BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	FCC 96-52
	)	
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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To: The Commission

COMMENTS OPPOSING THE PAGING APPLICATION FILING AND PROCESSING FREEZE
AND
COMMENTS CONCERNING THE INTERIM LICENSING PROPOSAL
AND
REQUESTS FOR CLARIFICATIONS

The Law Office of Hill & Welch hereby submits comments in opposition to the Commission's paging application filing and processing freeze and submits comments concerning the Commission's proposed interim licensing proposal contained in the Notice of Proposed Rule Making (NPRM) in the captioned docket. Also, we seek clarification of various issues relating to the interim filing procedures. In support whereof, the following is respectfully submitted:

1) Hill & Welch is a law firm providing legal and consulting services to various communications companies, including paging companies. The vast majority, if not all, of our clients would qualify as small businesses under the Commission's small business auction rules adopted in other services. Generally speaking, our clients' paging service areas are much smaller than the large

market areas proposed to be licensed by the Commission in the captioned rule making proceeding.[1]

2) Our office is concurrently filing comments concerning the paging application processing freeze on behalf of various of our paging clients. We support the comments contained in those pleadings. See e.g. Comments Opposing the Paging Application Filing and Processing Freeze and Comments Concerning the Interim Licensing Proposal filed by Metamora Telephone Company. The purpose of the instant filing is to seek clarification of some of the application filing procedures, should the Commission determine to proceed with its unprecedented, ill-advised, industry stopping paging application processing freeze.

3) First, the Commission should clarify that existing service providers above Line A (Canadian border area) may benefit from the procedures announced in paragraph 140 of the NPRM, even though FCC Form 600 application filing and processing is required, provided that service areas, but not interference contours, are expanded. Applications above Line A must be coordinated with Canada and must be filed on FCC Form 600.[2]

4) Because the Commission's proposed interim licensing proposal freezes the processing of all FCC Form 600 applications,

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1 Because the instant pleading concerns the proposed interim filing rules and does not concern the establishment of service areas or auction procedures, a detailed analysis of our client's paging service areas is not necessary for the purposes of the instant filing.

2 §22.163(b), §22.165(a), and §22.169 of the Rules provides that if frequency coordination with a foreign government is required, the modification is not considered "minor" and prior Commission approval must be sought on FCC Form 600 before the change may be implemented.

applicants above Line A seeking to expand service contours, but not interference contours, are unable to improve service as indicated in paragraph 140 of the NPRM. The Commission should clarify that the staff will process applications for locations above Line A filed by applicants seeking the benefits provided in paragraph 140 of the NPRM.

5) Second, the Commission should clarify that relocation of fixed control facilities, which requires filing on FCC Form 600, will be processed. §§22.123(e)(4),(5) of the Rules classifies the relocation of fixed point-to-point transmitters as a major filing requiring FCC Form 600 processing. It does not seem that the freeze should apply to relocation of existing fixed control stations and the Commission should so clarify.

6) Third, the Commission should clarify that the staff will process FCC Form 600 applications which propose use of the mobile channel of a two-way channel for purposes permitted by the rules, provided that the composite interference contour of the associated base station is not exceeded. The mobile channel of a two-way channel pair is not available to any party except the licensee in a particular area. No public interest benefit is gained from denying a licensee the ability to use the mobile channel associated with the licensed based station in a manner permitted by the rules.

7) The NPRM seems unclear as to whether FCC Form 489 filings are required to report changes which affect service contours but which do not affect interference contours. Commission Chong states that "a paging carrier will be allowed to construct and modify sites anywhere within it geographic service area without filing a single piece of paper at the Commission." Separate Statement of

Rachelle B. Chong, at 2. The Commission should clarify that changes which change the composite interference contour may not be implemented without first obtaining prior Commission approval.

8) Moreover, to the extent that the paging industry is as competitive as it is, we are uncomfortable with the concept that there might not be any engineering parameters on file at the FCC against which to compare a paging station's actual operation. The liberal fill-in system works reasonably well in the cellular industry where channel usage is coordinated among market neighbors prior to station operation. In paging there is very limited, if any, coordination among co-channel carriers. Where paging systems abut one another, it seems to us to be critical that there be a central repository of engineering information so that carriers may check actual operations against authorizations.

WHEREFORE, because the Commission has not justified the public interest in freezing the filing and processing of non-mutually exclusive paging applications, including those applications filed by existing licensees seeking to expand existing service on the lower frequency bands, the Commission must reconsider its decision to freeze the filing and processing of all paging applications. Moreover, if the Commission determines that the public interest is served by stopping the growth of the vibrant paging industry dead in its tracks for an indeterminate length of time, we respectfully request that the Commission clarify the issues discussed above.

Respectfully submitted,
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