination will provide insurance that adequate interference analyses are performed prior to deployment of PCS systems and that these studies will help ensure that critical communications services are not disrupted during the transition. These procedures have worked well in the past and the Commission and the public would be well served if the Commission established similar procedures for PCS/POFS sharing.

3. Moreover, by referring coordination issues to an independent and presumably disinterested entity, the Commission will conserve its resources by avoiding a potential multiplicity of interference disputes which conceivably could be referred to the Commission should a "self coordination" approach be employed. Since numerous private entities currently are capable of performing

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[3/] MCI Opposition at 20.

coordination studies, the "associated delays" which MCI asserts would be created due to the imposition of a third party coordination requirement should not materialize. Even if demand for coordination services sufficient to create delays should occur, it is quite likely that additional engineering contractors will step forward to meet such demand.

4. MCI also argues that the imposition of specific sanctions on PCS licensees who willfully or negligently create interference to fixed operations, and requirements that PCS licensees shut down transmitters on receipt of an interference notice from a fixed licensee are without merit.[4/] API reminds the Commission of the extremely sensitive nature of fixed microwave operations and the inability of such systems to tolerate any appreciable level of interference. Moreover, the Commission is reminded that should such telecommunications capabilities be lost, severe ramifications could ensue for the public health and safety. Accordingly, specific sanctions and "shut down" requirements will protect critical fixed operations and the public safety, since such requirements provide incentives to PCS licensees to carefully engineer systems prior to deployment to minimize interference risks, and to promptly remedy interference complaints.

[4/] MCI Opposition at 20.

5. Additionally in this regard, it is patently ridiculous to imply, as MCI does, that fixed licensees will seek to discover interference where none is present. Throughout this proceeding it has been made abundantly clear that incumbent licensees are interested only in ensuring the continued reliability of telecommunications systems which perform vital operations. API believes that its concerns over interference potential are well founded since API engineering representatives participating in the TIA deliberations on development of Bulletin 10-F have noted that Bulletin 10-F will considerably relax the more stringent "line of site" interference calculation now contained in Bulletin 10-E. Accordingly, there will be limited instances in which the interference analysis method of Bulletin 10-F will not fully and accurately predict the potential for interference. In such situations, objectionable interference could be created to fixed systems despite cooperation and planning between PCS and POFS licensees. The Commission must therefore ensure that a procedure is in place to promptly address and remedy interference issues.

II. ANY MODIFICATION OF FIXED SYSTEMS MUST OCCUR ONLY WITH THE FULL CONCURRENCE OF INCUMBENT LICENSEES.

6. MCI and Bell Atlantic recommend adoption of a policy requiring that fixed system licensees immediately upgrade their systems whenever a PCS operator demonstrates that: (a) upgrading the fixed system would reduce

interference from the PCS system to the fixed system and (b) the PCS operator is willing to pay the cost of the upgrade[5/]. API agrees that in some instances a fixed microwave system upgrade could allow more rapid access to spectrum for PCS licensees. However, the Commission clearly has adopted a reasonable transition framework and, in some instances, technical considerations aside from mere cost may require that a fixed operator cannot upgrade or modify its system on a "practically immediate" basis. Accordingly, API only supports the policy of allowing microwave users to upgrade systems where, in accordance with the Commission's established 2 GHz transition procedures, such upgrade decisions are premised on agreement by both the PCS and POFS licensees after open negotiations within the agreed-upon time frame. API opposes any policy which would provide for what are, in effect, short-term upgrades forced upon incumbent licensees by PCS operators.

III. CONCLUSION

7. For the reasons discussed herein, the Commission must reject the arguments offered by MCI and should proceed in a manner which will ensure the continued reliability of 2 GHz private fixed microwave operations during the PCS/POFS transition period.

[5/] MCI Opposition at 20, Bell Atlantic Petition for Reconsideration at Section VI, page 23.

8. **WHEREFORE, THE PREMISES CONSIDERED,** the Federal Communications Commission is respectfully requested to promptly take the action sought in the Petition for Reconsideration of the American Petroleum Institute.

Respectfully submitted,

THE AMERICAN PETROLEUM INSTITUTE

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Dated: January 13, 1994

CERTIFICATE OF SERVICE

I, Terri Thomas, a secretary in the law firm of Keller and Heckman, do hereby certify that a copy of the foregoing Reply to Oppositions has been served this 13th day of January, 1994 by hand delivery to the following:

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