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

JUL 2 5 1996

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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REPLY COMMENTS OF THE
PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

The Personal Communications Industry Association ("PCIA") hereby replies to the comments on petitions for reconsideration of the *First Report and Order* filed in the above-captioned proceeding.[1] A broad theme recurrent in all of the petitions and comments in this proceeding is the need to recognize the legitimate efforts of paging companies to provide services and meet pent up demands. Consistent with this theme, PCIA requested reconsideration of several aspects of the rules adopted in the *First Report and Order*, and as modified by the *Order on Reconsideration*.[2] With these limited changes, discussed in further detail below, PCIA believes the Commission will be able to provide legitimate licensees with the flexibility to meet continuing demands without compromising the other goals of the proceeding.

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[1]FCC 96-183 (Apr. 23, 1996) ("*First Report and Order*"), *reprinted at* 61 Fed. Reg. 21380 (May 10, 1996). *See also* Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, 61 Fed. Reg. 33742 (June 28, 1996).

[2]FCC 96-260 (June 11, 1996) ("*Order on Reconsideration*").

I. Incumbents Should Be Permitted to File Interim Modification Applications for Sites Within 40 Miles of Facilities Applied for by February 8, 1996

Virtually every petitioner and commenter in this proceeding has urged the Commission to allow incumbents to file interim modification applications for sites within 40 miles of a facility that was applied for by February 8, 1996, instead of September 30, 1995.[3] Indeed, not a single party has opposed this requested modification of the rules on reconsideration. This staunch support demonstrates that the applications filed between September 30, 1995, and February 8, 1996, were not filed for speculative purposes, but rather filed by legitimate carriers to address the existing needs of real customers. Acting on this request for reconsideration will allow carriers to meet public needs without detracting from the Commission's other goals in this proceeding. Accordingly, PCIA believes the requested modification is in the public interest and should be acted upon on reconsideration.

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[3]The Personal Communications Industry Association Petition for Partial Reconsideration ("PCIA Petition"), WT Docket No. 96-18 (June 10, 1996) at 7-9; Petition for Clarification and/or Partial Reconsideration of Interim Rules of Ameritech Mobile Services, Inc. ("Ameritech Petition"), WT Docket No. 96-18 (June 10, 1996) at 1-3; Petition for Partial Reconsideration of Blooston, Mordkofsky, Jackson & Dickens ("BMJ&D Petition"), WT Docket No. 96-18 (June 10, 1996) at 2-4; Metrocall Inc. Petition for Clarification or Partial Reconsideration, WT Docket No. 96-18 (June 10, 1996) at 5-7; Petition for Partial Reconsideration of ProNet, Inc. ("ProNet Petition"), WT Docket No. 96-18 (June 10, 1996) at 3-4; Petition for Partial Reconsideration of Radiofone, Inc. ("Radiofone Petition"), WT Docket No. 96-18 (June 10, 1996) at 1; Arch Communications Comments ("Arch Comments"), WT Docket No. 96-18 (July 15, 1996) at 3-5; Comments of Motorola, Inc. ("Motorola Comments"), WT Docket No. 96-18 (July 15, 1996) at 3; Personal Communications Industry Association Comments ("PCIA Comments"), WT Docket No. 96-18 (July 15, 1996) at 2-3; ProNet, Inc. Comments ("ProNet Comments"), WT Docket No. 96-18 (July 15, 1996) at 2; Petition for Reconsideration of ProNet, Inc., WT Docket No. 96-18 (July 17, 1996) at 3-5.

II. Eligibility to File Applications Mutually Exclusive with Interim Modification Applications Should Be Limited to Incumbents with Co-Channel Facilities

The record on reconsideration in this proceeding also provides strong support for limiting eligibility to file applications that are mutually exclusive with interim applications to incumbents operating co-channel facilities. This request was made in no less than five separate petitions for reconsideration and *unanimously* supported in the comments.[4] As all of these filers note, the vast benefits of interim application processing will never be realized if unscrupulous entities are permitted to "MX", and therefore halt processing on, any interim application. Limiting eligibility to file mutually exclusive applications will thus serve the public interest by giving effect to rules already adopted by the FCC.

III. Nationwide Exclusivity Should Be Granted to Qualified Carriers That Have Completed Construction by or Had Valid Outstanding Construction Permits on February 8, 1996

PCIA and numerous other parties have strongly urged the Commission to extend nationwide eligibility to those applicants who possessed valid construction permits necessary to satisfy the construction thresholds for nationwide licenses on February 8, 1996, regardless of

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[4]Ameritech Petition at 3-5; BMJ&D Petition at 5-6; Petition for Reconsideration of Paging Network, Inc. ("PageNet Petition"), WT Docket No. 96-18 (June 10, 1996) at 3-4; ProNet Petition at 4-8; Radiofone Petition at 1; Comments of AirTouch Paging, Inc., WT Docket No. 96-18 (July 15, 1996) at 5-6; Arch Comments at 5-6; Comments of Mobilemedia Communications, Inc. ("Mobilemedia Comments"), WT Docket No. 96-18 (July 15, 1996) at 3-4; Comments of Motorola, Inc., WT Docket No. 96-18 (July 15, 1996) at 3; PCIA Comments at 4-5; ProNet Comments at 2; Petition for Reconsideration of ProNet, Inc., WT Docket No. 96-18 (July 17, 1996) at 5-7.

whether the licensees had completed construction of all proposed facilities.[5] As noted in the comments and petitions, carriers reasonably relied on the Commission's policies regarding nationwide exclusivity to formulate their business plans, and these carriers should not be penalized for failing to meet a deadline suddenly shifted months, or even years, earlier than dates set forth in valid construction permits. Indeed, even Mobilemedia, the only commenter expressing concern about this proposal, implicitly recognizes the need to honor commitments made to licensees that have undertaken substantial construction in reliance on the Commission's established policies.[6]

IV. Entities Satisfying the Limited Eligibility Criteria under Part 90 Should Be Exempted from the Application Freeze on the Five 929 MHz Private Carrier Paging Channels

For the five shared PCP channels in the 929 MHz band, PCIA also reiterates its support for Motorola's proposal to exempt all limited eligibility services from the application freeze.[7] While other petitioners and commenters have largely concentrated on the need to address the public demand for paging services provided by carriers, Motorola's proposal recognizes that existing demands for paging systems extend to public safety entities and private

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[5]PCIA Petition at 3-6; Petition for Clarification or Reconsideration of Diamond PagePartnerships, WT Docket No. 96-18 (June 10, 1996) at 1-3; Petition for Reconsideration of PageMart II, Inc., WT Docket No. 96-18 (June 10, 1996) at 1-8; Emergency Petition for Reconsideration of TSR Paging, Inc., WT Docket No. 96-18 (June 10, 1996) at 1-25; AirTouch Comments at 3-4; PCIA Comments at 5-7.

[6]MobileMedia Comments at 3.

[7]PCIA Comments at 7-8.

companies as well. Motorola's proposal appropriately balances the need to serve existing demands with the necessity of preventing speculative mischief by restricting exemptions from the application freeze to limited eligibility companies operating on shared channels that cannot, by their very nature, serve as vehicles for speculative activity. Because allowing public safety entities and the businesses and industries that are the engines of commerce to function effectively and efficiently has tremendous benefits for the public at large, PCIA urges the Commission to adopt Motorola's proposed modification for the five 929 MHz shared PCP channels.

V. Conclusion

PCIA supports efforts to recognize the legitimate needs of carriers and companies to meet existing demands for paging systems. Because each of the points raised by PCIA will constribute to meeting public and private demands without engendering speculation or

permitting unscrupulous applicants to "game" of the FCC's processes, PCIA urges the Commission strongly to adopt these proposals on reconsideration.

Respectfully submitted,

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Dated: July 25, 1996

CERTIFICATE OF SERVICE

I, Kim R. Riddick, hereby certify that on this 25th day of July, 1996, I caused copies of the foregoing "Reply Comments of the Personal Communications Industry Association," to be served via first-class postage prepaid mail to the following:

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