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August 30, 1994

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AUG 30 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N. W.
Washington, D.C. 20554

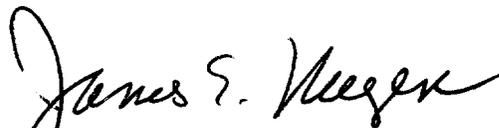
Re: Pegasus Communications, Inc.
Opposition to Petition for
Reconsideration to FCC 94-144
GEN Docket No. 90-314
RM-7140, RM-7175, RM-7168

Dear Mr. Caton:

On behalf of Pegasus Communications, Inc., transmitted herewith is an original and five copies of its Opposition to Petition for Reconsideration filed by Puerto Rico Telephone Company.

Should additional information be necessary in connection with this matter, please communicate with this office.

Very truly yours,



James E. Meyers
Counsel for
Pegasus Communications, Inc.

JEM:pk
Enclosures

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Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED

AUG 30 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)

Amendment of the Commission's)
Rules to Establish New)
Personal Communications)
Services)

To: The Commission)

GEN Docket No. 90-314
RM-7140, RM-7175,
RM-7168

OPPOSITION TO PETITION FOR RECONSIDERATION

Pegasus Communications, Inc. ("Pegasus"), by its attorneys, hereby opposes the Petition for Reconsideration ("Petition") filed by Puerto Rico Telephone Company ("PRTC") of the Commission's Memorandum Opinion and Order in this matter above-captioned, FCC 94-144, released June 13, 1994 ("MO&O").¹ Public Notice of the Petition was given by publication in The Federal Register on August 15, 1994 (59 Fed. Reg. 41760).

I. INTRODUCTION AND BACKGROUND

PRTC seeks reconsideration of the Commission's determination in the MO&O (at para. 79) to establish Puerto Rico into two Basic Trading Areas or BTAs for the provision

¹PRTC alleges that its petition was filed pursuant to 47 C.F.R. § 1.106(d)(1). However, that section specifically states that it does not govern reconsideration in notice and comment rulemaking proceedings. 47 C.F.R. § 1.106(a)(1). Pegasus assumes that PRTC would have intended its Petition to be filed pursuant to 47 C.F.R. § 1.429.

of personal communications services ("PCS") in the 2 GHz band. By petition for reconsideration of the Second Report and Order, Gen. Docket No. 90-314, FCC 93-451 (released October 22, 1993), Pegasus requested and demonstrated the need for a second BTA encompassing the Mayaguez-Ponce-Aguadilla basic trading centers for the provision of PCS in Puerto Rico.

In its petition, filed December 8, 1993, Pegasus made a detailed showing in support of the second BTA. Pegasus' petition appeared on public notice twice (Attachment A). PRTC did not oppose the petition.

Pegasus subsequently, on April 4, 1994, made an ex parte presentation to the Commission which provided additional support to its petition justifying the establishment of the separate BTA. Pegasus' ex parte presentation appeared on public notice (Attachment B). PRTC submitted no response.

The Commission was persuaded, based on record evidence, and established the additional BTA for Puerto Rico in the MO&O. PRTC now has come forward in opposition with unsupported assertions of fact which, even if relevant or probative, are unsupported and impermissibly out of time.

II. THE PETITION MUST BE DENIED AS REQUIRED BY SECTION 1.429(A)-(C) OF THE REGULATIONS AND FOR CONTAINING NO SUPPORT FOR THE ASSERTIONS OF "FACT" THEREIN

Pegasus is constrained to observe that PRTC's petition is a thinly-veiled opposition to Pegasus' petition for

reconsideration filed December 8, 1993. Yet PRTC did not oppose Pegasus' petition notwithstanding at least two opportunities (Attachment A): (1) public notice of the Pegasus petition in the Commission's releases (Public Notice, Report No. 1992, December 13, 1993 at 4); (2) public notice of the Pegasus petition in The Federal Register (58 Fed. Reg. 65595, 65596, December 15, 1993). Accordingly, the petition is untimely and should be denied without more. Under the Commission's rules, PRTC was required to have submitted its opposition to Pegasus' petition 15 days after the December 15, 1993, Federal Register public notice. 47 C.F.R. § 1.429(f).

Compounding its silence, PRTC clearly had a last opportunity to present its "facts" to the Commission as late as June, 1994, before the sunshine period commenced. That opportunity was enhanced by yet a third public notice of Pegasus' efforts in support of the second BTA: announcement of its April 4, 1994, ex parte presentation to the Commission.² Public Notice, Mimeo 42608 (April 13, 1994) (Attachment B) Notwithstanding at least 3 opportunities in the form of public notices to have come forward, PRTC has remained silent until now, the thirteenth hour. Without more, the petition should be denied.

In addition to its tardiness, the PRTC petition asserts

²PRTC does not reference Pegasus' ex parte submission, attached hereto as Attachment C, which addresses and refutes many if not all of PRTC's unsupported assertions.

(with no support) information of a factual (although not relevant) nature in an effort to refute Pegasus' various showings and the Commission's findings justifying the establishment of the second BTA. PRTC asserts that only one BTA should be recognized for Puerto Rico because: (1) the information relied upon by Pegasus is outdated with respect to the degree to which the mountains influence transport (PRTC Petition at 2, 4); (2) road infrastructure has improved, including a highway within the San Juan BTA, i.e., the Jose de Diego Expressway, another highway connecting portions of the San Juan BTA with the Mayaguez BTA, i.e., the Luis A. Ferre Expressway, and another connecting highway "under construction" (Id., 6); (3) Puerto Rico's land mass of 3500 square miles is too small to be two BTAs (Id., 3); (4) major banks, universities and media are based in San Juan (Id., 5); (5) San Juan has larger shipping ports and airports than others in Puerto Rico (Id., 4-5); and (6) that the Commission granted PRTC's request to consolidate its wireline cellular operations into one cellular geographic service area ("CGSA") (Id., 9-10).

Fatal to PRTC's petition is that the "facts" PRTC relied upon clearly do not, as required, relate to events which have occurred or circumstances which have changed since the last opportunity to present them. Nor has PRTC made any showing, nor can it, that its "facts" were unknown to it until after the last opportunity to present them and

that it had could not through the exercise of ordinary diligence have learned of its "facts" prior to the last opportunity or that consideration of its "facts" are in the public interest. The Commission will not grant a petition for reconsideration which relies on facts which have not been previously presented unless those facts occurred subsequent to the last opportunity to present them or were unknown to petitioner prior to that last opportunity and the petitioner could not through ordinary diligence learn of them. 47 C.F.R. § 1.429(b)(1)-(3). Moreover, even if relevant or probative, the "facts" set forth by PRTC contain no supporting documentation, declarations or affidavits of one with personal knowledge, or even references by which the Commission or other interested parties can verify their accuracy.³ The public interest requires far more than this. Unlike PRTC's petition, the Pegasus' petition included detailed documentation supporting the conclusion that there should be two basic trading areas for Puerto Rico. Pegasus' ex parte presentation, filed April 4, 1994 (Attachment C), contained additional supporting documentation. Indeed, the Commission, sua sponte, adopted a similar rule for narrowband PCS licensing purposes. Memorandum Opinion and Order, GEN Docket No. 90-314, FCC 94-218, released August 25, 1994.

³Pegasus reserves the right to rebut any factual showings PRTC may at this late date seek to further contrive.

**III. PRTC's "FACTS," EVEN IF OTHERWISE ENTERTAINABLE,
ARE UNPERSUASIVE, WARRANTING DENIAL OF ITS
PETITION**

**A. The Mountains Remain a Formidable Obstacle to
Intra-Island Transport and Communication Necessary
for a Major Trading Area.**

As the topographical map of Puerto Rico submitted as Exhibit 4 to Pegasus' petition and as Exhibit C to its ex parte presentation (Attachment 3) indicates, the island intercommunicates primarily through a network of coastal roads dictated by the mountainous terrain. See Hildebrand's Travel Map, Puerto Rico, Virgin Islands, St. Croix (2nd Edition: 1989) That map, dated 1989, substantially reflects the current status of highway infrastructure which PRTC does not refute. Contrary to PRTC's assertions, the mountains still make intra-island travel an arduous process far surpassing the length of time required to travel, for example, among a number of MTAs in the continental United States. The mountainous interior is just as much a part of the PCS licensees' service area as the coastal areas, a point ignored by PRTC in its efforts to perpetuate a San Juan-based center as an accurate portrayal of the flow of commerce. Indeed, as commuter labor force pattern data collected by the Government of Puerto Rico indicate, there is very little cross island mobility. The overwhelming majority of the residents of each of the Puerto Rico BTAs work within the BTA in which they live (Attachment C at 2 and Exhibit E).

B. Road Infrastructure Remains Inadequate.

PRTC relies heavily upon the fact that there are highways connecting San Juan to other parts of the Island. While there is a modern highway connecting San Juan to Ponce (as indicated in Pegasus' submissions), it still takes 90 minutes (not one hour which is also far too long) to make the trip, which PRTC acknowledges (PRTC petition at 7). Moreover, contrary to PRTC's assertions, the northern coastal route remains under construction (Attachment C, Exhibit C) and does not provide an adequate route for travel to and from the Mayaguez-Agüidilla area to San Juan. As indicated in Pegasus' petition, travellers from Mayaguez must take the southern route, through Ponce, when travelling to San Juan, a 98 mile trip undertaken in lieu of the uncompleted northern coastal route (Pegasus petition at 3).⁴ The time involved in travelling to San Juan from Mayaguez has resulted in Mayaguez being known as "center of the west coast" with consumers making the bulk of their shopping goods purchases within the Mayaguez, Ponce, Agüidilla BTA (Id., Exhibit 2).

⁴PRTC suggests Agüidilla should not be part of the Mayaguez BTA (PRTC petition at 8) since the mountain range supposedly separates Agüidilla from Mayaguez. However, precisely because there is no convenient northern route, travellers from Agüidilla must take the southern route through Mayaguez and Ponce to reach San Juan.

Asserting that Ponce likewise should not be part of a separate BTA owing to the highway, PRTC overlooks that it still takes travellers 90 minutes to reach San Juan from Ponce, whereas Mayaguez is only 45 minutes away (Pegasus petition at 4).

Were the existence of interstate highways a determinative factor, the entire contiguous 48 states would be a single BTA. However, it is not determinative. For example, Washington, D.C., and Baltimore, Maryland are separated by less than 40 miles, and are linked by highways and near-highways, yet, Rand McNally considers them separate BTAs.

C. Geographic Size Is Not Relevant To The BTA

PRTC argues that since Puerto Rico is only 100 miles long and 35 miles wide with a land mass of 3,500 square miles, it should be therefore a single market (PRTC petition at 3). While it may or may not be true that Puerto Rico's approximately 3,500 square-mile land mass would place it amongst smaller BTAs, geographically, the Commission noted (as did Pegasus in its petition at 3 n.8) in its second Memorandum Opinion and Order, supra, the two Puerto Rico BTAs each have populations greater than the vast majority of BTAs in the contiguous 48 states.

The bulk of PRTC's factual allegations tend to prove only that San Juan dominates the island. Pegasus has never suggested otherwise, nor has Pegasus, at any time, maintained that commerce between San Juan and other areas of the Island does not exist. In fact, PRTC's recitation suggests only that San Juan is a trading center in its own right.

D. Banks, Universities, Media, Shipping Ports and Airports.

The additional "facts" alleged by PRTC are irrelevant. That the major banks are headquartered in San Juan is meaningless if accurate (PRTC petition at 5). For example, one of the largest banks in Washington, D.C., First Union, is headquartered in North Carolina. Similarly the fact that some of the major universities in Puerto Rico are located in San Juan is not relevant. By the same token, the District of Columbia's universities attract students from all over the country. Moreover, the Mayaguez, Ponce, Aguidilla BTA has its own university in Ponce (Id.) further obviating the significance, if any, of the island's institutions for higher education.

That the media are headquartered in San Juan is similarly unimportant (Id.). The New York Times is available on a same-day basis in Washington, D.C., yet New York is a separate BTA.

That the major television networks are located in San Juan similarly is without merit (Id.). Virtually all network television programming in the continental United States originates in New York or Los Angeles. Moreover, PRTC ignores that there are at least 10 independent television stations in the Mayaguez-Ponce-Aguadilla BTA.⁵

⁵WVEO, Channel 44, Aguidilla; WOLE-TV, Channel 12, Aguidilla-Mayaguez; WORA-TV, Channel 5, Mayaguez; WTRA, Channel 16, Mayaguez; WNJX-TV, Channel 22, Mayaguez; WSTE, (continued...)

In its zeal to eliminate air travel to and from San Juan (Id. at 4), PRTC trivializes the presence of intra-island air service to and from points within the Mayaguez-Ponce-Aguadilla BTA. While the traffic in Mayaguez and Ponce ports may not be as great as that of San Juan's, there is traffic (Id. at 4-5). Indeed, the ports of Mayaguez and Ponce are significant shipping ports in their own right and cannot be written off simply because San Juan's is larger. As Pegasus demonstrated, the port cities of Mayaguez and Ponce are industrial and commercial centers separate from San Juan (Pegasus petition at 4; Attachment C at 1). Mayaguez is one of the tuna industry's major ports, as PRTC likewise acknowledged (PRTC petition at 5), and contributes materially to the economy of the Mayaguez-Ponce-Aguadilla BTA. In addition, Ponce's deep water harbor is the second largest commercial port for dry cargo in Puerto Rico. Located on the southern coast, it is particularly accessible to and serves most major world markets (Pegasus petition, Exhibit 3). While San Juan may be the largest port, Mayaguez and Ponce attract shipping from major markets and are an economic center in their own right.

⁵(...continued)

Channel 7, Ponce; WSUR-TV, Channel 9, Ponce; WTIN, Channel 14, Ponce; WKPV, Channel 20, Ponce; and WIRS, Channel 42, Yauco.

E. PRTC's Proffer of Its CGSA Consolidation is Disingenuous and Without Relevance

PRTC is disingenuous in attempting to attach legal significance to its CGSA consolidation in connection with the issues presented to the Commission here. The FCC's policy of allowing parties to consolidate CGSA's was an administrative tool to merely allow carriers to extend their cellular operations coextensive with their consolidated market boundaries during their five-year fill-in period.

Since PRTC has a wireline exchange presence in each of the 7 Puerto Rico Rural Service Areas ("RSA"), it was eligible under Section 22.902(b) of the rules to initially apply for each of those RSA's on the wireline frequency block and therefore eligible to request consolidation. The Commission's policy underlying such consolidations allows cellular carriers, such as PRTC in that context, to expand their geographic breadth of coverage without prior Commission approval in applicable instances.

PRTC's CGSA consolidation was predicated on PRTC's status as the wireline cellular carrier in each of the 7 RSAs in Puerto Rico; and that status was in turn predicated on PRTC's pre-existing status as the wireline local exchange carrier in each of the 7 RSA's. Thus, the CGSA consolidation ultimately rests on the geographic extent of PRTC's local exchange operations, not on the Commission's cellular market definitions, which, in any event, the

Commission has rejected in favor of the BTA/MTA approach to licensing the provision of PCS.

When distilled to essence, PRTC's real argument is that PCS market boundaries should follow the wireline exchange boundaries of local exchange carriers, a position that has never been adopted by the Commission for Puerto Rico or for any other area of the country.

IV. CONCLUSION

PRTC has failed to demonstrate any facts which would support a public interest conclusion contrary to that made by the Commission from a complete and accurate record, not once but twice. The establishment of a separate Mayaguez-Ponce-Aguadilla BTA is a refreshing and long awaited opportunity for the residents throughout Puerto Rico to have equal and rapid access to PCS island-wide, rather than a perpetuation of the gradual emanation of service from San Juan which, otherwise dependent upon population coverage to meet build-out requirements, may never reach the new BTA's service areas. Moreover, nothing prevents the same party from being the PCS licensee for both Puerto Rico BTAs.

Accordingly, the Petition for Reconsideration should be denied.

Respectfully submitted,

PEGASUS COMMUNICATIONS, INC.

By: *James E. Meyers*
James E. Meyers
Susan R. Athari

Baraff, Koerner, Olender & Hochberg, P.C.
5335 Wisconsin Avenue, N.W., Ste. 300
Washington, D.C. 20015
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ATTACHMENT A



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET N.W.
WASHINGTON, D.C. 20554

Fed Reg 15 Dec 93

News media information 202/632-5050. Recorded listing of releases and texts 202/632-0002.

REPORT NO. 1992

December 13, 1993

PETITIONS FOR RECONSIDERATION AND CLARIFICATION OF ACTIONS IN RULE MAKING PROCEEDING

Petitions for reconsideration and clarification have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, N.W. Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3800. Opposition to these petitions must be filed within 15 days of the date of public notice of the petitions in the Federal Register. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

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

FILED BY: Gene A. Bechtel, Attorney for Advanced Cordless Technologies on 11-22-93 (and Supplement filed on 11-23-93).

FILED BY: Robert J. Miller, Attorney for Alcatel Network System, Inc. on 12-08-93.

FILED BY: David L. Nace, Attorney for Alliance of Rural Area Telephone and Cellular Service Providers on 12-08-93.

FILED BY: J. Barclay Jones, Vice President, Engineering for American Personal Communications on 12-08-93.

FILED BY: Wayne V. Black, Attorney for American Petroleum Institute on 12-08-93.

FILED BY: Francine J. Berry, Attorney for American Telephone and Telegraph on 12-08-93.

FILED BY: Frank M. Panek, Attorney for Ameritech on 12-08-93.

FILED BY: Glenn S. Richards, Attorney for AMSC Subsidiary Corporation on 12-08-93.

FILED BY: Alane C. Weixel, Attorney for Anchorage Telephone Utility on 12-08-93.

FILED BY: James F. Lovette for Apple Computer, Inc. on 12-08-93.

FILED BY: James R. Rand, Executive Director for Association of Public Safety Communications Official on 12-08-93.

FILED BY: James H. Baker, Attorney for Bell Atlantic Personal Communications, Inc. on 12-08-93.

FILED BY: William B. Barfield, Attorney for BellSouth Corporation on 12-08-93.

FILED BY: Robert M. Jackson, General Partner for Blooston, Mordorfsky, Jackson & Dickens on 12-08-93.

FILED BY: R. Phillip Baker, Executive Vice President for Chickasaw Telephone Co.; Cincinnati Bell Telephone Co.; Illinois Consolidated Telephone Co.; Milling Telephone Co.; and Roseville Telephone Co. on 12-08-93.

FILED BY: David A. LaFuria, Attorney for Columbia Cellular Corp. on 12-08-93.

FILED BY: Laura H. Phillips, Attorney for Comcast Corporation on 12-08-93.

FILE BY: Nancy J. Thompson, Attorney for COMSAT Corporation on 12-08-93.

FILED BY: Barry R. Rubens, Manager-Regulatory Affairs for Concord Telephone Co. on 12-08-93.

FILED BY: Michael F. Altschul, Vice President, General Counsel for Cellular Telecommunications Industry Association on 12-08-93.

FILED BY: Harold K. McCombs, Jr. for Duncan, Weinberg, Miller & Pembroke, P. C. on 11-22-93.

FILED BY: David C. Jatlow, Attorney for Ericsson Corporation on 12-08-93.

FILED BY: Audrey P. Rasmussen, Attorney for Florida Cellular RSA Limited Partnership on 11-22-93 (Erratum filed on 12-03-93).

FILED BY: Kathy L. Shobert, Director Federal Regulatory Affairs for General Communications, Inc. on 12-08-93.

FILED BY: Carl W. Northrop, Attorney for George E. Murray on 12-08-93.

FILED BY: Gail L. Polivy, Attorney for GTE Service Corporation on 12-08-93.

FILED BY: James U. Troup, Attorney for Iowa Network Services on 12-08-93.

FILED BY: Michael Killen, President of Killen & Associates, Inc. on 11-24-93.

FILED BY: Chandos A. Rypinski, President of LACE, Inc. on 12-08-93.

FILED BY: Scott K. Morris, Vice President-Law for McCaw Cellular Communications, Inc. on 12-08-93.

FILED BY: Larry A. Blosser, Attorney for MCI Telecommunications Corporation on 12-08-93.

FILED BY: Timothy E. Welch, Attorney for Mibtel, Inc. on 11-19-93.

FILED BY: Larry S. Solomon, Attorney for Metricom, Inc. on 12-08-93.

FILED BY: Michael D. Kennedy, Director Regulatory Relations for Motorola, Inc. on 12-08-93.

FILED BY: Paul R. Schwidler, Assistant Chief Regulatory Counsel for the Manager of the National Communications System on 12-08-93.

FILED BY: David Cosson, Attorney for National Telephone Cooperative Association on 12-08-93.

FILED BY: Edward R. Wholl, Attorney for NYNEX Corporation on 12-08-93.

FILED BY: Robert S. Foosaner Senior Vice President Government Affairs for Nextel Communications, Inc. on 11-18-93.

FILED BY: Stephen L. Goodman, Counsel for Northern Telecom Inc. on 12-08-93.

FILED BY: Lisa M. Zaina, Attorney for Organization for the Protection and Advancement of Small Telephone Companies on 12-08-93.

FILED BY: Theresa L. Cabral, Attorney for Pacific Bell and Nevada Bell on 12-08-93.

FILED BY: David L. Nace, Attorney for Pacific Telecom Cellular, Inc. on 12-08-93.

FILED BY: Pamela J. Riley for PacTel Corporation on 12-08-93.

FILED BY: Ronald L. Plessner, Counsel for PCS Action, Inc. on 12-08-93.

FILED BY: Susan R. Athari, Counsel for Pegasus Communications, Inc. on 12-08-93. ←

FILED BY: E. Ashton Johnston, Attorney for Personal Network Services Corp. on 12-08-93.

FILED BY: John W. Hunter, Attorney for PMN, Inc. on 12-08-93.

FILED BY: John Hearne, Chairman of Point Communications Company on 12-08-93.

FILED BY: John A. Prendergast, Attorney for Radiofone, Inc. on 12-08-93.

FILED BY: Linda C. Sadler, Manager-Governmental Affairs for Rockwell International, Inc. on 12-08-93.

FILED BY: Caressa D. Bennet, Attorney for Rural Cellular Association on 12-08-93.

FILED BY: Paula J. Fulks, Attorney for Southwestern Bell on 12-08-93.

FILED BY: Margaret M. Charles, Attorney for Spectralink Corporation on 12-08-93.

FILED BY: Jay C. Keithley, Attorney for Sprint Corporation on 12-08-93 (and correction filed on 12-09-93).

FILED BY: W. Scott McCollough, Assistant Attorney General for Texas Advisory Commission on Emergency Communications on 12-08-93 (and supplement filed 12-08-93).

FILED BY: Eric Schimmel, Vice President for Telecommunications Industry Association (TIA) - Fixed Point-to-Point Communication Section of the Network Equipment Division on 12-08-93.

FILED BY: Eric Schimmel, Vice President for Telecommunications Industry Association (TIA) - Mobile and Personal Communications Division on 12-08-93.

FILED BY: George Y. Wheeler, Attorney for Telephone and Data Systems, Inc. on 12-08-93.

FILED BY: Thomas A. Stroup, Attorney for Telocator on 12-08-93.

FILED BY: Richard Rubin, Attorney for Time Warner Telecommunications on 12-08-93.

FILED BY: Stephen D. Baruch, Attorney for TRW, Inc. on 12-08-93.

FILED BY: Stephen G. Kraskin, Attorney for U.S. Intelco Networks, Inc. on 12-08-93.

FILED BY: Jeffrey S. Bork, Attorney for US West on 12-08-93.

FILED BY: R. Michael Senkowski, Attorney for UTAM, Inc. on 12-08-93.

FILED BY: Jeffrey L. Sheldon, General Counsel for Utilities Telecommunications Council on 12-08-93.

FILED BY: R. Michael Senkowski, Attorney for WINforum on 12-08-93.

--FCC--

included in any previously registered product.

The application was approved on October 4, 1993, as DR. BIOSEDGE for use in all crop areas to control yellow net-edge weeds (EP A Registration Number 65363-1).

The Agency has considered all required data on the risks associated with the proposed use of *Puccinia ornithogalli* spores (ATOC #40199), and information on social, economic, and environmental benefits to be derived from such use. Specifically, the Agency has considered the nature of the chemical and its pattern of use, application methods and rates, and level and extent of potential exposure. Based on these reviews, the Agency was able to make basic health and safety determinations which show that use of *Puccinia ornithogalli* spores (ATOC #40199) when used in accordance with widespread and commonly recognized practices, will not generally cause unreasonable adverse effects on the environment.

More detailed information on this registration is contained in a Chemical Fact Sheet on *Puccinia ornithogalli* spores (ATOC #40199).

A copy of this fact sheet, which provides a summary description of the chemical, use patterns and formulations, science findings, and the Agency's regulatory position and rationale, may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161.

In accordance with section 31(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Public Response and Program Resources Branch, Field Operations Division (7506C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 1132, CM #2, Arlington, VA 22202 (703-305-6605). Requests for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A-101), 401 M St., SW, Washington, DC 20460. Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: November 4, 1993.

Susan H. Weyland,

Acting Director, Office of Pesticide Programs.

[FR Doc. 93-30213 Filed 12-14-93; 8:45 am]
SUMMARY PAGE 6*

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

December 9, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3607).

Copies of this submission may be purchased from the Commission's copy contractor, International Transaction Service, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037 (202) 857-3600. For further information on this submission contact Judy Bolay, Federal Communications Commission (202) 632-0276. Persons wishing to comment on this information collection should contact Timothy Pain, Office of Management and Budget, room 3235 NDOB, Washington, DC 20503 (202) 395-3561.

OMB Number: 3060-0472.

Title: 470-512 MHz Mobile Loading.

Form Number: FCC Form 60227.

Action: Extension of a currently approved collection.

Respondents: Individuals or households, state or local governments, nonprofit institutions and businesses or other for-profit (including small businesses).

Frequency of Response: On occasion reporting requirement.

Estimated Annual Burden: 250

responses; .25 hours average burden per response; 63 hours total annual burden.

Needs and Uses: The information contained on FCC Form 60227 is required by 47 CFR 90.313. Licenses are required to notify the Commission, within 6 months of license grant, of the actual number of mobile units in operation. The data is used by Commission staff in determining full capacity channel loading, making frequencies available for assignment and modifying or canceling licenses. The data collected ensures licenses are not authorized for more mobiles than they are actually using.

Federal Communications Commission.

William F. Cullen,

Acting Secretary.

[FR Doc. 93-30541 Filed 12-4-93; 8:45 am]

SUMMARY PAGE 6-4

[Report No. 1092]

Petitions for Reconsideration and Clarification of Actions in Rulemaking Proceeding

December 13, 1993.

Petitions for reconsideration and clarification have been filed in the Commission rulemaking proceeding listed in this Public Notice and published pursuant to 47 CFR § 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3600. Opposition to these petitions must be filed within 15 days of the date of public notice of the petitions in the Federal Register. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of the Commission's Rules to Establish New Personal Communications Services (CEN Docket No. 90-314, RM-7140, RM-7175, RM-7616).
Filed By: Gene A. Bechtel, Attorney for Advanced Cordless Technologies on 11-22-93 (see Supplement filed on 11-23-93).
Filed By: Robert J. Miller, Attorney for Alantel Network System, Inc. on 12-06-93.
Filed By: David L. Nevo, Attorney for Alliance of Rural Area Telephone and Cellular Service Providers on 12-06-93.
Filed By: J. Barclay Jones, Vice President, Engineering for American Personal Communications on 12-06-93.
Filed By: Wayne V. Black, Attorney for American Petroleum Institute on 12-06-93.
Filed By: Frances J. Berry, Attorney for American Telephone and Telegraph on 12-06-93.
Filed By: Frank M. Panek, Attorney for Ameritech on 12-06-93.
Filed By: Glenn S. Richards, Attorney for ANSC Subsidiary Corporation on 12-06-93.
Filed By: Alana C. Wetzel, Attorney for Anchorage Telephone Utility on 12-06-93.
Filed By: James F. Lorente for Apple Computer, Inc. on 12-06-93.
Filed By: James R. Rand, Executive Director for Association of Public Safety Communications Officials on 12-06-93.
Filed By: James H. Baker, Attorney for Bell Atlantic Personal Communications, Inc. on 12-06-93.
Filed By: William B. Barfield, Attorney for BallSouth Corporation on 12-06-93.
Filed By: Robert M. Jackson, General Partner for Blounton, Mordorfsky, Jackson & Dickens on 12-06-93.

Filed By: R. Phillip Baker, Executive Vice President for Oklahoma Telephone Co.; Chasanth Hill Telephone Co.; Illinois Consolidated Telephone Co.; Milling Telephone Co.; and Knoxville Telephone Co. on 12-09-93.

Filed By: David A. LaFuria, Attorney for Oklahoma Cellular Corp. on 12-09-93.

Filed By: Laura H. Phillips, Attorney for Concast Corporation on 12-09-93.

Filed By: Quincy J. Thompson, Attorney for OREGONAT Corporation on 12-09-93.

Filed By: Barry E. Rubens, Manager, Regulatory Affairs for Concord Telephone Co. on 12-09-93.

Filed By: Michael P. Altschul, Vice President, General Counsel for Cellular Telecommunications Industry Association on 12-09-93.

Filed By: Harold K. McCrank, Jr. for Deacon, Weisberg, Miller & Peshak, P.C. on 12-09-93.

Filed By: David C. Jaskov, Attorney for Bellcore Corporation on 12-09-93.

Filed By: Audrey P. Rasmussen, Attorney for Florida Cellular RSA Limited Partnership on 12-09-93.

Filed By: Kathy L. Shubert, Director Federal Regulatory Affairs for General Communications, Inc. on 12-09-93.

Filed By: Carl W. Nordberg, Attorney for Compaq E. Mercury on 12-09-93.

Filed By: Gail L. Peiray, Attorney for GTE Service Corporation on 12-09-93.

Filed By: James U. Troup, Attorney for Iowa Wireless Services on 12-09-93.

Filed By: Michael Killian, President of Killian & Associates, Inc. on 11-24-93.

Filed By: Charles A. Byrnski, President of LADC, Inc. on 12-09-93.

Filed By: Scott K. Morris, Vice President, Law for McGraw Cellular Communications, Inc. on 12-09-93.

Filed By: Larry A. Brooser, Attorney for MCI Telecommunications Corporation on 12-09-93.

Filed By: Timothy E. Welch, Attorney for Methyl, Inc. on 11-19-93.

Filed By: Larry S. Solomon, Attorney for Meritcom, Inc. on 12-09-93.

Filed By: Michael D. Kennedy, Director Regulatory Relations for Metrowest, Inc. on 12-09-93.

Filed By: Paul R. Schwader, Assistant Chief Regulatory Counsel for the Manager of the National Communications System on 12-09-93.

Filed By: David Conson, Attorney for National Telephone Cooperative Association on 12-09-93.

Filed By: Edward R. Whall, Attorney for NYSACK Corporation on 12-09-93.

Filed By: Robert S. Rosemer, Senior Vice President, Government Affairs for National Communications, Inc. on 11-30-93.

Filed By: Stephen L. Goodman, Counsel for Northern Telecom Inc. on 12-09-93.

Filed By: Lisa M. Zales, Attorney for Organization for the Protection and Advancement of Small Telephone Companies on 12-09-93.

Filed By: Theresa L. Cahrel, Attorney for Pacific Bell and Nevada Bell on 12-09-93.

Filed By: David L. Neen, Attorney for Pacific Telephone Cellular, Inc. on 12-09-93.

Filed By: Pamela J. Riley for PacTel Corporation on 12-09-93.

Filed By: Donald L. Phares, Counsel for PCS Action, Inc. on 12-09-93.

Filed By: Susan R. Adair, Counsel for Progress Communications, Inc. on 12-09-93.

Filed By: E. Ashlan Johnson, Attorney for Personal Network Services Corp. on 12-09-93.

Filed By: John W. Hunter, Attorney for PNM, Inc. on 12-09-93.

Filed By: John Renna, Chairman of Point Communications Company on 12-09-93.

Filed By: John A. Prangeper, Attorney for Radiocom, Inc. on 12-09-93.

Filed By: Linda C. Sailer, Manager, Governmental Affairs for Rockwell International, Inc. on 12-09-93.

Filed By: Orono D. Bennett, Attorney for Rural Cellular Association on 12-09-93.

Filed By: Paul J. Peltz, Attorney for Southwestern Bell on 12-09-93.

Filed By: Margaret M. Charles, Attorney for Spectralink Corporation on 12-09-93.

Filed By: Jay E. Kelsky, Attorney for Sprint Corporation on 12-09-93 (and correction filed on 12-9-93).

Filed By: W. Dean McOlinough, Assistant Attorney General for Texas Advisory Commission on Emergency Communications on 12-09-93 (and supplement filed 12-09-93).

Filed By: Eric Schlemel, Vice President for Telecommunications Industry Association (TIA)—Fixed Point-to-Point Communication Section of the Network Equipment Division on 12-09-93.

Filed By: Eric Schlemel, Vice President for Telecommunications Industry Association (TIA)—Mobile and Personal Communications Division on 12-09-93.

Filed By: George Y. Wheeler, Attorney for Telephone and Data Systems, Inc. on 12-09-93.

Filed By: Thomas A. Stump, Attorney for Teletex on 12-09-93.

Filed By: Richard Rubin, Attorney for Time Warner Telecommunications on 12-09-93.

Filed By: Stephen D. Burch, Attorney for TRW, Inc. on 12-09-93.

Filed By: Stephen C. Kretka, Attorney for U.S. Hatvick Networks, Inc. on 12-09-93.

Filed By: Jeffrey S. Berk, Attorney for US West on 12-09-93.

Filed By: R. Michael Szankowski, Attorney for UTRAK, Inc. on 12-09-93.

Filed By: Jeffrey L. Sheldon, General Counsel for Utilities Telecommunications Council on 12-09-93.

Filed By: R. Michael Szankowski, Attorney for WIRKOM on 12-09-93.

Federal Communications Commission, William J. Cohen, Acting Secretary.

JFR Doc. 93-30710 Filed 12-14-93; 8:45 am] SUWS 0002 916-9-4

FEDERAL RESERVE SYSTEM

The Dai-ichi Kangyo Bank, et al.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.216(k)(2) or (l) of the Board's Regulation Y (12 CFR

225.216(k)(2) or (l)) for the Board's approval under section 4(c)(6) of the Bank Holding Company Act (12 U.S.C. 1843(c)(6)) and § 225.21(l) of Regulation Y (12 CFR 225.21(l)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unusual banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing. Identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be approved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 3, 1994.

A. Federal Reserve Bank of San Francisco (Kenneth R. Blasing, Director, Bank Holding Company) 101 Market Street, San Francisco, California 94105.

1. The Dai-ichi Kangyo Bank, Tokyo, Japan; to acquire Daiichi Commercial Corporation, Charlotte, North Carolina, and thereby engage in factoring and asset-based lending by making, acquiring or servicing loans or other extensions of credit, for its account or for the account of others pursuant to § 225.216(k)(1) and operating a collection agency pursuant to § 225.25(b)(2)(3) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, December 9, 1993.

Janet L. Johnson,

Associate Secretary of the Board.

JFR Doc. 93-30533 Filed 12-14-93; 8:45 am] SUWS 0002 916-9-4

ATTACHMENT B



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
 1919 M STREET N.W.
 WASHINGTON, D.C. 20554

42608

News media information 202/632-5050. Recorded listing of releases and texts 202/632-0002.

April 13, 1994

Ex Parte Presentations and Post-Reply Comment Period Filings in Non-Restricted Proceedings

The following is a list of ex parte presentations and Post-Reply Comment Period Filings received by the Secretary of the Commission on or before April 8, 1994. Copies of these written presentations and memoranda reporting oral presentations, if they relate to docket proceedings, are available for inspection and copying in the appropriate docket in the Public Reference Room (Room 239, 1919 M St., N.W., Washington, D.C.) which is open Monday through Friday, 9:00 AM to 4:30 PM; or, if they relate to non-docket proceedings, in the appropriate bureau. Also, the duplicating contractor, ITS, Inc., located in Room 246, as well as offices at 2100 M St., N.W. Suite 140, Telephone Number (202) 857-3800, will provide, for a fee, copies of these materials. For additional information, contact Barbara Lowe at (202) 632-4178.

Date Received	Presentation by:	Presentation to:	Docket No.
4/8	Andrew Corporation	Secretary	RM-8200 Bi-Directional Signal Boosters
4/4	Charter Township of Ironwood	Secretary	CC 87-266 Telephone/Cable Cross-Ownership
4/4	American Personal Communications	Secretary	GEN 90-314 Personal Communications Services
4/4	Pegasus Communications, Inc.	Private Radio Bureau	
4/6	Cellular Telecommunications Industry Assn.	Ofc. of Chairman Hundt Ofc. of Engineering and Technology Private Radio Bureau	
4/6		Ofc. of Cmsr. Barrett	
4/7	UTAM, Inc.	Chairman Hundt Cmsr. Quello Ofc. of Cmsr. Barrett Ofc. of Plans and Policy Ofc. of Engineering and Technology Private Radio Bureau	

ATTACHMENT C