

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)
)
Replacement of Part 90 by Part 88 to)
Revise the Private Land Mobile Radio)
Services and Modify the Policies)
Governing Them)

PR Docket No. 92-235

1995

To: The Commission

DOCKET FILE COPY ORIGINAL

PETITION FOR RECONSIDERATION

Page Hawaii, Inc. ("Page Hawaii"), by its attorneys and pursuant to Section 1.429 of the Commission's Rules [47 C.F.R. § 1.429], hereby requests reconsideration of the Commission's actions in its Report and Order and Further Notice of Proposed Rule Making (PR Docket 92-235), FCC 95-255, released June 23, 1995. ("Part 90 Rewrite Order") insofar as they subject private carrier paging stations operating on the high power paging frequencies of 152.48 MHz and 157.74 MHz to the same antenna height/power limits applicable to two-way systems licensed under Part 90 of the FCC's Rules. Specifically, in the Notice of Proposed Rule Making which preceded the Part 90 Rewrite Order, the Commission had proposed an exception to the antenna height/power limits for operators on the frequencies 152.48 MHz and 157.74 MHz. However, the Rules promulgated in the Part 90 Rewrite Order did *not* contain this exception. The Commission's Part 90 Rewrite Order failed to address Page Hawaii's timely filed comments and failed to explain such a radical and unexpected departure from the NPRM proposal. The Commission should correct this oversight immediately and grant an exclusion for all PCP systems operating on the high power paging frequencies of 152.48 MHz and 157.74 MHz from antenna height/power limitations promulgated in the Part 90 Rewrite Order. In support hereof, the following is shown.

I. Statement of Interest

1. Page Hawaii is licensed to operate private carrier paging ("PCP") station WNHD853 on the high power paging frequency 152.48 MHz. Page Hawaii is currently

No. of Copies rec'd OK 10
List ABCDE

licensed under this call sign to provide paging service from four transmitter sites in and around Honolulu, Hawaii. Each of Page Hawaii's transmitter sites is licensed for an output power level of 330 watts. Page Hawaii is currently radiating from some sites at approximately twice the ERP as would be allowed under the Rules promulgated in the Part 90 Rewrite Order. Even at this increased power level, Page Hawaii's signal cannot penetrate some downtown buildings which are only 3.5 miles from a transmitter site. Moreover, the reduction in antenna height/power under the new Rules will necessitate that Page Hawaii install several additional sites to complete its coverage, where only one or two sites would have accomplished this goal before. With new competitors in the market that are not subject to such onerous restrictions¹, the new Rules promulgated in the Part 90 Rewrite Order will likely put Page Hawaii out of business, a victim of an apparent oversight in the rule making process.

II. Page Hawaii Will Be Substantially Harmed by the Commission's Failure to Exempt Operators at 152.48 MHz from the New Antenna Height/Power Limits

2. Page Hawaii will be affected in a material and adverse way by the Rules promulgated in the Commission's Part 90 Rewrite Order insofar as they subject PCP systems operating on the high power paging frequencies including 152.48 MHz to the same antenna height/power limits applicable to two-way systems licensed under Part 90 of the FCC's Rules. The Commission had originally proposed an exception to the antenna height/power limits for operators on the frequencies 152.48 MHz and 157.74 MHz. Proposed Section 88.1067(a), Notice of Propose Rule Making, ("Refarming Notice") However, the Rules promulgated in the Part 90 Rewrite Order did not contain this exception. Moreover, in promulgating its Part 90 Rewrite Order, the Commission failed to address Page Hawaii's timely filed comments.

III. The New Power Limit Should Not Apply to PCP Bands

3. The antenna height/power limits promulgated in the Part 90 Rewrite Order appear to be designed to provide local service for two-way private land mobile radio systems, which

¹ Recent advertisements of such competitors in the Honolulu paging market are included in Appendix A.

are normally used for intra-company communications. Most two-way communications are accomplished with portables and mobiles operating outside of buildings. Pagers, on the other hand, are generally worn or carried wherever the user goes, including inside of buildings. The antenna height/power tables are based on propagation studies of signal levels necessary to communicate with mobiles operating in average terrain, not within buildings. These tables are therefore inappropriate to determine required signal levels for private carrier paging systems operating on the high power frequencies of 152.48 MHz and 157.74 MHz.

4. Paging systems, such as the system operated by Page Hawaii, have a different need than systems providing only intra-company communications. They have a wide customer base with varying service needs, and these licenses therefore need to communicate over larger distances.

5. The continued existence of *any* paging system depends on providing reliable, ubiquitous service. Paging customers expect their pagers to operate in all environments, and they operate within buildings as often, or more often, than outside. Even at power levels far exceeding 500 watts ERP, paging signals have difficulty penetrating buildings.

6. Even though the Rules promulgated in the Part 90 Rewrite Order provide for a method of obtaining higher ERP levels, the FCC should not make PCP applicants or operators of existing PCP systems "jump through hoops" to obtain the power levels they need for normal operations. These additional financial and administrative burdens are not imposed upon paging systems operating on other frequencies, who enjoy exclusive use of their channels. Moreover, while offering commercial paging service should per se justify higher ERP levels, the Part 90 Rewrite Order does not indicate that this will be the case.

7. The Rules adopted by the Commission in the Part 90 Rewrite Order would require each PCP applicant to file an engineering analysis to justify their required ERP for satisfactory operation. Surely, this is not the Commission's intention. Common carrier paging systems must also provide an engineering analysis. however, they do so in order to establish

service area boundaries and to obtain exclusive use of their channel. Because PCP systems share frequencies, this information is unnecessary and unduly burdensome.

8. In the Part 90 Rewrite Order, the Commission has adopted a modified version of the "safe harbor" tables recommended by the Land Mobile Communications Council ("LMCC") for the 150-174 MHz and 450-470 MHz bands. Under these new height/power tables, the maximum service area radius will generally be 25 miles in the 150-174 MHz band and 20 miles in the 450-470 MHz band. In all cases, the maximum allowable ERP will be 500 watts. Page Hawaii's licensed PCP frequency of 152.48 MHz in the Business Radio Service is among the 150-174 MHz bands.

9. In the Part 90 Rewrite Order, the Commission has adopted Rules which will require applicants proposing a service radius greater than 25 miles in the 150-174 MHz band or 20 miles in the 450-470 MHz band to justify their requests. Frequency coordinators may request additional information from the applicant when needed to permit the coordinator to make a proper frequency recommendation. If the applicant disagrees with the coordinator's recommendation, the Commission will resolve the dispute on a case-by-case basis. Although both parties will be required to justify their positions with technical data, the applicant will have the burden of persuading the Commission to overturn the coordinator's recommendation.

10. The adopted Rules also permit an applicant to request power/antenna heights in excess of those in the tables. Such requests must be accompanied by an engineering analysis demonstrating that the requested parameters will not produce a signal strength greater than 37 dBu for the 150-174 MHz band and 39 dBu for the 450-470 MHz band at any point along the edge of the service area the applicant requests. This showing must be submitted to the frequency coordinator, who may then recommend an ERP/HAAT "appropriate" to the applicant's service area. Base stations with a service radius greater than 50 miles will be authorized only on a secondary basis.

11. These changes add unnecessary complexity and expense to the application process for PCP systems operating on the high power paging frequencies of 152.48 MHz and 157.74 MHz, and there is no assurance that the frequency coordinator will approve the ERP level requested by the applicant. Moreover, it ignores the fact that PCP systems may need higher power than standard coverage calculations indicate in order to serve pagers in buildings and other areas of poor propagation.

12. The Commission does not appear to have exempted paging systems, including PCP systems operating on the high power paging frequencies of 152.48 MHz and 157.74 MHz, from the height/power limits described above. Although paging frequencies will not be narrowbanded, the new rules do not appear to provide the exception to the height/power limits proposed as Rule Section 88.1067 in the Notice of Proposed Rulemaking ("NPRM") which preceded the Part 90 Rewrite Order, except to the extent that existing systems will be grandfathered as currently authorized.

A. In Promulgating the Part 90 Rewrite Order, the Commission has Failed to Address Page Hawaii's Timely Filed Comments.

13. In its timely filed comments to the NPRM, Page Hawaii specifically requested that the Commission retain its existing output power limit of 350 watts on the high power paging frequency 152.48 MHz, with no limit on ERP, since the Commission's bases for the antenna height/power limits, as stated in the NPRM, do not apply to non-exclusive use paging frequencies. Comments of Page Hawaii, Inc. ("Page Hawaii Comments") at 2. However, despite the importance of these matters to thousands of PCP licensees, neither the Page Hawaii Comments, nor the substance of the antenna height/power issues raised therein, were addressed by the Part 90 Rewrite Order. Page Hawaii can take some comfort from the Commission's decision that these Rules will apply only to new stations. The Part 90 Rewrite Order defines a "new station" as "one which is not functionally integrated with an earlier-installed system." Part 90 Rewrite Order at ¶ 69, note 137. Unfortunately, this definition leaves room for uncertainty about whether future system changes will be possible.

14. Adding transmitter sites, as well as moving transmitter sites, is an inevitable outgrowth of any successful radio paging business. This may be done for reasons which include filling in coverage gaps, expanding to gain new customers, expanding in response to existing customer demand, relocating due to loss of a tower site, and relocating because a more desirable transmitter site is found. However, under the Rules promulgated in the Part 90 Rewrite Order, Page Hawaii and other PCP operators using the high power paging frequency 152.48 MHz will be required to adhere to the new Part 90 height/power limits to the extent that these changes are not found to be "functionally integrated" with their earlier-installed systems. At a minimum, the new rules should be clarified to confirm that additional transmitters and relocations will not be considered "new" stations. In this regard, the Commission currently assigns a new call sign whenever a PCP licensee applies to add a transmitter site to a system that already has six sites. Indeed, such applicants are required (at Item D1 of FCC Form 600, Schedule D) to check the box for a "new" station license even though the additional transmitter will be directly tied into the existing system. In such instances, the Commission should allow full power operation under the current Part 90 rules, wherever the applicant indicates in, e.g., Item D4 ("Associated Call Signs") that the proposed sites expand an existing operation. The Commission should also clarify that a license issued pursuant to a transfer of control or assignment of license will not be considered a "new" station.

15. However, Page Hawaii believes that the more appropriate solution is to recognize the fundamental difference between commercial paging operations and mobile operations; and Page Hawaii therefore respectfully requests that the Commission reconsider its Part 90 Rewrite Order and retain its existing output power limits for all PCP operators using the high power paging frequencies of 152.48 MHz and 157.74 MHz, with no limit on ERP.

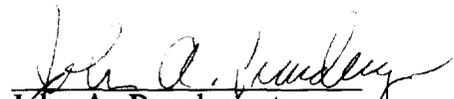
CONCLUSION

WHEREFORE, for good cause shown, Page Hawaii requests that this petition be granted and the Commission grant an exclusion for all PCP systems operating on the high power paging frequencies from antenna height/power limitations promulgated in the Part 90 Rewrite Order.

Respectfully, submitted,

PAGE HAWAII, INC.

By:


John A. Prendergast


D. Cary Mitchell
Counsel to Page Hawaii, Inc.

Blooston, Mordkofsky, Jackson
& Dickens
2120 L Street, N.W.
Washington, D.C. 20037
(202) 659-0830

Dated: August 18, 1995

APPENDIX A

**Recent advertisements of competitors to Page Hawaii
that are not subject to antenna height/power limits
contained in the Part 90 Rewrite Order**

**meats you need to...
your Freezer**

30 DEAL \$62.00
(ems-One Low Price)

T PAK 72 lbs. \$2.89/lb.
Cuts - Top Sirloin, Stew,
BBQ Meat, Hamburger

Quarter Pak 100 lbs. \$3.29/lb.
terhouse, T-Bone, Stew, Roasts,
Meat & Hamburger

For more info!

**TV Converters &
Decramblers**

Why Rent It?
OWN IT!

Call For FREE Catalog.
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Don Blanding 40-pc China
set, Honolulu pattern (Blue/
yellow flowers) 735-8822
days, 395-5919 evenings.

Moving? We buy used appliances and furniture. Call for estimates. Island Furniture and Appliances 521-7099

King-size mattress, box spring, frame, like new. Paid \$850. Asking \$450/OBO. 528-4598, 287-8230 pager.

Queen size waterbed w/ headboard, 6-drawers underneath \$600/OBO; Oak TV cabinet w/drawers \$500/OBO. 395-0493

20" Color TV, cable ready w/ remote \$120; King bed complete \$150; Office desks from \$45; Bedroom, livingroom, etc 847-4375

Bedroom set, 3 years old, excellent condition, queen headboard, 2-end tables, 5-drawer dresser, 6-drawer vanity. Originally priced over \$2,000. Asking \$800/OBO; Black upright piano (Young-Chang) 3-1/2 yrs. old. Mint condition \$2,000/NO NEGOT.

Black leather sofa 3-1/2; Black & Granite dinnett \$200; Huge Fisher washer \$250. All items excellent condition 627-0064

Black leather sofa 3-1/2; Black & Granite dinnett \$200; Huge Fisher washer \$250. All items excellent condition 627-0064

Bedroom set, Includes dresser, headboard, chest, nightstand, queen size frame. (Not including mattress) \$350; Two end tables, set of black and gold \$40; TV stand \$45. pager 569-0164

Kenmore 18 cu.ft. Frostfree refrigerator, like new \$500/OBO paid \$800; Gildcraft sofa, 8', blue/grey \$400/OBO paid \$800; 25" Sanyo color TV w/remote \$200; queen size mattress, box spring, frame \$200; round dropleaf table w/4 chairs \$150; matching baby crib, changing table, dresser \$600/OBO, paid \$1,000 lots of baby items & misc. 487-4974

Matching loveseat and sofa, very good condition, must sell \$200; Sofa \$300. 236-3848

Beds, queen \$100, Full's \$75; Twins \$65; Dressers all sizes from \$40; Headboards \$50. King bed \$185. 521-7099

Couches, chairs, exercise equipment, beds, numerous miscellaneous household items. Best offer. Days 845-2977

Beautiful waterbed: Solid oak, queen mattress, like new. Paid \$1,200. Asking \$800/OBO. 922-7037

Sectional sofa, black printed, excellent condition \$400/OBO. Kirby Generation IV vacuum. Take over payments. Pager 598-5388

Sofa \$200; Loveseat \$100; Cherry finish coffee table/2-end \$225; 25" Zenith TV \$250; China hutch \$500. 455-6063

Sofa, Dining Set, Dresser, Beds; Twin, Double, Queen, King, Bunk. All about 1 year old. 262-4440

4 piece sectional couch plus chair & ottoman, excellent condition \$800/OBO 672-9459 leave message

20" TV \$110; McGuire chairs \$90; Glass top occasional table \$50; Amoire \$200; 9-Drawer chest \$110; K. Bed set \$150; Single bed sets \$80; Island Liquidators 847-4375

Sofa/Loveseats from \$279; Antique Koa hutch \$1500; upright piano w/bench \$300; Dresser \$75; New coffee tables \$65; Microwave \$75. 521-7099

King-size 75% waveless waterbed, excellent condition, 5-drawer dresser below. Asking \$225/OBO. Tim 484-8851

LEGAL SERVICES

LOW COST DIVORCE \$250 without children \$350 with children Done by an attorney 521-8520

MACHINERY & EQUIPMENT

Airless paint sprayer, used 3 times, excellent condition \$850/Firm. 966-7317

COMPLETE SET AUTO MECHANICS TOOLS INCLUDING AIR TOOLS, MOSTLY SNAP-ON, 2-CABINETS \$2,500/OBO. 672-5790

D.C. Welder/Generator. Hobart 4-cyl. air cooled, gas driven 200 amp continuous duty. \$2,000. Call 456-7255.

Clean out your garage, your closets and sell it all in the PannySaver! 841-4444

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HONOLULU TELEPHONE
LOWEST PRICES IN TOWN... GUARANTEED!

BRAVO LIFESTYLE PLUS
ALL COLORS
Lifetime Warranty
\$29
FREE! PAGER CASE & CHAIN

BRAVO EXPRESS
ALL COLORS
5 Year Warranty
\$49
FREE! PAGER CASE & CHAIN

*Prepayment Terms Apply
All pagers at time of purchase on a package deal are required to prepay airtime service for 1 year in advance. All pagers at time of purchase are required to be put in service with MHI for a minimum period of 1 year. *Activation Fee Required. While Supplies Last! w/o prepayment \$79.95 w/o prepayment \$99.95

AVAILABLE AT

HONOLULU DISCOUNT STORE 631-7777	HONOLULU COLOR TECH Corner Cook & Auahi 596-7555	HONOLULU LUSI'S DINING 645-5506
HONOLULU CHEETAH COMMUNICATIONS Corner Nuuanu & Vineyard 531-2363	SAULT LAKE PAINTING Corner Center & Sault Lake 425-8468	WAIPAHU MOBILE SOUND 94-150 Leoleo St #21A 671-5945
KAILUA CAR AUDIO 262-9940	KAILUA CAR TUNES 167 Hamakua Drive 263-4540	

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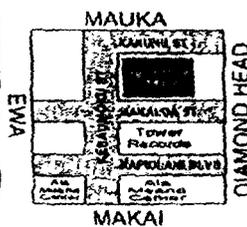
WILL OR LIVING TRUST? by Neil Nakamura

1. Is a Will alone enough? Why do I need a Living Trust? A will allows you to choose your heirs, but it does so through a court procedure.
2. What happens if you don't have a Will? In Hawaii, we have a "family tree" law that directs the distribution of your assets. This "family tree" may run right up there with the purchase of your house.
3. How long does it take? It takes our office one week from your first commitment.

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Second Phone for \$.01

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Second Phone for \$.01

As low as **\$14.99**
Second Phone for \$.01

As low as **\$39.99**
includes cigarette
lighter adaptor

\$59.95 MOTOROLA EXPRESS
Prepaid 1 Year service and activation fee required. Without prepayment pager cost is \$119.95 All Colors

\$29.95 MOTOROLA BRAVO PLUS
Prepaid 1 Year service and activation fee required. Without prepayment pager cost is \$99.95

Crystal Changers FREE
Convert Your Pagers to
the #1 Service Provider
Activation thru Cellular Source Required

EVERON
\$24.95
Prepaid 1 Year service and activation fee required. Without prepayment pager cost is \$89.95 All Colors

MOTOROLA LIFESTYLE PLUS
\$34.95
Prepaid 1 Year service and activation fee required. Without prepayment pager cost is \$89.95 All Colors

Motorola Ultra Express
\$69.95
Prepaid 1 Year service and activation fee required. Without prepayment pager cost is \$129.95 All Colors

The Cellular Source Advantage • Trained Staff • Quality Products • Complete Line of Accessories • No False Promises

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45-671 KAMEHAMEHA HWY.-Kaneohe • 247-8544

2 WINDWARD / HONOLULU PENNSAVER AUGUST 2, 1995 SAY YOU SAW IT IN THE PENNSAVER!

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ZIP _____

Hm Ph _____

Work Ph _____

S.S. # _____

How Long At Present Job? _____

Type of Car Interested In _____

Signature _____

I understand by signing this application I authorize South Seas Jeep Eagle and the bank to check my credit with a credit reporting agency, verify employment and that I certify that this information is correct.

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LOGRASSO
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for any assistance



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- 16 Message Memory
- Beep & Vibrate Options
- Variable Alert Tones
- Clock & Time Stamp
- Call Reminder
- Standard Warranty

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Out The Door \$71.15

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- 16 Number Memory
- Time Stamp
- Call Reminder
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- Standard Warranty

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Motorola "Renegade"

- 10 Numeric Message Slots
- Silent Vibration

\$39⁹⁵
Out The Door \$60.73

NEW Motorola "Ultra Express"

- 16 Message Slots
- Built In Alarm Clock

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\$20⁰⁰ OFF
ANY PAGER W/PREPAID 1 YR. SERVICE

Motorola BRAVO EXPRESS

- Standard Warranty
- Larger Display
- Time Stamp
- Variable Musical Alert Tones
- Programmable Pager On/Off

\$79⁹⁵
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Motorola MEMO EXPRESS

- Up to 190 Character
- Time of Day & Date Stamp
- Vibration Built-In Alarm Clock
- Selectable Musical Alerts
- Available in 6 colors

\$119⁹⁵
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Motorola ADVISOR

- Up to 90 Message Capacity
- 4 Lines of Print
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- Built-In Alarm Clock

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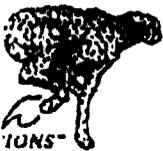
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New and Hard-To-Find Included

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THE ANNEX
RIGHT NEXT DOOR TO THE HONOLULU
STEREO CLUB ON KING STREET! SEE PAGE 5!

PAGER ONE

Motorola "Renegade" SUMMER SPECIALS!

- 10 Numeric Message Slots
- Silent Vibration

Call The Dealer \$60.73 **\$39.95**

Good While Supplies Last or thru 8/31/95
OPEN MONDAY-FRIDAY 8AM-6PM
SATURDAYS 8AM-1PM

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Rx CALL NOW
RIGHT NOW!

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Shelving, Halo Brand
Track Lighting, Black

AFFORDABLE PORTABLE

CERTIFICATE OF SERVICE

I, Elizabeth A. Ebere, hereby certify that I am an employee of Blooston, Mordkofsky, Jackson & Dickens, and that on this 18th day of August, 1995, I caused to be hand-delivered, a copy of the foregoing **Petition for Reconsideration of Page Hawaii, Inc.** to the following:

Chairman Reed Hundt
Federal Communications Commission
1919 M Street, NW Room 814
Washington, DC 20554

Commissioner James Quello
Federal Communications Commission
1919 M Street, NW Room 802
Washington, DC 20554

Commissioner Andrew Barrett
Federal Communications Commission
1919 M Street, NW Room 826
Washington, DC 20554

Commissioner Rachelle Chong
Federal Communications Commission
1919 M Street, NW - Room 844
Washington, DC 20554

Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW - Room 832
Washington, DC 20554

Regina Keeney, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2925 M Street, N.W., Room 5002
Washington, D.C. 20554

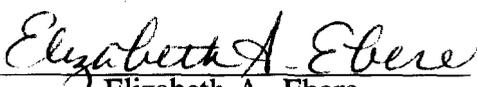
Ralph A. Haller, Deputy Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Rosalind K. Allen, Chief
Commercial Radio Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 7002
Washington, D.C. 20554

Terry Fishel, Chief Land Mobile Branch *
Licensing Division
Office of Operations - Gettysburg
Wireless Telecommunications Bureau
Federal Communications Commission
1270 Fairfield Road
Gettysburg, Pennsylvania 17325-7245

ITS
Room 246
1919 M Street, NW
Washington, DC 20554

* By U.S. Mail


Elizabeth A. Ebere