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

Petition for Rulemaking of Pacific Bell Mobile Services Regarding a Plan for Sharing the Costs of Microwave Relocation	))))	RM-8643

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COMMENTS OF COX ENTERPRISES, INC.

Cox Enterprises, Inc. ("Cox"), by its attorneys, hereby submits its comments in response to the Petition for Rulemaking Regarding a Plan for Sharing the Costs of Microwave Relocation filed by Pacific Bell Mobile Services ("PBMS").[1] Cox supports the adoption of Commission-approved processes for sharing microwave relocation costs among the benefitting parties.

I. INTRODUCTION

Cox's interest in PCS is a matter of record with the Commission. Not only were Cox's efforts in developing cable television based PCS recognized by the award of a Pioneer Preference, Cox has been an active participant in the Commission's Emerging Technologies docket and has a demonstrated interest in microwave relocation issues.[2] Cox's subsidiary, Cox Communications, Inc., holds a license to provide Personal Communications Services

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[1]Petition for Rulemaking of Pacific Bell Mobile Services, RM-8643 (filed May 5, 1995)("PBMS Petition").

[2]See Comments of Cox Enterprises, Inc. (ET Docket No. 92-9, filed on January 13, 1993); Reply Comments of Cox Enterprises, Inc. (ET Docket No. 92-9, filed on February 12, 1993); Opposition of Cox Enterprises, Inc. (ET Docket No. 92-9, filed March 30, 1993).

("PCS") in the Los Angeles - San Diego Major Trading Area ("MTA").[3] Accordingly, Cox is engaged in the deployment of its PCS network, including the planning of microwave relocations essential to the provision of service.

While Cox recognizes the need for an equitable and rational process to allocate the costs of PCS deployment related to microwave relocation among the licensees who benefit from a particular relocation, Cox has concerns regarding an aspect of the PBMS proposal. Prior to the adoption of rules for microwave relocation cost sharing in cases involving co-channel interference, the Commission, or the industry under Commission guidance, must adopt an objective standard which PCS licensees may reference in order to determine whether a particular link will actually cause co-channel interference.

II. THE COMMISSION MUST ADOPT OR ENDORSE OBJECTIVE STANDARDS TO DETERMINE ADJACENT CHANNEL INTERFERENCE

PBMS proposes a microwave relocation cost sharing plan that uses as its centerpiece the creation of "interference rights" separate from the microwave licensee's transmission rights. Under the PBMS proposal, an FCC database would indicate that a particular PCS provider who migrated the link has interference rights to that link on a primary basis, as if the link were still operational. Whenever another PCS provider initiates the prior coordination process, that operator would compensate the holder of interference rights if the subsequent PCS provider's system would have caused harmful interference to the pre-existing link. PBMS proposes a formula for compensation that allows for the depreciation of relocation costs so that later entrants bear a smaller cost relative to earlier entrants.

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[3]Through subsidiaries, Cox has a 15% interest in WirelessCo, L.P., a joint venture among Cox, Comcast, TCI and Sprint that has PCS applications pending for twenty-nine MTA markets.

Under the PBMS proposal, reimbursement of the cost of relocating a particular microwave link would be sought from other PCS providers who benefit from the relocation if that link would have caused interference. PBMS suggests that Bulletin 10-F provides the appropriate criteria for assessing the potential for interference.[4]

Cox supports the notion that a PCS provider who relocates a link should be able to obtain a contribution towards the microwave relocation costs from other PCS providers who would have experienced interference from the relocated link. It is critical, however, that the Commission recognize that determining whether a particular link will cause adjacent channel interference is not a simple, straightforward enterprise. Bulletin 10-F contains microwave-to-microwave interference standards that do not lend themselves directly to assessing PCS-to-microwave to interference. Bulletin 10-F simply does not address, nor is it designed to assess, adjacent channel interference. It does not consider differences in terrain. As a result, Cox's engineers anticipate that there could be situations where an adjacent channel PCS operator could demonstrate no interference in cases where 10-F might predict interference.[5]

In adopting rules to govern the relocation of incumbent microwave links, the Commission must assure that a single standard, capable of objective reference, either is adopted or endorsed to determine whether a particular link would have caused adjacent channel interference. A predictable, objective standard for determining whether a link would

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[4]PBMS Petition at 8.

[5]Additionally the PBMS Petition does not address how to resolve potential interference and cost sharing with government microwave operations below 1850 MHz. This important aspect of relocation should not be overlooked in any overall sharing plan.

channel interference. A predictable, objective standard for determining whether a link would have caused interference will allow the microwave relocation process to proceed efficiently and will help assure that PCS deployment is not unnecessarily bogged down in squabbles over interpretation of a subjective standard.

Cox also suggests that, in light of experience already gained in negotiating with microwave incumbents, the Commission make plain the extent of the PCS relocator's continuing obligation to the relocated microwave operator. For example, clarification of the relocator's payment responsibilities for lease payments on new sites is unclear under the current framework. While the Commission plainly did not intend that the obligation to pay for reconfiguration of microwave systems continue in perpetuity, the payment responsibility for new leases or for fiber systems is ambiguous. Cox suggests that a relocator's payment responsibilities for new sites should not extend beyond the depreciable life of the new equipment placed at that site. This strikes a reasonable balance of the parties' interests and should be reflected in Commission policies.

Finally, the Commission must be available to provide timely guidance on payment issues as these matters arise. While Cox understands that the Commission prefers in the first instance to have the parties engage in private negotiation, there may be instances where Commission interpretation of existing guidelines may assist in speeding the resolution of relocation agreements. A declaration of Commission willingness to become part of a dialogue, even of a voluntary negotiation, could materially assist in resolving important issues.

IV. CONCLUSION

Cox recommends that the Commission adopt or endorse objective standards to determine adjacent channel interference. A predictable, objective standard for determining whether a link will cause interference will allow the microwave relocation process to proceed efficiently and will help assure that PCS deployment is not unnecessarily delayed and that all parties benefitting from relocation contribute to the costs of relocation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Cynthia S. Shaw, hereby certify that today, on this 15th day of June, 1995, I caused a copy of the Comments of Cox Enterprises, Inc. be served by first-class mail, postage prepaid to:

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