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

In the Matter of:)	
)	GEN Docket No. 90-314
Amendment of the Commission's)	RM-7140, RM-7175, RM-7618
Rules To Establish New Personal)	
Communications Services)	

PETITION FOR PARTIAL RECONSIDERATION

The Personal Communications Industry Association ("PCIA"), pursuant to Section 1.106 of the Commission's Rules, respectfully requests partial reconsideration of the Memorandum Opinion and Order ("Order") released June 13, 1994, in the above-captioned proceeding.¹ As detailed below, relief is sought only with respect to the Order's failure to address concerns about ensuring that licensees of new 2 GHz Personal Communications Services ("PCS") participate in reasonable arrangements for sharing the costs of relocating incumbent microwave links.² In submitting this request, PCIA wishes to underscore that consideration of this petition need not and must not cause any delays to the prompt initiation of PCS auctions and licensing. Rather, the focus of the petition is to facilitate deployment of PCS systems once licenses have been issued.

¹ New Personal Communications Services, GEN Docket No. 90-314, FCC 94-144 (June 13, 1994).

² See Comments of UTAM, Inc., GEN Docket No. 90-314 (Apr. 22, 1994).

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I. BACKGROUND ON MICROWAVE LINKS AND THE PCS BAND PLAN

**A. Relocating or Protecting Microwave Links
Operating in the PCS Allocation**

The licensed PCS spectrum is currently occupied by roughly 4,000 microwave links. In order to deploy their services, PCS licensees must either protect these microwave links from interference or provide for their relocation to comparable alternative facilities. The costs of the microwave relocation to PCS licensees could exceed \$1 billion.

As the Commission knows, microwave links are licensed throughout the entire PCS spectrum allocation. In deploying PCS, licensees must protect or relocate microwave links within their specific PCS frequency blocks ("co-channel"). In addition, licensees must protect or relocate microwave links in adjoining spectrum blocks ("adjacent channels"). The latter obligation arises because microwave systems have receivers that can pick up interference from transmissions occurring outside their specific channel of operation.

Microwave links consist of two "paired" channels, with each end of the link transmitting in a different frequency block. Each microwave channel generally occupies 10 MHz of bandwidth with 10 MHz spacing between channel centers. There are, however, a few 5 MHz bandwidth "offset" microwave channels interspersed between the 10 MHz channels. As noted, due to the characteristics of radio signals, a PCS licensee could interfere with not

only co-channel, but also adjacent channel, microwave licensees in the PCS band.

B. The PCS Band Plan Does Not Match PCS Channels with Microwave Channels

The Commission's PCS band plan creates three 30 MHz licensed PCS spectrum blocks, three 10 MHz licensed PCS spectrum blocks, and one 20 MHz unlicensed PCS spectrum block. Each of the licensed PCS spectrum blocks will be authorized on the basis of Rand McNally Major Trading Areas ("MTAs") or Basic Trading Areas ("BTAs"). This plan does not match or correspond with the manner in which microwave allocations were established in the 2 GHz band.

There are several practical consequences that flow from the differences between the way that microwave and PCS spectrum is allocated and licensed. Specifically, a single microwave link can cut across different PCS service areas and frequencies in the following fashion:

- Microwave links cross MTA and BTA service area boundaries, with "endpoints" in two different service areas.
- Although the PCS spectrum blocks utilize the same 80 MHz channel pair separation as the microwave links in the band, there are a number of microwave stations that operate on frequencies that do not conform to the 80 MHz standard, and therefore utilize frequencies in two different licensed PCS spectrum blocks.
- Because PCS spectrum does not have the same channelization as microwave spectrum, a single microwave link can straddle frequency boundaries between PCS spectrum blocks.

The overlapping responsibilities of PCS licensees for relocating microwave links are further blurred and complicated by the adjacent channel considerations discussed above. In addition, individual microwave links are often employed as part of an integrated regional or even national network. PCIA expects that microwave licensees may wish to coordinate relocation of all of their links in a network as part of a single relocation.

C. The Responsibilities for Relocating Any Given Microwave Link Can Involve a Number of Different PCS Licensees

As a result of these practical realities, several PCS licensees can have an interest in relocating the same microwave link. However, different PCS licensees may not have the same priorities or the same access to necessary resources for relocating any given link. As a result, microwave licensees may well encounter multiple and inconsistent proposals for relocating their individual links or networks.

Aside from the delays and confusion associated with an unstructured relocation process, there is a very real prospect that companies aggressively seeking to deploy PCS services will be forced to shoulder the burdens of moving links for the benefit of other competing PCS licensees. This creates incentives for PCS licensees to defer initiating any relocation in the hopes that another PCS licensee might make the first move to bear the whole burden for their shared benefit. Clearly, neither the

confusion nor the delays inherent under the current rules serve the public interest in the rapid availability of important new Personal Communications Services.

II. A PLAN FOR SHARING MICROWAVE RELOCATION COSTS AND FACILITATING RAPID DEPLOYMENT OF PCS

In order to address the problems arising under the current microwave relocation and PCS rules, PCIA urges the Commission to mandate industry participation in a cost sharing plan. As set forth below, the plan would simply require that any PCS licensee benefitting from relocation of a microwave link contribute a pro rata share of the costs incurred in providing comparable facilities for that link. To implement this program, PCIA believes that public comment should be considered on a number of alternative options.

A. An Industry Cost Sharing Plan Should Contain Several Basic Principles to Ensure Fair and Equitable Funding of Microwave Link Relocations

Under an industry cost sharing plan, any PCS licensee should remain free to relocate any 2 GHz link at any time under terms of its choosing, so long as the licensee complies with the Commission's Emerging Technologies transition plan rules. However, any PCS licensee wishing to receive reimbursement for a share of the microwave relocation costs would be required to maintain documentation of expenses incurred in the relocation. This documentation would need to be recorded in a uniform format

that segregates (1) out-of-pocket expenditures from non-cash compensation; and, (2) the costs of comparable alternative facilities from any premiums or upgraded facilities provided to the microwave licensee.

No PCS licensee would be under any obligation to make any cost sharing payments for the relocation of a link unless and until that licensee's operations would have caused interference to that link path but for its prior relocation. The determination of whether or not a PCS licensee's operations would have caused interference to a relocated link would be made through use of technical criteria established by industry consensus based upon Bulletin 10 F standards.

A PCS licensee whose operations would have caused interference to a relocated link would be obligated to pay a pro rata share of the documented relocation costs to the party or parties who have incurred those costs. The expenses for which reimbursement is required would not include (a) any amounts paid in excess of the costs required for providing the microwave licensee with comparable alternative facilities; (b) premiums for voluntary relocations; or, (c) any interest or recognition of the time value of money. This plan would only impose an obligation to pay when a benefit occurs and the extent of the reimbursement would be limited to a proportional share of basic relocation costs.

B. Public Comment Should Be Considered on Several Options for Implementing an Effective and Equitable Cost Sharing Plan

In order to implement an effective cost sharing plan, a binding legal obligation on all PCS licensees to participate in the program must be established. In addition, a mechanism for administering and enforcing PCS licensee rights and responsibilities would be required. The options available to accomplish these essential functions include the following possible approaches:

- The Commission could adopt rules generally requiring participation in the cost sharing plan and specifically set forth the exact nature of those requirements in its rules for administration and enforcement by the agency itself.
- The Commission could adopt rules generally requiring participation in the cost sharing plan and provide the basic details for implementing the rules through a Public Notice setting forth the agency's policies and principles for the industry to follow.
- The Commission could adopt a general mandate for all PCS licensees to participate in a Licensed PCS Cost Sharing Master Agreement that sets forth the obligations of each licensee in a legally binding contract.
- The Commission could establish a Section 332 frequency coordinator that would be authorized to develop and administer the cost sharing plan.

PCIA believes that the foregoing options provide a possible menu for implementing a cost sharing plan. However, this list is not intended to be all inclusive. The Commission can and should solicit any and all possible ideas for a workable and equitable cost sharing program.

III. CONCLUSION

In conclusion, PCIA strongly urges the Commission to consider promptly the need for a licensed PCS plan for equitable sharing of relocation costs. A cost sharing plan will benefit (1) PCS licensees by spreading costs; (2) microwave licensees by creating a more effective mechanism for accommodating their needs; and, (3) the public by expediting the availability of important new Personal Communications Services. In pursuing a cost sharing plan, the Commission should act expeditiously while ensuring that nothing raised in this petition causes any delays in the impending 2 GHz PCS auctions scheduled for later this year.

Respectfully submitted,

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