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

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

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In the Matter of )  
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Amendment to the Commission's Rules )  
Regarding a Plan for Sharing )  
the Costs of Microwave Relocation )  
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WT Docket No. 95-157  
RM-8643

**COMMENTS OF BASIN ELECTRIC POWER COOPERATIVE**

Basin Electric Power Cooperative ("Basin"), by its undersigned counsel, hereby submits comments in the Federal Communications Commission's ("FCC" or "Commission") First Report and Order and Further Notice of Proposed Rule Making ("*Notice*") in the above-captioned proceeding.<sup>1</sup> As an electric utility utilizing microwave facilities, Basin shares the Commission's public interest concern in facilitating an efficient and equitable relocation process "which minimizes transaction costs and maximizes benefits for all parties, including incumbents, PCS licensees, and the public."<sup>2</sup> Basin specifically urges the Commission to adopt its proposal to enable microwave incumbents who relocate their 2 GHz microwave links themselves -- instead of waiting for PCS

<sup>1</sup> *Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, First Report & Order and Further Notice of Proposed Rule Making, WT Docket No. 95-157, RM-8643. FCC 96-196 (rel. April 30, 1996) ("*Notice*").*

<sup>2</sup> *Id.* at ¶ 9.

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licensees to relocate the links one at a time -- to collect reimbursement in accordance with the FCC's cost-sharing plan.<sup>3</sup> Basin recommends that licensees that held 2 GHz microwave licenses at the start of the voluntary negotiation period (April 5, 1995), and subsequently relocated those facilities, should be entitled to reimbursement under the sharing mechanisms established in this proceeding. Allowing incumbent participation in the cost-sharing plan will not only facilitate system-wide relocations, but will guarantee that incumbents that acted expeditiously to relocate their facilities will not be treated in a prejudicial manner by being excluded from reimbursement of their relocation costs.

### **STATEMENT OF INTEREST**

Founded in 1961, Basin Electric Power Cooperative is a consumer-owned regional cooperative with over 128 member systems operating in the states of Colorado, Iowa, Minnesota, Montana, Nebraska, North Dakota, South Dakota and Wyoming. Basin has utilized 2 GHz microwave frequencies to support critical communications needs associated with its energy utility functions. With the introduction of PCS, Basin has been faced with the dilemma of maintaining its 2 GHz system or relocating to other frequencies. In particular, Basin has had to confront whether to relocate from its 2 GHz frequencies or continue to invest in the existing 2 GHz network with the possibility that the Company might nevertheless be required to relocate its links at a later time, and, accordingly, at greater cost. Basin believes that other 2 GHz incumbents are confronting similar issues. Basin is thus directly affected by the outcome of this proceeding and, in particular, the participation of incumbents in the final cost-sharing plan.

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<sup>3</sup> *Id.* at ¶¶ 98-99.

## **DISCUSSION**

The Commission tentatively concluded in its *Notice* that microwave incumbents that relocate themselves should be granted reimbursement rights under the proposed cost-sharing plan from “later-entrant PCS licensees that would have interfered with the relocated link.”<sup>4</sup> Basin strongly believes that the Commission should adopt this proposal.

Until recently, Basin utilized only 2 GHz microwave frequencies for a variety of microwave communications purposes critical to its operation as an electric cooperative. Soon after the commencement of the voluntary negotiation period for 2 GHz relocation, Basin was faced with uncertainty concerning the future use of its 2 GHz licenses. In particular, it was unclear whether Basin should continue to invest in its existing 2 GHz plant or incur substantial cost to move its links to 6 GHz facilities. In light of the uncertainty surrounding 2 GHz and recognizing that the costs of relocation only would increase, Basin has begun to look to 6 GHz frequencies to support its critical communications needs.

Basin submits that there is no reasonable justification to exclude it or other incumbents that expeditiously relocate their facilities prior to an actual request from a PCS licensee from participation in the Commission’s cost-sharing plan. By relocating facilities in advance of an actual request, these incumbents reduce the administrative costs of new PCS licensee and otherwise act in a responsible manner consistent with their fiduciary duty as licensees. Faced with the ever increasing costs of equipment, relocation and the uncertainty surrounding the continued viability of their 2 GHz plant, Basin and other similarly situated licensees may be compelled to make a

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<sup>4</sup> *Id.* at ¶ 99.

responsible and cost-efficient decision to relocate 2 GHz facilities. Indeed, by relocating without a specific request from a PCS licensee, Basin and other incumbents' relocation costs will most likely be lower than those who delay relocation. Accordingly, Basin strongly supports the Commission's tentative conclusion with regard to incumbents' participation in the cost-sharing plan. Basin submits that the FCC's rules should provide incentives and rewards to incumbents for facilitating the smooth transition to other frequencies and should not punish incumbents who help facilitate the Commission's goals while providing a windfall to those who resist.

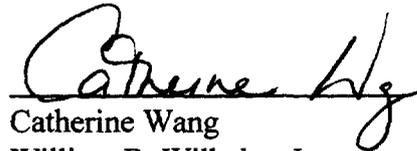
Furthermore, Basin notes that it and other incumbents that have already migrated to other frequencies have no incentive to inflate or maximize the costs of their relocation, particularly since there was never any guarantee that reimbursement would be forthcoming. Accordingly, Basin suggests that incumbents be reimbursed for their entire relocation costs unless the incoming PCS licensee can demonstrate to the FCC or other neutral arbitrator that the costs associated with the relocation were unreasonable. Finally, Basin suggests that the Commission adopt a policy whereby all incumbents that held 2 GHz licenses on the date of the commencement of the voluntary negotiation period (April 5, 1995), and subsequently relocated those links, should be entitled to participation in the Commission's cost sharing plan.

**CONCLUSION**

For the foregoing reasons, Basin strongly supports the Commission's tentative conclusion that microwave incumbents which relocate themselves from the 2 GHz frequency band should be entitled to obtain reimbursement rights and collect reimbursement from PCS licensees that would have interfered with the relocated link under the FCC's cost-sharing plan. Basin further recommends that 2 GHz licensees which held their licenses on April 5, 1995 and subsequently relocated their facilities should be entitled to participation in the plan.

Respectfully submitted,  
**BASIN ELECTRIC POWER COOPERATIVE**

By:



Catherine Wang  
William B. Wilhelm, Jr.  
Swidler & Berlin, Chtd.  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007  
(202) 424-7837 (Tel)  
(202) 424-7645 (Fax)

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