

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

[REDACTED]  
DEC 5 1996

In the Matter of )  
 )  
Implementation of the Local )  
Competition Provisions in the ) CC Docket No. 96-98  
Telecommunications Act of 1996 )

Interconnection between Local )  
Exchange Carriers and Commercial ) CC Docket No. 95-185  
Mobile Radio Service Providers )

To: The Commission

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**REPLY OF PAGING NETWORK, INC. TO OPPOSITIONS TO AND COMMENTS  
REGARDING PETITIONS FOR RECONSIDERATION OF THE SECOND  
INTERCONNECTION ORDER**

Paging Network, Inc. ("PageNet"), by its attorneys and pursuant to 47 C.F.R. § 1.429(g), hereby replies to certain oppositions and comments filed in response to petitions for reconsideration of the *Second Interconnection Order*.<sup>1</sup> In support thereof, the following is respectfully shown:

**I. Paging Service Should be Classified As A "Telephone Exchange Service"**

PageNet has demonstrated that it was an error for the Commission not to classify paging service as a "Telephone Exchange Service."<sup>2</sup> This position was likewise advanced and

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<sup>1</sup> *In re Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket Nos. 96-98, 95-185, 92-237, NSD File No. 96-8, IAD File No. 94-102, Second Report and Order and Memorandum Opinion and Order at ¶290 (released August 8, 1996) ("*Second Interconnection Order*").

<sup>2</sup> See Petition For Limited Reconsideration of Paging Network, Inc. filed October 7, 1996 at pp. 7-11 and Opposition to and  
Continued on following page

supported by AirTouch Communications, Inc. and the Personal Communications Industry Association. In its response to petitions for reconsideration filed with respect to the *Second Interconnection Order*, the United States Telephone Association ("USTA") argued that paging service should not be classified as a Telephone Exchange Service because paging service is "not comparable to two-way, switched voice service."<sup>3</sup> The Act nowhere states that a carrier needs to be providing two-way voice service or a service comparable to two-way voice service in order to be offering Telephone Exchange Service as defined in the Act.

PageNet wishes to emphasize that a failure to include paging within the definition of a Telephone Exchange Service would have significant and detrimental effects on the paging industry. Specifically, if paging networks and services do not fit within the definition of the Telephone Exchange Service, this could arguably mean that the Local Exchange Carriers ("LECs") may not be obligated to provide services in a nondiscriminatory fashion to paging carriers. Absent protections of nondiscriminatory access to the LECs networks guaranteed elsewhere by the statute or by the Commission, not being classified as a Telephone Exchange Service, while cellular, PCS

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Comments Regarding Certain Petitions for Reconsideration of Paging Network, Inc. filed November 20, 1996 at pp. 7-9.

<sup>3</sup> USTA Response, pp. 11-12.

and SMR are (no matter what type of one-way or two-way service these other CMRS carriers provide), would severely handicap paging in competition with wireline and other wireless services and inhibit both existing and future competition. In fact, the primary reason the LECs would wish that paging service not be classified as a Telephone Exchange Service is to provide the LECs with a basis for discrimination against paging carriers.

It should be further emphasized that paging carriers have been found to offer exchange service almost since their inception.<sup>4</sup> In addition, in interpreting the Modification of Final Judgment ("MFJ"), the court ruled that one-way paging services are "exchange telecommunications services" within the meaning of the decree and, thus, awarded the paging assets to the BOCs.<sup>5</sup> In fact, the Commission and the courts have consistently held that paging services are "exchange services" under the 1934 Act. Since the Commission has already found that paging services are exchange services, paging services must also fall within the broader definition of Telephone Exchange Service.

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<sup>4</sup> See, e.g., *Public Notice*, 1 FCC 2d 830 (1965), (paging and mobile telephone service found to be exchange service within the meaning of Section 221(b)).

<sup>5</sup> See *United States v. Western Electric Co.*, 578 F.Supp. 643, 645 (D.D.C. 1983) (reversed in part on other grounds).

## II. Clarification Is Necessary With Respect To The Fees Charged For NXX Code Openings

In the *Second Interconnection Order*, the Commission required that code opening fees charged by incumbent LECs must not be unjust, discriminatory or unreasonable.<sup>6</sup> In its petition, AT&T requested that the Commission clarify that NXX code opening fees must be based on and limited to the forward-looking and economically efficient costs of number administration.<sup>7</sup> GTE Service Corporation and Pacific Telesis Group opposed the AT&T clarification arguing that they are entitled to recover actual, rather than hypothetical, costs for code opening.<sup>8</sup>

Under the AT&T proposal, the LECs would recover their costs associated with code opening, if any, if those costs are comparable to what a third party administrator would charge. What this would mean is that the LECs would not be able to offset the LECs' own costs of serving their own customers by charging interconnecting carriers for those costs. Accordingly, if any costs are justified for NXX code opening, the AT&T clarification will ensure that those costs are fair and reflect efficient administration of vital number resources.

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<sup>6</sup> *Second Interconnection Order* at ¶ 333.

<sup>7</sup> AT&T Petition for Limited Reconsideration and Clarification filed October 7, 1996 at pp. 10-12.

<sup>8</sup> Opposition to and Comments on Petitions for Reconsideration and/or Clarification of GTE Service Corporation at p.15-16; Comments on Petitions for Reconsideration of Pacific Telesis Group at p.5.

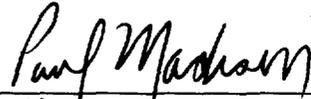
**III. Conclusion**

WHEREFORE, PageNet requests that the Commission adopt an order on reconsideration consistent with the comments provided herein.

Respectfully submitted,

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December 5, 1996

Certificate of Service

I, Karen L. Jenkins, hereby certify that, on this 5th day of December 1996, I sent a copy of the foregoing **"REPLY OF PAGING NETWORK, INC. TO OPPOSITIONS TO AND COMMENTS REGARDING PETITIONS FOR RECONSIDERATION OF THE SECOND INTERCONNECTION ORDER"** by U.S. mail, first class, postage prepaid, to the individuals listed on the attached list.

  
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