

FCC MAIL SECTION

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

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DA 94-1054

DISPATCHED BY

In the Matter of)

) PR Docket No. 94-105

Petition of People of the State of California and)
the Public Utilities Commission of the State of)
California to Retain Regulatory Authority Over)
Intrastate Cellular Service Rates)

ORDER EXTENDING TIME AND PERMITTING REPLIES TO REVISED PETITION

Adopted: September 26, 1994; **Released:** September 26, 1994

By the Chief, Private Radio Bureau:

1. Petitioners, People of the State of California and the Public Utilities Commission of the State of California (collectively California) have filed an emergency motion for a 45-day extension of time from the October 4, 1994 deadline for filing reply comments.¹ For the reasons given below, we grant California some, but not all, of the relief requested.

2. The amendments to the Communications Act in the Omnibus Budget Reconciliation Act of 1993 preempted state rate and entry regulation of commercial mobile radio services. A state could, however, obtain intrastate rate regulatory authority by filing a properly supported petition with the FCC.² States with existing rate regulation could petition by August 10, 1994 to continue regulating, and would obtain a stay of statutory preemption until the FCC acted. The Commission has one year in which to rule on the petition and to decide any reconsideration. California filed such a petition on August 9, 1994. Pursuant to the Commission's rules,³ interested parties had 30 days in which to comment and then 15 days for replies.

¹ Emergency Motion of the People of the State of California and the Public Utilities Commission of the State of California for a 45-Day Extension of Time To File Reply Comments (dated Sept. 19, 1994)(Motion).

² Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, § 6002 (b)(2), 107 Stat. 312, 392 (1993), amending Section 332 (c)(3) of the Communications Act, 47 U.S.C. § 332 (c)(3).

³ Second Report and Order, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, 9 FCC Rcd 1411, 1522-23 (1994), 59 Fed. Reg. 18493 (Apr. 19, 1994) (to be codified at 47 C.F.R. § 20.13).

3. Petitioners' motion is dated the date comments were due. They state that they had already received two lengthy pleadings and expected a substantial number of additional comments.⁴ In fact, over 1,400 pages of comments and associated pleadings were filed on the California petition. By the time copies of the pleadings have been obtained, California states that it will have only six or seven business days in which to review and analyze the record, finalize its comments, and respond to a party's motion addressing confidentiality issues raised by the petition. Petitioners state that the issues involved are complex and that the proceeding concerns fundamental state interests. They claim that no party will be prejudiced, and the FCC's ability to meet the one-year statutory deadline not detrimentally affected, by the requested extension. They believe that the FCC will be well served by a complete record and careful analysis on the part of California. Petitioners allege that they have shown good cause for the requested extension.⁵

4. Although it does not object to "some appropriately brief" extension, Air Touch Communications argues that the 45-day extension requested by California is excessive and needlessly delays resolution of this proceeding. It states that rate regulation costs California consumers \$250 million per year, contrary to California's claim that no party will be prejudiced. It states that the pleading cycle in this proceeding was crafted to balance the rights of all parties, especially the public's right to be relieved of needless regulation.⁶

5. We agree with California that some measure of relief is required. The record in this proceeding is voluminous, and the issues, including the state of competition and reasonableness of cellular rates in the state, are intricate. Moreover, California filed revisions to its petition on September 13, 1994, which, at our request, included previously redacted information subsequently determined to be a matter of public record.⁷ Interested parties may wish to comment on any new material. For these reasons, we conclude that an extension of time would serve the public interest. On the other hand, the Commission is faced with stringent statutory deadlines in a complex and massive proceeding. Granting an extension as long as California requests could impair the Commission's ability to comply with the statutory deadlines. For these reasons, we find that good cause has been shown for an extension of 15 days. This doubles the reply period permitted to a total of 30 days. We also put all parties on notice that those who wish to address the revised portions of California's petition should do so in these replies.

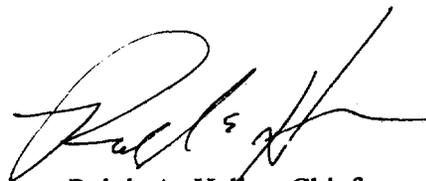
⁴ Motion at 4.

⁵ Motion at 3-4.

⁶ Comments of AirTouch Communications on the CPUC's Emergency Motion at 1-2 (dated Sept. 23, 1994). AirTouch Communications adds that California, by virtue of a 1994 investigation into the wireless industry, is well-prepared to respond to the comments in a timely fashion. *Id.* at 2.

⁷ Ex Parte Letter from Ellen S. Levine, Principal Counsel, California Public Utilities Commission, to Hon. William F. Caton, Acting Secretary, FCC (dated Sept. 13, 1994).

6. Pursuant to Section 1.46 of the Commission's Rules,⁸ we GRANT IN PART AND DENY IN PART the Emergency Motion of the People of the State of California for a 45-Day Extension of Time to File Reply Comments TO THE EXTENT INDICATED HEREIN, and HERBY EXTEND the time for filing reply comments UNTIL October 19, 1994. Interested parties ARE PERMITTED to include any comments on the revised petition filed by California on September 13, 1994 in their reply comments.



Ralph A. Haller, Chief
Private Radio Bureau

⁸ 47 C.F.R. § 1.46.