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

In the Matter of

Revision of Part 22 and Part 90 of the Commission's Rules To Facilitate Future Development of Paging Systems	)	WT Docket No. 96-18
Implementation of Section 309(j) of the Communications Act - Competitive Bidding	)	PP Docket No. 93-253

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JOINT COMMENTS OF PAGE TELECOMMUNICATIONS L.L.C. and HEARTLAND COMMUNICATIONS, INC. ON INTERIM LICENSING PROCEDURES

Page Telecommunications L.L.C. ("PageTel") and Heartland Communications, Inc. ("Heartland") hereby submit joint comments regarding the Commission's interim licensing procedures for Part 90 and Part 22 paging facilities during the pendency of the above-referenced docket.

I. Background

PageTel was previously known as Page Telecommunications, Inc. prior to a corporate restructuring. PageTel is the licensee of a Regional exclusive 929 MHz private carrier paging ("PCP") system located in various midwest and northwest states. PageTel is also the licensee of various local exclusive PCP systems in the midwest. Heartland operates as the marketing vehicle for PageTel's paging business. Heartland began operations in January of 1995 and currently employs 30 employees to service approximately 11,000 subscribers.

Our paging operations initially commenced in Chicago, IL and we have expanded North to Sheboygan in Wisconsin, east to

Northwestern Indiana, South to Effingham in Illinois and west to Cedar Rapids in Iowa. Our plans for expansion include the following markets: Des Moines, IA, Omaha, NE, Kansas City, MO., St. Louis, MO., Indianapolis, IN, Grand Rapids, MI. and Green Bay, WI. We have already commenced construction in some of these markets.

Our emphasis has been to serve the cities outside the metro areas with a population base of 250,000 or less. Cities like Peoria, IL, Bloomington IL, Springfield, IL, Madison, WI, Davenport, IA and Iowa City, IA were being served by two to three carriers prior to our entrance. These carriers have been operating under VHF and UHF licenses and have been offering limited coverage to the end user. Pricing has also been above industry averages in the metro areas. Our entry into these markets has brought equitable pricing to the local consumer and some expanded coverage via our 929.6375 frequency.

We initially entered markets with local coverage and have expanded based upon the needs of the local consumer with the intent of providing continued expansion and fill-in sites between cities resulting in a 12 state regional footprint.

II. Comments on the Commission's Licensing Proposal

A. Interference Contours

The Commission's Notice of Proposed Rulemaking ("NPRM"), para. 141, states that "although our part 90 rules do not provide protection to 929 MHz licensees based on interference

contours, 929 MHz licensees would otherwise be disadvantaged in comparison to Part 22 licensees during the pendancy of this proceeding." In fact, Section 90.495 of the Commission's rules includes a Co-Channel Minimum Separation Table which serves as a de facto interference contour protection. By allowing licensees to continue to file applications using the existing table of heights and power as the "interference contour" during the interim licensing period, incumbents would be afforded flexibility and other licensees would not be prejudiced, as no expansion beyond an incumbent's existing "interference contour" would be allowed.

This method of interim processing would allow PCIA, as the applicable coordinator, to **immediately process** qualified applications. Application of the proposed interference contour (currently used for 931 MHz licensees) to 929 MHz licensees has resulted in a **complete freeze** for 929 MHz licensees, as PCIA has never processed 931 MHz applications and is not currently able to process 929 MHz applications using such an alternate interference protection criteria. The Commission's NPRM and proposed interim processing rule has resulted in moving 931MHz/929MHz away from parity instead of towards it.

The current total freeze has therefore hindered our ability to provide expanded coverage to our existing customer base. The submission of applications for an additional seventy transmitter sites based upon our customer's needs and demands is effectively eliminated under the Commission's interim rule, as applications

which would meet the Commission's existing Co-Channel Minimum Separation Table are not currently being processed.

Further, based upon the calculations that we have performed using the proposed service and interference models in the NPRM, we have determined that this model is not consistent with actual system performance. In the past, we have performed field testing using once a minute test pages in outer perimeter areas that reliably received pages from distances that were 3 to 4 times the distance of the service contour proposed in the NPRM.

In this particular case, the applicable HAAT was 105 meters and, using the proposed model, our service contour should have been 10.5 miles. Continued use of the existing Co-Channel Minimum Separation Table for the processing of 929 MHz applications is consistent with the Commission's goals and is in the public interest. This would allow incumbents the ability to continue to construct while not expanding beyond their existing "interference contour" as designated in Rule section 90.495.

B. **System Modification**

In an effort to meet the Commission's goal of protecting white space for auction purposes, while providing incumbent service providers the ability to modify their systems to serve the public, we propose a 50% fill in interim rule. In essence, all outstanding authorizations, as of February 8, 1996, would be assumed operational by PCIA. Any incumbent would be allowed to modify its existing system, provided that: (i) the new site has

sufficient co-channel separation according to the Co-Channel Minimum Separation Table; and (ii) the new site overlaps with either an existing authorization or any site specified in an application which was coordinated and filed at the Commission on or before February 8, 1996 by a minimum of 50% of the current interference contour.

The use of round numbers both in the percentage as well as the Co-Channel separation table provides simplicity in ongoing application processing for PCIA while refraining from impeding new licensees access to territory at a value consistent with territory presently available with existing constructed systems.

c. **Regulatory Uncertainty**

The Commission's NPRM (and interim licensing proposal) is ambiguous and has resulted in a paging environment clouded by regulatory uncertainty. For example, the Commission has never issued a second Public Notice regarding the exclusivity status of those regional and local PCP systems which were coordinated and recommended by PCIA on its "B" list as having "qualified" for exclusivity. The Commission has not provided licensees on the "B" list with any certainty regarding construction dates necessary to qualify for exclusivity. Rather, the Commission has implemented a freeze on the filing of applications, prohibited necessary expansion of paging systems and has arbitrarily and capriciously proposed to substantially change its rules without proper notice and comment.

We have been detrimentally impacted by this unnecessary freeze which will require a substantial modification to our existing business plan and which results in an inability to expand to serve customer needs. For example, we previously submitted a request for extended implementation of our midwest regional system pursuant to existing Commission rules, which is now detrimentally impacted by the Commission's NPRM and proposed interim processing rule.

To provide necessary relief to licensees so that existing business plans can be implemented to a reasonable extent, we propose that the Commission toll the applicable construction period for licenses with construction periods which had not expired prior to the adoption date of the NPRM for a period of six months from the actual adoption date of the Commission's Report and Order in this proceeding. This relief is appropriate due to the Commission's implementation of what amounts to an **ABSOLUTE FREEZE**, as the only method of using alternate sites not previously filed for is by following proposed rules with proposed contours in the NPRM. Such proposed rules are certainly subject to change following the Commission's review of Comments and Reply Comments and therefore existing licensees have no ability to implement business plans to serve customer needs.

It is impossible to modify current business plans to meet the Commission's requirements as such requirements are either unknown or subject to change. During this period of uncertainty, however, construction periods on existing licenses progress to

expiration without any written rule that allows for adequate modifications. This adversely affects the entrepreneurial carrier and the public that it serves.

Further, the Commission's NPRM interim licensing proposal provides that licensees who have obtained nationwide exclusivity will be allowed to submit applications for additional sites without restriction. Such a proposal clearly places regionally exclusive licensees at a competitive disadvantage to nationwide exclusive licensees. We submit that the inequity is even greater for those regional licensees which proposed to build out a regional system under the Commission's rules regarding extended implementation.

We further submit that tolling of the construction period for certain authorizations as requested above would provide for continued build out of previously licensed sites. This would also provide some measure of relief to regional and local exclusive licensees, which were not afforded the specific relief provided nationwide exclusive licensees.

We respectfully request that the Commission act in accordance with the views expressed in these comments.

Respectfully submitted,

PAGE TELECOMMUNICATIONS, L.L.C.

By: _____

HEARTLAND COMMUNICATIONS, INC.

By: _____

Date: March 1, 1996