

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

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In the Matter of)
)
Implementation of Sections 3(n))
and 332 of the Communications Act)
)
Regulatory Treatment of)
Mobile Services)

GN Docket No. 93-252

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

To: The Commission

REPLY COMMENTS OF AMERICAN PAGING, INC.

American Paging, Inc. on behalf of itself and its subsidiaries (collectively "API"), by its attorneys, files its reply comments in response to the Commission's Further Notice of Proposed Rulemaking (FCC 94-100) in the above-captioned docket. As requested in a separate concurrent filing, we are submitting copies for inclusion in the record of the Commission's related proceedings, Further Notice of Proposed Rulemaking in CC Docket No. 92-115, because the matters discussed here affect the Commission's licensing policies for 931 MHz paging systems.

INTRODUCTION

We have participated with numerous companies in the efforts led by PCIA to forge an industry consensus position to ensure comparable regulatory treatment of substantially similar Commercial Mobile Radio Services ("CMRS"). As a licensee of both PCP and 931 MHz RCC paging systems, we have direct experience with the differing rules and policies affecting licensing in these two

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services. We fully support the positions reflected in the PCIA reply comments being filed concurrently.

We are filing separate reply comments to emphasize the importance of possible changes in the rules and policies affecting paging services throughout the 929-931 MHz band to the paging industry. We believe that upon careful consideration the Commission will be able to ensure comparable regulatory treatment and at some time eliminate unnecessary information collection, streamlining licensing, reduce FCC staff processing and review burdens and expedite the initiation of new and expanded service to the public.

DISCUSSION

Our proposals which are fully supportive of the PCIA industry consensus position address the following six aspects of the proposed modifications of existing rules: (1) Frequency Assignment; (2) Frequency Coordination; (3) Market Area Licensing; (4) Fill-ins; (5) Expansion of Service Area Boundaries; and (6) MX Policies. Considering that the Commission has only recently concluded a major rulemaking regarding licensing of 929 MHz PCP paging systems, in which all six of our areas of special interest were addressed, we recommend that no changes be made in the current rules for 929 MHz PCP licensing relating to these aspects of licensing policy.

The changes in Commission procedures discussed here are intended to achieve a reasonable level of regulatory comparability

between current 929 MHz licensing policies governing PCP paging and new or modified rules and policies, as proposed here, governing licensing of 931 MHz RCC paging systems.

1. The Commission Should Adopt Frequency-specific Licensing for 931 MHz Paging.

We strongly support frequency-specific application filings to promote the continued expansion of established systems, predictable planning for development of wide-area paging systems, and access to stable spectrum resources to justify the substantial capital cost of deploying new and innovative "messaging" services.

2. Use of Outside Frequency Coordination Should be Adopted to Diminish Commission Staff Workload.

We also support use of an outside frequency coordinator to identify and to avoid potential harmful interference situations and to permit expedited processing of 931 MHz paging applications. Many paging licensees are already familiar with the frequency coordination functions performed by NABER on 929 MHz paging frequencies. The results have been highly satisfactory in terms of avoiding potential conflicts before applications are filed with the Commission, of promoting rapid and effective deployment of PCP paging systems and of permitting rapid expansion of paging services which is highly beneficial to the public.

3. The Commission Should Adopt Market Area Licensing for 931 MHz Paging Systems.

We strongly support the market area licensing approach using MTA, state-wide or other established geographic units as proposed in the reply comments of PCIA in this docket. All of our proposals

are intended to be compatible with an industry consensus market area licensing approach as proposed by PCIA.¹

4. The Commission Should Facilitate Internal Expansion in "fill-in" Areas of a 931 MHz Paging System.

We support the approach proposed by PCIA in its reply comments filed concurrently to permit the addition of co-channel base station facilities to serve areas encompassed by the interference contours for an established paging system. The addition of a "fill-in" paging transmitter should be considered a minor modification (or possibly a matter-of-right change not requiring the filing of an application).

5. Application Requirements for Expansion of Service Area Boundaries by Incumbent Licensees Should be Simplified to Promote Growth of Established Systems.

We support adoption of a definition of "minor modification" which would permit the addition of a base station to a paging system if its reliable service area contour is at least 50% encompassed by the reliable service contour(s) of one or more existing or authorized base stations in that system. Such applications should be processed on a first-come first-served basis and should not be subject to public notice or overfiling opportunities.

¹ In the event the Commission does not adopt MTA, state-wide or other market area licensing, the Commission at a minimum should adopt local or wide-area self-defined service areas. This approach would be comparable to current rules for PCP paging in that the Commission might establish similar categories of 931 MHz systems based upon the number of base stations involved, such as six contiguous base stations for a "local" system and 70 base stations (not necessarily contiguous) for a "regional" system. See Section 90.495 of the Commission's rules for additional detail.

We believe that adoption of the foregoing policies regarding processing of "minor modifications" should promote the rapid deployment of a broad range of cost-effective, new and innovative mobile service offerings. As the Commission has recognized in other proceedings, particularly its PCS rulemaking, the benefits of mobile/portable service offerings for consumers comes in important part from unimpeded access in wide area and regional coverage areas. Licensees who have made the substantial commitment of capital and other resources to establish 931 MHz paging systems should have realistic and predictable opportunities to expand their coverage areas to meet the needs of their customers. This is ample justification for adoption of rules and policies which accelerate the expansion of established 931 MHz paging systems.

6. The Commission Should Also Clarify its Policies Regarding Mutual Exclusivity Filing Situations and Specify Auctions as the Selection Mechanism to be Used in Such Situations.

A. Mutually Exclusive "Initial Applications" -- In the case of mutually exclusive filings of "initial applications,"² we support the use of auctions to select among the applicants. If, as discussed above, applications are filed on a frequency specific basis, this means that identification of the participants in the auction can be made readily so that an auction can be scheduled, completed and licenses awarded without extensive delay. This is clearly consistent with the Commission's objectives in this proceeding.

² Our proposals regarding "initial applications" would be applicable equally to "major modification" filings."

B. Mutually Exclusive "Minor Modifications" -- As stated above, we believe that "minor modifications," including those expanding existing service areas, should be processed on a first-come first-served basis. In the unlikely event "minor modifications" are concurrently filed for adjacent co-channel systems so that a mutually exclusive situation arises, the selection mechanism should be auctions. Assuming that settlement is not possible, the public will be benefitted most if the application of the licensee who values it most is promptly granted.

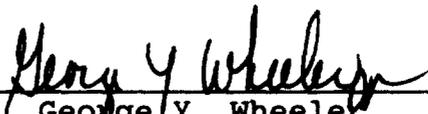
C. Mutually Exclusive "Initial Application" and "Minor Modification" Filings -- As discussed above, the opportunities for possible mutual exclusive situations between an "initial application" and a "minor modification" are limited. This is true because, as discussed above, "minor modifications" should be processed on a first-come first-served basis and not be subject to overfiling. We believe that there should be opportunities for the licensee of an established system to overfile any "initial application" proposing co-channel facilities adjacent to the interference contour of that established system. These overfiling opportunities should include the right to file "minor modifications," as well as "initial applications" and major modifications," which would qualify to be considered mutually exclusive with the prior filed "initial application." We propose that the selection mechanism be auctions in these circumstances as well as those described above.

CONCLUSION

We strongly support the Commission's efforts to streamline, simplify and expedite application processing of 931 MHz paging applications. Our proposals are realistic and would be an effective means to achieve a rapid expansion of paging services and coverage. We request that they be adopted.

Respectfully submitted,

AMERICAN PAGING, INC.

By 
George Y. Wheeler

KOTEEN & NAFTALIN
Suite 1000
1150 Connecticut Avenue, N.W.
Washington, D. C. 20036
(202) 467-5700

Its Attorneys

July 11, 1994

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July, 1994, a copy of the foregoing Reply Comments were deposited in the U.S. mail, postage prepaid, addressed to:

Robert B. Kelly
Kelly, Hunter, Mow & Povich
1133 Connecticut Avenue, N.W.
Washington, D. C. 20036
Counsel for Advanced Mobile-
Com Technologies, Inc. and
Digital Spread Spectrum
Technologies, Inc.

John L. Bartlett
Wiley, Rein & Fielding
1776 K Street, N. W.
Washington, D. C. 20006
Counsel for Aeronautical
Radio, Inc.

Richard M. Tettlebaum
Gurman, Kurtis, Blask &
Freedman, Chtd.
1400-16th Street, N. W.
Washington, D. C. 20036
Counsel for AllCity Paging,
Inc.

Alan R. Shark
President
American Mobile Telecommuni-
cations Association, Inc.
1835 K Street, N.W. Ste. 203
Washington, D. C. 20006

Wayne Black
Keller and Heckman
1001 G Street, N. W.
Ste. 500 West
Washington, D. C. 20001
Counsel for American
Petroleum Institute

JoAnne G. Bloom
Ameritech
2000 W. Ameritech Center Drive
Room 4H84
Hoffman Estates, IL 60196-1025

Lon C. Levin
Vice President and Regulatory
Counsel
AMSC Subsidiary Corporation
10802 Park Ridge Boulevard
Reston, VA 22091

Arch Communications Group, Inc.
1800 West Park Drive, Ste.250
Westborough, MA 10581

Thomas J. Keller
Verner, Liipfert, Bernhard,
McPherson and Hand, Chtd.
901-15th Street, N. W.
Washington, D. C. 20005
Counsel for Association of
American Railroads

John D. Lane
Wilkes, Artis, Hedrick & Land
1666 K Street, N. W.
Washington, D. C. 20006
Counsel for Association of
P u b l i c S a f e t y
Communications Officials-
International, Inc.

John T. Scott, III
Crowell & Moring
1001 Pennsylvania Avenue, N.W.
Washington, D. C. 20004
Counsel for The Bell Atlantic
Companies

William B. Barfield
 BellSouth Corporation
 BellSouth Telecommunications,
 Inc.
 BellSouth Cellular Corp.
 Mobile Communications
 Corporation of America
 1155 Peachtree Street, NE
 Atlanta, GA 30365-6000

Michael F. Altschul
 Cellular Telecommunications
 Industry Association
 2 Lafayette Centre, Third Floor
 1133-21st Street, N.W.
 Washington, D. C. 20036

Frederick M. Joyce
 Joyce & Jacobs
 2300 M Street, N. W.
 Ste. 130
 Washington, D. C. 20037
 Counsel for Celpage, Inc.
 Network Enterprises
 Copeland Communications &
 Electronics, Inc.
 Nationwide Paging

Randall B. Lowe
 Jones, Day, Reavis & Pogue
 1450 G Street, N.W.
 Washington, D. C. 20005
 Counsel for CenCall Communi-
 cations Corporation

Leonard J. Kennedy
 Dow, Lohnes & Albertson
 1255-23rd Street, N. W.
 Washington, D. C. 20037
 Counsel for Comcast
 Corporation

John D. Lockton
 Managing Partner
 Corporate Technology Partners
 100 S. Ellsworth Avenue
 9th Floor
 San Mateo, CA 94401

Werner K. Hartenberger
 Dow, Lohnes & Albertson
 1255-23rd Street, N. W.
 Washington, D. C. 20037
 Counsel for Cox Enterprises

Russell H. Fox
 Gardner, Carton & Douglas
 1301 K Street, N. W.
 East Tower
 Washington, D. C. 20005
 Counsel for E.F. Johnson
 Company

Kathy Shobert
 Director, Federal Regulatory
 Affairs
 General Communication, Inc.
 888-16th Street, N. W.
 Ste. 600
 Washington, D. C. 20006

Michael S. Hirish
 Vice President of External
 Affairs
 Geotek Industries, Inc.
 1200-19th Street, N.W.
 Ste. 607
 Washington, D. C. 20036

David Reams
 President and General Counsel
 Grand Broadcasting Corporation
 P. O. Box 502
 Perrysburg, OH 43552

Gail Polivy
 GTE Service Corporation
 1850 M Street, N. W.
 Ste. 1200
 Washington, D C. 20036

Ashton R. Hardy
 Hardy & Carey, L.L.P.
 111 Veterans Boulevard
 Ste. 255
 Metairie, LA 70005

Richard M. Tettelbaum
Gurman, Kurtis, Blask &
Freedman
1400-16th Street, N. W.
Ste. 500
Washington, D. C. 20036
Counsel for The Illinois
Valley Cellular RSA 2
Partnerships

Frederick J. Day
111 N. Glebe Road, Ste. 500
Arlington, VA 22201-5720
Counsel for Industrial
Telecommunications
Association

Rodney L. Joyce
Ginsburg, Feldman and Bress
1250 Connecticut Avenue, N.W.
Washington, D. C. 20036
Counsel for In-Flight
Phone Corp.

David L. Nace
Lukas, McGowan, Nace &
Gutierrez
1819 H Street, N. W.
7th Floor
Washington, D. C. 20006
Counsel for Liberty
Cellular, Inc. d/b/a
Kansas Cellular

Shirley S. Fujimoto
Keller & Heckman
1001 G Street, N. W.
Washington, D. C. 20001
Counsel for Lower Colorado
River Authority

Scott K. Morris
Vice President-Law
McCaw Cellular Communications,
Inc.
5400 Carillon Point
Kirkland, WA 98033

Larry Blosser
MCI Telecommunications
Corporation
1801 Pennsylvania Avenue, NW
Washington, D. C. 20006

Henry Rivera
Ginsburg, Feldman & Bress
1250 Connecticut Avenue, N.W.
Washington, D. C. 20036
Counsel for Metricom, Inc.

Thomas Gutierrez
Lukas, McGowan, Nace and
Gutierrez
1819 H Street, N. W.
Ste. 700
Washington, D. C. 20006
Counsel for Mobile
Telecommunication Technologies
Corp.

Michael D. Kennedy, Director
Regulatory Relations
Motorola Inc.
1350 Eye Street, N. W.
Ste. 400
Washington, D. C. 20005

Russell H. Fox
Gardner, Carton & Douglas
1301 K Street, N. W.
East Tower
Washington, D. C. 20005
Counsel for MPX Systems

David E. Weisman
Meyer, Faller, Weisman and
Rosenberg
4400 Jenifer Street, N. W.
Ste. 380
Washington, D. C. 20015
Counsel for National
Association of Business and
Educational Radio, Inc.

Joel H. Levy
Cohn & Marks
1333 New Hampshire Avenue, N.W.
Washington, D. C. 20036
Counsel for National Cellular
Resellers Association

David Cosson
National Telephone Cooperative
Association
2626 Pennsylvania Avenue, N. W.
Washington, D. C. 20037

Penny Rubin
Assistant Counsel
New York State Department of
Public Service
3 Empire State Plaza
Albany, NY 12223

Thomas J. Casey
Skadden, Arps, Slate, Meagher
& Flom
1440 New York Avenue, N. W.
Washington, D. C. 20005
Counsel for New Par

Robert S. Foosaner
Lawrence R. Krevor
601-13th Street, N. W.
Ste. 1100 South
Washington, D. C. 20005
Counsel for Nextel
Communications, Inc.

G.A. Gorman
President and General Manager
North Pittsburgh Telephone
Company
4008 Gibsonia Road
Gibsonia, PA 15044-9311

Edward R. Wholl
NYNEX Corporation
120 Bloomingdale Road
White Plains, NY 10165

James P. Tuthill
Pacific Bell and Nevada Bell
140 New Montgomery Street
Room 1525
San Francisco, CA 94105

David L. Nace
Lukas, McGowan, Nace &
Gutierrez
1819 H Street, N. W.
7th Floor
Washington, D. C. 20006
Counsel for Pacific Telecom
Cellular, Inc.

Anne P. Jones
Sutherland, Asbill & Brennan
1275 Pennsylvania Avenue, N.W.
Washington, D. C. 20004
Counsel for PacTel
Corporation

Mark A. Stachiw
PacTel Paging
Suite 800
12221 Merit Drive
Dallas, TX 75251

Judith St. Ledger-Roty
Reed Smith Shaw & McClay
1200 18th Street, NW
Washington, D. C. 20036
Counsel for Paging Network,
Inc.

Phillip L. Spector
Paul, Weiss, Rifkind, Wharton
& Garrison
1615 L Street, N.W.
Washington, D. C. 20036
Counsel for PageMart, Inc.

Ellen S. Levine
Staff Counsel
People of the State of
California and the Public
Utilities Commission
505 Van Ness Avenue
San Francisco, CA 94102

Corwin D. Moore, Jr.
Administrative Coordinator
Personal Radio Steering Group,
Inc.
P. O. Box 2581
Ann Arbor, MI 48106

David L. Nace
Lukas, McGowan, Nace &
Gutierrez
1819 H Street, N. W.
Washington, D. C. 20006
Counsel for Pioneer Telephone
Cooperative, Inc.

Albert Kramer
Keck, Mahin & Cate
1201 New York Avenue, N. W.
Washington, D. C. 20005-3919
Counsel for PTC Cellular

Louis Gurman
Gurman, Kurtis, Blask &
Freedman
1400-16th Street, N. W.
Washington, D. C. 20036
Counsel for PN Cellular, Inc.

Daryl L. Avery
General Counsel
Public Service Commission of
the District of Columbia
450 5th Street, N. W.
Washington, D. C. 20001

Daniel S. Goldberg
Goldberg, Godles, Wiener &
Wright
1229-19th Street, N. W.
Washington, D. C. 20036
Counsel for RAM Mobile Data
USA Ltd. Partnership

C. Douglas Jarrett
Keller and Heckman
1001 G Street, N. W.
Washington, D. C. 20001
Counsel for Rig Telephones,
Inc.

William J. Franklin
William J. Franklin Chtd.
1919 Pennsylvania Avenue, N.W.
Ste. 300
Washington, D. C. 20006-3404
Counsel for Roamer One, Inc.

Michael J. Shortley, III
Rochester Telephone Corporation
186 South Clinton Avenue
Rochester, NY 14646

Linda C. Sadler
Manager, Governmental Affairs
Rockwell International Group
1745 Jefferson Davis Highway
Arlington, VA 22202

David L. Jones, Chairman
Rural Cellular Association
2120 L Street, N. W.
Ste. 810
Washington, D. C. 20037

James D. Ellis
175 E. Houston
Room 1218
Southwestern Bell Corporation
San Antonio, TX 78205

Jay Keithley
Sprint Corporation
Ste. 1100
1850 M Street, N. W.
Washington, D. C. 20036

Paul Rodriguez
Leventhal, Senter & Lerman
2000 K Street, N. W.
Ste. 600
Washington, D. C. 20006
Counsel for STARSYS Global
Positioning, Inc.

Thomas A. Stroup
Telocator, The Personal
Communications Industry
Association
1019-19th Street, N. W.
Washington, D. C. 20036

Stuart F. Feldstein
Fleischman and Walsh
1400-16th Street, N. W.
Ste. 600
Washington, D. C. 20036
Counsel for Time Warner
Telecommunications

Norman P. Leventhal
Leventhal, Senter & Lerman
2000 K Street, N. W. #600
Washington, D. C. 20006
Counsel for TRW Inc.

Martin T. McCue
Vice President & General
Counsel
United States Telephone
Association
900-19th Street, N. W.
Washington, D. C. 20006

Jeffrey S. Bork
US West
1020-19th Street, N. W.
Ste. 700
Washington, D. C. 20036

Raymond G. Bender, Jr.
Dow, Lohnes & Albertson
1255-23rd Street, N. W.
Washington, D. C. 20037
Counsel for Vanguard Cellular
Systems, Inc.

Martin W. Bercovici
Keller and Heckman
1001 G Street, N. W.
Washington, D. C. 20001
Counsel for Waterway
Communications System, Inc.



Judy Cooper