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

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FEDERAL COMMUNICATIONS COMMISSION
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In the matter of)
)
Amendment of the Commission's)
Rules to Establish New)
Personal Communications)
Services)

GEN Docket No. 90-314

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REPLY COMMENTS OF
THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA"), hereby replies to the comments filed on its Petition for Partial Reconsideration in the above-captioned docket. In its Petition, PCIA proposed that the Commission adopt a cost sharing plan so that the costs of microwave relocations necessary in the 2 GHz band are spread equitably among those parties who benefit from the relocations. Such a plan would facilitate the relocation process and the ultimate deployment of PCS.

I. INTRODUCTION

Three of the comments filed addressed PCIA's proposal. Both MCI and BellSouth support the implementation of a cost sharing plan.¹ In particular, BellSouth stressed that such a cost sharing mechanism would minimize the difficulties associated with relocating a microwave system with operations in several markets, as well as preventing a "free rider"

¹ BellSouth Comments at 39; MCI Comments at 4.

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problem from distorting the "incentives to engage in an orderly relocation and transition process."² Only the Utilities Telecommunications Commission ("UTC") voiced any concerns with the cost sharing proposal.³ However, contrary to UTC's suggestions, PCIA's cost sharing plan is procedurally proper and, in addition, will benefit all microwave licensees in the 2 GHz band by promoting a more orderly relocation process.

II. PCIA'S PETITION IS PROCEDURALLY PROPER

PCIA properly raised the issue of cost sharing in a Petition for Partial Reconsideration of the Memorandum Opinion and Order. A proposal for cost sharing was originally filed by UTAM, Inc. on April 22, 1994, in comments requested by the Commission in response to issues raised in the PCS Task Force Hearings.⁴ In addition, the Commission itself noted in the Memorandum Opinion and Order in Docket 92-9 that the appropriate docket for comments regarding cost sharing was the Personal Communications Services Docket 90-314.⁵

² BellSouth Comments at 39.

³ See UTC Comments at 3-7.

⁴ Comments of UTAM, Inc., GEN Docket No. 90-314 (filed Apr. 22, 1994).

⁵ Memorandum Opinion and Order, ET Docket No. 92-9, ¶8 n.9 (Mar. 8, 1994).

UTC nonetheless suggests that since none of the Petitions for Reconsideration of the Second Report and Order addressed cost sharing, the Commission should begin a new rulemaking process to consider these issues.⁶ However, as noted, the cost sharing issue was properly and timely raised in this docket and the Commission apparently inadvertently failed to address that proposal in the Memorandum Opinion and Order. Therefore, the issue is appropriately raised in a Petition for Reconsideration of that order.

Moreover, a new rulemaking on PCS cost sharing, recommended by UTC, is unnecessary and risks delaying the auctions. In its original Petition, PCIA urged the Commission not to delay the PCS auctions while considering cost sharing issues and reiterates that here. Indeed, the expeditious resolution of this issue is important to permit proper valuation of licenses for bidding purposes.

**III. COST SHARING WILL FACILITATE,
NOT INHIBIT, THE RELOCATION PROCESS**

Cost sharing by all PCS interests benefitted by microwave relocations will provide certainty to both PCS interests and microwave licensees and remove any incentives to delay the relocation process. PCS interests will benefit by the removal of the "free rider" problem -- no PCS participant will delay relocating microwave links fearing

⁶ UTC Comments at 7-8.

that a competitor is benefitting from the PCS participants relocation efforts. In addition, cost sharing will benefit microwave licensees both by encouraging the prompt relocation of links and limiting the number of PCS participants with whom a microwave licensee must negotiate.

UTC also expressed concerns that a cost sharing plan would affect the flexibility to use non-cash and other creative compensation mechanisms to facilitate microwave relocations.⁷ PCIA feels this concern is unwarranted because the dollar value of these incentives should not be difficult to calculate so there will be no disincentives to creative relocation solutions.

UTC is also troubled by PCIA's proposed trigger for cost sharing responsibilities because a determination of when the PCS operations would have caused interference could be contested.⁸ First, any controversy over interference calculations relating to cost sharing will occur after the link has been relocated so the microwave licensee will not be affected. Second, the interference calculations are sufficiently specific that there should be little controversy

⁷ Id. at 4-6.

⁸ Id. at 6. UTC further notes that PCS interests may relocate microwave links for purposes of avoiding interference to their own operations. Id. at 7. PCIA's proposed cost sharing requirements would apply to all PCS interests benefitted by a relocation, including those seeking to avoid interference to either microwave or PCS operations.

involved in determining when interference to microwave operations would have occurred.

Finally, UTC questioned the fact that PCIA's proposal did not specifically note whether unlicensed PCS would be included in the cost sharing plan.⁹ However, PCIA has now filed comments on its own Petition clarifying that all PCS interests should be included in the cost sharing proposal.

IV. CONCLUSION

PCIA urges the Commission to implement a cost sharing plan for all PCS interests benefitting from microwave relocations. For the reasons detailed above, as well as those in its Petition and Comments, PCIA believes that such a plan will facilitate the relocation process and encourage the rapid deployment of PCS services.

Respectfully submitted,

THE PERSONAL COMMUNICATIONS
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September 9, 1994

⁹ Id. at 7.

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of September, 1994, I caused copies of the foregoing "Reply Comments of the Personal Communications Industry Association" to be mailed via first-class postage prepaid mail to the following:



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