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

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Federal Communications Commission
Office of Secretary

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

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

The Personal Communications Industry Association ("PCIA"), by its attorneys, hereby petitions the Commission for partial reconsideration of the *First Report and Order* in the above captioned docket.¹ The cost sharing rules adopted in the *First Report and Order* require a PCS entity to file documentation of a relocation agreement with a designated clearinghouse within 10 business days after the agreement is signed.² Because relocation agreements will address unique business and technical issues, PCS entities will require a slightly longer time period to translate complicated relocation agreements into the necessary standard documentation to obtain reimbursement, especially if multiple links are involved. Therefore, PCIA believes that the

¹ Amendment to the Commission's Rules Regarding a Plan for Sharing the Cost of Microwave Relocation, WT Docket No. 95-157 (Apr. 25, 1996) (*First Report and Order*) [hereinafter *First Report and Order*]. A summary of the *First Report and Order* was published in the Federal Register on June 12, 1996 61 Fed. Reg. 29,679 (1996).

² *First Report and Order*, ¶ 72. In addition, a PCS entity that enters into a relocation agreement before the clearinghouse is operating must file documentation of its agreements within ten business days after the Wireless Bureau issues a public notice announcing that the clearinghouse has been established and has begun operation. *Id.*

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Commission should consider modifying the *First Report and Order* to extend the time period in which a PCS entity must submit documentation of a relocation agreement in order to obtain a reimbursement right.

I. A PCS ENTITY SHOULD BE REQUIRED TO FILE DOCUMENTATION OF A RELOCATION AGREEMENT WITH THE DESIGNATED CLEARINGHOUSE WITHIN TWENTY BUSINESS DAYS AFTER THE AGREEMENT IS SIGNED

In its *Notice of Proposed Rulemaking*, the Commission tentatively concluded that PCS entities should be entitled to receive a reimbursement right for certain microwave link relocation costs when other PCS entities also benefit from the link relocation.³ The Commission also sought comment on how this right should be implemented procedurally and proposed that a PCS entity would initiate the cost sharing mechanism by submitting a copy of the relocation agreement with an industry, non-profit clearinghouse.⁴ In the *First Report and Order*, the Commission adopted a ten business day filing window without extended discussion or justification.⁵

³ Amendment to the Commission's Rules Regarding a Plan for Sharing the Costs of Microwave Relocation, WT Docket No. 95-157 (Notice of Proposed Rulemaking) (Oct. 12, 1995).

⁴ *Id.*, ¶ 46. In response to the Commission's public notice seeking proposals for an industry clearinghouse, PCIA has filed a copy of its plan with the Commission. See PCIA Clearinghouse Plan, WT Docket No. 95-157 (filed May 24, 1996).

⁵ *First Report and Order*, ¶ 72.

PCIA urges the Commission to reconsider its position and instead permit a PCS entity to submit documentation of the relocation agreement to the clearinghouse within twenty business days after the relocation agreement is signed. Such a time period is reasonable, given that a PCS entity may be negotiating with several hundred microwave incumbents at the same time, and accordingly the agreements will vary in scope and complexity as parties trade-off different technical and financial issues. Despite the lack of uniformity among relocation agreements, a PCS entity will be required to submit documentation of its agreements in a standard format to the clearinghouse in order to facilitate the cost sharing recovery process. Reducing an agreement to such a standard format will take some time, and a PCS entity will have to ensure that the documentation is properly filed because of the significant financial interest at stake.⁶

In addition to providing a reasonable opportunity to submit the necessary information to the clearinghouse, the time period proposed by PCIA will also protect the integrity of the cost sharing mechanism. Absent a reasonable filing period, there is an increased likelihood of disputes arising from errors or omissions in submitted information and late-filed submissions resulting from administrative or processing difficulties. The Commission may avoid these problems and the costs associated with resolving these disputes by extending the filing period to twenty business days after the

⁶ This problem may be especially acute where the PCS interest has signed a significant number of relocation agreements prior to the operation of the clearinghouse. In this situation, a PCS interest could be required to submit documentation on virtually hundreds of different agreements within a ten business day filing window.

relocation agreement is signed, or in the case of previously signed agreements, twenty business days after the Wireless Bureau has announced that the clearinghouse is established and open for business.

In contrast to the substantial benefits obtained by PCIA's proposal, there is no downside to extending the filing period by an additional ten business days. Indeed, a PCS entity who reaches an agreement to relocate a microwave system has a significant financial incentive to receive a reimbursement right, and thus is likely to register with the clearinghouse at the earliest possible opportunity. In light of this incentive, a PCS entity will likely use the additional time proposed only when necessary to file its documentation, and it will not be harmed by an extended filing window. At the same time, a microwave incumbent is not prejudiced by such a proposal because relocation of its system is completed independent of the cost sharing process.

II. CONCLUSION

For the foregoing reasons, the Commission should revise the *First Report and Order* to permit a PCS entity to file documentation of a relocation agreement within twenty business days after the agreement is signed. In the situation where a relocation agreement has been reached prior to the establishment of a clearinghouse, a PCS entity should be permitted to file documentation of the agreement within twenty business days after the Wireless Bureau issues a public notice announcing that the clearinghouse has been established and has begun operation. PCIA maintains that doing so would give

PCS entities the necessary flexibility in seeking reimbursement rights without impeding the cost sharing recovery process.

Respectfully Submitted,

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