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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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

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|---|---|---|
| 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 |
| | ) | |
| **Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Radio Services** | ) | |

To: The Commission

**ERRATUM**

The Personal Communications Industry Association ("PCIA"), through counsel, hereby files an Erratum to the Petition for Reconsideration filed by PCIA on August 25, 1995. Specifically, the Petition referenced PR Docket No. 91-170, the Refarming Docket's original docket number, instead of PR Docket No. 92-235, the docket's current number. Therefore, it is respectfully requested that the Commission correct the first page of the filing to reflect the proper docket number and associate the Petition for Reconsideration with the file for PR Docket No. 92-235.

Respectfully submitted,

**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

By: _____

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**Before the**
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**Washington, D.C. 20554**

| | | |
|---|---|---|
| In the Matter of | ) | |
| | ) | |
| **Spectrum Efficiency in the Private Land Mobile Radio Bands In Use Prior to 1965** | ) | PR Docket No. 91-170 |

To: The Commission

**PETITION FOR RECONSIDERATION**
**OF THE**
**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association ("PCIA"),[1] by counsel and pursuant to Section 1.106 of the Commission's rules and regulations, 47 C.F.R. § 1.106, respectfully submits this Petition for Reconsideration of the Commission's Report and Order in the above-captioned proceeding.[2]

## I. BACKGROUND

PCIA participated in and was an integral part of the discussions involving the majority of frequency advisory committees

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[1]PCIA is an international trade association representing the interests of both commercial mobile radio service ("CMRS") and private mobile radio service ("PMRS") users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, 800 MHz General Category frequencies for Business eligibles, and conventional SMR systems, and for the 929 MHz paging frequencies.

[2]60 FR 37152 (July 19, 1995).

concerning the Commission's Refarming Report and Order. The discussion culminated in the preparation of a joint Petition for Reconsideration. PCIA fully supports the issues addressed in that Petition, as well as the Petition for Stay filed by the Land Mobile Communications Council ("LMCC"), of which PCIA is a part. However, PCIA believes that there are several additional issues which are particular to the Business Radio Service which should also be reconsidered and/or clarified. These issues are detailed below.

## II. PETITION FOR RECONSIDERATION

### A. 3.125 kHz Offsets Should Be Eliminated

In the Report and Order, the Commission created new secondary frequencies offset from the primary frequencies by 3.125 kHz.[3] The Commission's rationale for creation of the new secondary channels was the desire to maintain access to low-power channels, albeit on a low power basis.[4]

PCIA opposes the creation of the new offset channels. The Commission has already made low power frequencies available for users by empowering frequency coordinating committees to designate an appropriate number of frequencies for low power use. In addition, the Commission has maintained the "color dot" frequencies so often used by low power systems. Thus, the need for low power channels will be accommodated.

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[3] Report and Order, supra at par. 66.

[4] Id.

Further, PCIA believes that the Commission should not recreate the current difficulties which exist with offset channels. Twice before in November, 1986 and June, 1991, the Commission failed to adopt PCIA's (then NABER's) suggestion to require the licensing of 450 MHz offset systems with geographic coordinates. As a result, avoiding interference between users on these channels has been extremely difficult. PCIA (then NABER) has detailed these difficulties to the Commission on several occasions. Users spend considerable sums of money on equipment, and expect the systems they purchase to work. Secondary designation means little in such situations, and should be avoided if at all possible. There is no need to recreate this situation, given the wealth of low power channels which the frequency advisory committees can designate.

In addition, the availability of 3.125 kHz offset channels may have the unintended effect of preventing the use of primary channels by wide-band, spectrally efficient systems. In the Report and Order, the Commission permitted users to aggregate up to four (4) 6.25 kHz channels, provided equivalent efficiency technology equipment is used.[5] Virtually all technologies envisioned for this type of channel aggregation require exclusive use of the frequencies involved. The presence of users on the 3.125 kHz frequencies in the middle of the channel aggregation, even if

[5] Report and Order at para. 97.

secondary, could preclude the use of the channels by the spectrally efficient equipment. PCIA believes that the Commission need not provide any unnecessary obstacles to the rapid implementation of spectrum efficient equipment.

B. Other Issues

There are several items in the Report and Order which PCIA believes need clarification. The issues may simply arise from inadvertent oversights on the part of the Commission, but should be addressed on reconsideration.

Although the Commission adopted the "safe harbor" table proposed by LMCC for maximum effective radiated power, the Commission did not provide sufficient detail as the procedures to use when applicants need a larger area of operation. Although such requests are to be reviewed by the frequency advisory committee, it is not clear as to whether the request would need to be in the form of a waiver. PCIA expects that numerous requests for larger service areas will be filed, particularly in rural areas. If a formal waiver is required, needless expense (in the form of a specifically formatted waiver request and waiver fee) and Commission time (in the form of Commission review in the Gettysburg Technical Section) will be needed. PCIA would recommend that the Commission not require a waiver, as the request will already be reviewed by the frequency advisory committee.

Other questions are raised by the adoption of the safe harbor table. Since paging systems are not required to specify area of operation on the FCC Form 600, it would appear that the safe harbor table does not apply to such systems. PCIA agrees that the table should not apply to paging systems, but wishes to clarify that this was the Commission's intent. It was PCIA's (then NABER's) original suggestion that the Commission not change any of the technical rules for the paging channels and specifically allow paging systems to operate up to 350 watts. The Commission's action would be in accord with this position. In addition, since paging systems are generally designed to cover a large operating area, system operators generally utilize whatever power is necessary to ensure that no dead spots in coverage exist between related sites.

Similarly, the safe harbor table does not address point-to-point systems, since the FCC Form 600 does not require a specified area of operation. PCIA is currently attempting to determine whether some hybrid of the table would be appropriate for point-to-point systems, and expects to present the Commission with additional information at a later date.

In Appendix F attached to the Report and Order, PCIA has discovered several anomalies in newly adopted Sections 90.75 and 90.53. In Section 90.75, the following frequencies were omitted which were previously allocated to the Business Radio Service:

469.850 MHz (although its companion frequency, 464.850 remains in Section 90.75); 469.85625 MHz; 469.86875 MHz; and 154.47875 MHz. In addition, limitation 50 has been added for 469.8625 MHz without explanation.

In new Section 90.53, former Business offsets 462.0125 MHz through 462.1775 MHz (which should be 462.1875 MHz) have also been assigned to the Special Emergency Radio Service, although these channels are heavily used by business users. PCIA requests that these former offset frequencies remain allocated only to the Business Radio Service.

The final issue which PCIA believes needs to be addressed is the timing of the transition to the new rules. As noted in the joint frequency advisory committee Petition for Reconsideration, the Commission should not permit full power systems to be coordinated on former offset frequencies until the Commission decides on the manner in which service consolidation will be accomplished and coordinating committees then have the opportunity to designate low power channels.

In addition, PCIA believes that existing users on former offset frequencies should first have the opportunity to "convert" their systems from secondary systems to primary systems prior to the filing of new applications for these channels. Existing users should first have the opportunity to make their systems more efficient, and in this manner the Commission will encourage existing users to "clean up" channels, leaving availabilities for

new users while at the same time minimizing interference.[6] Therefore, PCIA recommends that the Commission permit existing users six months, after completion of both pool consolidation and designation of low power channels, to convert their systems from secondary systems to primary systems before acceptance of new applications is permitted.

Finally, PCIA requests that the Commission address how it intends to handle applications which were on file with the frequency advisory committees at the time that the new rules became effective. Numerous applicants in the process of filing applications were unaware of the Commission's new rules. Such applicants should not be penalized because of the logistical problems with informing literally millions of users of the Commission's new rules. Therefore, PCIA would recommend that the Commission treat all applications on file with frequency advisory committees as of August 18, 1995 as filed under the old rules.

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[6]The Commission has given existing secondary users the opportunity to relicense their systems as "primary" systems, by increasing the power of the systems. However, PCIA believes that this action is counter-productive to the goal of maximizing the use of scarce spectrum. Such users should not be required to increase power to become primary, but rather should be encouraged to keep the licensed ERP at the level necessary to achieve the system coverage required. Existing secondary users should only be required to designate their coordinates and area of operation. In this manner, other users can be coordinated "around" the low power systems.

## III. CONCLUSION

**WHEREFORE**, the Personal Communications Industry Association respectfully requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

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Date: August 18, 1995

**CERTIFICATE OF SERVICE**

I, Sarah Locke, a secretary in the law office of Meyer, Faller, Weisman & Rosenberg, P.C. hereby certify that I have on this 23rd day of August, 1995 sent via hand delivery, a copy of the foregoing "ERRATUM" to the following:

Chairman Reed Hundt
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W, Room 802
Washington, D.C. 20554

Commissioner Andrew C. Barrett
Federal Communications Commission
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Commissioner Rachelle B. Chong
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**CERTIFICATE OF SERVICE**

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