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May 23, 1996

EX PARTE

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William F. Caton
Acting Secretary
Federal Communications Commission
Mail Stop 1170
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Dear Mr. Caton:

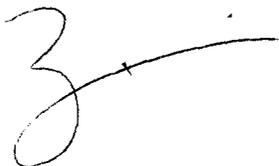
Re: WT Docket No. 95-157, Plan for Sharing the Costs of Microwave Relocation

The attached letter from Betsy Stover Granger, Attorney, Pacific Bell Mobile Services was sent today to Michele Farquhar, Chief of the Wireless Telecommunications Bureau. Copies of the letter were also sent to Thomas Dombrowsky and Michael Hamra. Please associate this letter with the above referenced proceeding.

We are submitting two copies of this notice in accordance with Section 1.1206(a)(1) of the Commission's Rules.

Please stamp and return the provided copy to confirm your receipt. Please contact me should you have any questions or require additional information concerning this matter.

Sincerely,



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May 22, 1996

Michele Farquhar
Chief of Wireless Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Dear Ms. Farquhar,

Re: First Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 95-157, Plan for Sharing the Costs of Microwave Relocation

This letter seeks clarification of when a prior coordination notice (PCN) is to be issued and how that affects the cost sharing obligation of a subsequent PCS licensee. The correct interpretation of when the PCN obligation arises is critical for two reasons. One, it determines the time that existing users are informed of operations that may be a source of interference. Two, under the new cost sharing plan, the PCN is part of the trigger for the cost sharing obligation.

Section 47 CFR 24.237 states that "Coordination must occur before initiating operations from any base station." PBMS has interpreted this rule to mean that whenever we have deployed a base station and we are preparing to test under the technical requirements associated with our PCS license, we must send out prior coordination notices. Paragraph 73 in the above referenced document, however, implies that the PCN may be delayed until a PCS licensee is ready to begin commercial operations.

Paragraph 73 states: "Prior to commencing commercial operation, each PCS licensee is required to send a prior coordination notification to all existing users in the area." (emphasis supplied) As Paragraph 73 explains and new Section 47 CFR 24.249 requires, each PCS licensee also must file a copy of the PCN with the clearinghouse¹. Section 24.249 further requires the clearinghouse to use this PCN to determine if any reimbursement obligation exists and to notify the PCS entity in writing of its repayment obligation, if any. The determination is made based on an objective test that is outlined in new Section 47 CFR 24.247. This rule states in part: "the subsequent PCS entity is preparing to turn on a fixed base station at commercial power and the fixed base station is

¹ Section 24.249 states: "On the day a PCS entity files its prior coordination notice (PCN) in accordance with Section 101.103(d), it must file a copy of the PCN with the clearinghouse."

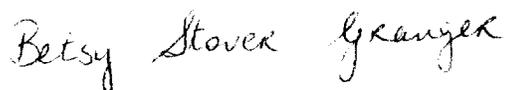
located within a rectangle (Proximity Threshold) described as follows..." (emphasis supplied) Neither Section 24.247, the section mandating the filing of a PCN, nor Section 24.249, the section describing the triggering of the cost sharing obligation, is tied to the "commercial operations" mentioned in Paragraph 73.

We realize that the Commission may have desired to tie the trigger for the cost sharing obligation to commercial operations. However, if the trigger is tied to the date of the PCN, that date and the start of commercial operations will not match unless new rules modify the PCN process to tie it to commercial operations. It is important the Commission clarify its intent in the new rules as soon as possible so that there is a consistent understanding within the industry regarding when a PCN needs to be sent to existing users and when the cost sharing obligation is triggered. Without a common understanding, disputes will arise between PCS providers and incumbent microwave users regarding the timing of the PCN and between PCS providers regarding the triggering of the cost sharing obligation.

We believe that the Commission's order can be clarified with two actions. One, delete the word "commercial" from the first sentence in Paragraph 73. Two, in Section 24.247 (a)(3), delete the phrase "the subsequent PCS entity is preparing to turn on a fixed base station at commercial power."

We respectfully request that the Commission issue the requested clarification so that all PCS licensees have a clear understanding of when a PCN is required and when the cost sharing obligation is triggered.

Sincerely,



by
ul
Betsy Stover Granger
Attorney

cc: S. M. Aspell
T. Dombrowsky
C. J. Farey
M. Hamra
R. M. Harrison
J. P. Tuthill