BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
DEC 5 1996

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

DOCKET FILE COPY ORIGINAL

REPLY OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION TO COMMENTS AND OPPOSITIONS TO PETITIONS FOR RECONSIDERATION

Robert L. Hoggarth
Robert R. Cohen
Personal Communications
Industry Association
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561
(703) 739-0300

December 5, 1996

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of the Local Competition Provisions in the Telecommunications Act of 1996	)	CC Docket No. 96-98
	)	
Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers	)	CC Docket No. 95-185

To: The Commission

REPLY OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION TO COMMENTS AND OPPOSITIONS TO PETITIONS FOR RECONSIDERATION

The Personal Communications Industry Association ("PCIA")[1] respectfully submits its reply to certain comments and/or oppositions[2] filed with reference to

---

[1] PCIA is the international trade association created to represent the interests of both the commercial and the private mobile radio service communications industries. PCIA's Federation of Councils includes: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Specialized Mobile Radio Alliance, the Site Owners and Managers Association, the Association of Wireless System Integrators, the Association of Communications Technicians, and the Private System Users Alliance. In addition, as the FCC-appointed frequency coordinator for the 450-512 MHz bands in the Business Radio Service, the 800 and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of licensees.

[2] *See, e.g.*, Comments of AirTouch Communications, Inc. on Petitions for Reconsideration (the "AirTouch Comments"); Ameritech Comments on Petitions for Reconsideration ("Ameritech Comments"); Comments of Arch Communications Group ("Arch Comments"); Bell Atlantic's Response to Petitions

(continued...)

petitions for reconsideration and/or clarification of the *Second Report and Order and Memorandum Opinion and Order* (the "*Second Report*")[3] in this proceeding. The following is respectfully shown:

I. NO SUPPORT FOR WIRELESS NUMBER TAKEBACKS HAS EMERGED

PCIA demonstrated in its Comments on Petitions for Reconsideration[4] that the record on reconsideration supports a prohibition on wireless number takebacks.[5] The Comments of other interested parties resoundingly affirm the PCIA position. The AirTouch, Arch, PageNet and US West Comments all contain meaningful discussions of the adverse disparate impact that number takebacks have upon wireless carriers.[6] The Commission should find the position of US

---

[2](...continued)
for Reconsideration ("BA Response"); Consolidated Opposition and Comments of BellSouth Corporation ("BellSouth Opposition"); Opposition of Cox Communications, Inc. to Petitions for Reconsideration ("Cox Opposition"); Opposition to and Comments on Petitions for Reconsideration and/or Clarification of GTE Service Corporation ("GTE Opposition"); Consolidated Comments and Opposition to Selected Petitions for Reconsideration of Teleport Communications Group ("Teleport Comments"); Opposition to and Comments Regarding Certain Petitions for Reconsideration of Paging Network, Inc. ("PageNet Opposition"); Consolidated Response of the United States Telephone Association ("USTA Response"); and US West Response to the Reconsideration Petitions Concerning the Second Report and Order ("US West Response"), all filed November 20, 1996.

[3] FCC 96-333, released August 8, 1996.

[4] *See* Comments of the Personal Communications Industry Association ("PCIA Comments") filed November 20, 1996.

[5] PCIA Comments at 2-4.

[6] Arch Comments at 3; AirTouch Comments at 4-5; PageNet Opposition at 1-2; US West Response at 13-15.

West to be particularly compelling since the company has substantial experience in both the commercial mobile radio service ("CMRS"), by virtue of its extensive broadband wireless operations, and in area code administration, because of its incumbent LEC operations. After a detailed analysis demonstrating that wireless takebacks are not "technology neutral," US West unambiguously advocates that "no CMRS provider with Type 2 connections should be faced with a mandatory takeback of its numbers."[7]

Based upon the record as a whole, the Commission should prohibit the Texas Public Utility Commission, and other state commissions, from implementing any mandatory takeback of wireless Type 2 numbers in the course of implementing a geographic split even if numbers are to be recovered *pro rata* across service categories.

II. THE RECORD ON RECONSIDERATION SUPPORTS THE CLASSIFICATION OF PAGING AS "TELEPHONE EXCHANGE SERVICE"

PCIA supported PageNet and AirTouch[8] in advocating the classification of paging services as "Telephone Exchange Service" within the meaning of the Communications Act of 1934, as amended.[9] Only one filer, USTA, has taken a contrary view, arguing that "[p]aging service is not comparable to two-way,

---

[7] US West Response at 15.

[8] *See* PCIA Comments at 5-7; AirTouch Comments at 2; PageNet Opposition at 7-9.

[9] 47 U.S.C. § 153(47).

switched voice service" and thus does not fall within the revised definition of telephone exchange service contained in the 1996 Act.[10]

The flaw in the USTA analysis is that the phrase "switched voice service" does not appear anywhere in the definition that is in issue. The Act, in defining telephone exchange service, refers to the use of "switches, transmission equipment or other facilities. . .by which a subscriber can originate and terminate telecommunications service."[11] This expansive definition goes far beyond "switched voice", and USTA's effort to limit the definition should not succeed.

Notably, USTA has failed to respond to the showings by PCIA, PageNet and AirTouch that paging services previously were classified as "exchange" services by FCC and court rulings,[12] and that the 1996 Act expanded the definition. On balance, the record supports the classification requested by PCIA.

III. THE RECORD CONFIRMS THE NEED FOR CLARIFICATION OF THE LIMITS ON NUMBER ADMINISTRATION CHARGES

AT&T proposed in its Petition for Limited Reconsideration and Clarification filed October 7, 1996 that the Commission clarify that any fees charged by an ILEC for NXX code opening be limited to forward-looking economically efficient costs including only cost elements comparable to those that would be incurred by

---

[10] USTA Response at 11-12. USTA also incorporates by reference its "Consolidated Opposition" filed October 31, 1996 with reference to the *First Report* in CC Docket Nos. 96-98 and 95-185. *Id.* at note 35.

[11] 47 U.S.C. §153(47).

[12] PCIA Comments at 7 and notes 17 and 18; PageNet Comments at 7-9.

a neutral third party numbering administrator.[13] AirTouch, PageNet, PCIA, Teleport and US West all supported the requested clarification.[14] Once again, the support of US West -- which finds the AT&T clarification "to restate the very principles set forth in the *Second Report*. . ." -- is particularly noteworthy in light of its role as an ILEC in the code opening process.

GTE opposes the AT&T clarification claiming that it is entitled to recover the actual costs associated with the code opening process, not the hypothetical costs of a neutral third party administrator.[15] This contention misses the point. AT&T merely seeks to limit the categories of expenses that an ILEC can recover for opening codes by including only those costs elements that are comparable to those that would be charged by a third party Numbering Administrator. For example, the AT&T clarification would preclude an ILEC from including costs incurred to route traffic to or from a new NXX to serve its own customers. The AT&T clarification would not result in any deviation from the principle that recovery is cost-based, but rather would refine the costs that are and are not properly included.

The debate between the commenters on this issue of code opening fees clearly indicates that clarification is needed. The AT&T position is sound and deserves to be adopted by the Commission.

---

[13] AT&T Petition at 10-12.

[14] AirTouch Comments at 12-14; PageNet Opposition at 9; PCIA Comments at 8; Teleport Comments at 10-11; US West Comments at 9.

[15] GTE Opposition at 16; PacTel Comments at 5.

IV. NETWORK CHANGES OF ILECS SHOULD BE BROADLY DISCLOSED

The record reflects a diversity of opinion on the proper nature and scope of the obligation to provide prior notifications of network changes: the ILECs seek to narrow the scope of network changes that are subject to prior notification, but to expand the notification requirements to all telecommunications carriers;[16] others support the Commission's delineation of the changes that must be disclosed in advance, and seek to expand the universe of carriers who are entitled to receive notice.[17] One party submits that all telecommunications carriers should both give and receive notifications of network changes.[18]

PCIA's members do not believe that notification requirements should be imposed on all telecommunications carriers. As Cox properly points out, the 1996 Act purposefully created a sliding scale of interconnection-related obligations, with telecommunications carriers having the fewest obligations, and incumbent LECs having the most obligations. This was intended to assist emerging competitors while discouraging practices that would maintain the bottleneck status of incumbent LEC facilities. Given this carefully crafted scale of obligations, the Commission should be loathe to impose broad additional notification obligations on telecommunications carriers as a class.

---

[16] *See, e.g.*, Ameritech Comments at 11-12, BA Response at 8-10; BellSouth Opposition at 9-10; GTE Opposition at 16-18.

[17] PCIA Comments at 8-9; AirTouch Comments at 15-19; Cox Opposition at 4-5.

[18] US West Comments at 22-25.

On the other hand, since ILECs already are obligated to provide notice of network changes, there would be little, if any, burden associated with expanding the group of notified parties to include all interconnected carriers, not just "competing providers". None of the ILECs dispute the *de minimis* nature of this proposal, and it should be adopted.

V. CONCLUSION

The foregoing premises having been duly considered, PCIA respectfully requests that the Commission modify the *Second Report* on reconsideration in the respects set forth herein.

Respectfully submitted,

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

By: Robert L. Hoggarth

Robert L. Hoggarth
Robert R. Cohen
PERSONAL COMMUNICATIONS
INDUSTRY ASSOCIATION
500 Montgomery Street
Suite 700
Alexandria, VA 22314-1561
(703) 739-0300

December 5, 1996

WDC 84083.1

CERTIFICATE OF SERVICE

I, Christine M. Crowe, hereby certify that a copy of the foregoing Reply of the Personal Communications Industry Association to Comments and Oppositions to Petitions for Reconsideration was served via first class mail on this 5th day of December, 1996 to the following persons:

John M. Goodman
Lawrence W. Katz
1320 North Court House Road
Arlington, VA 22201

Daniel L. Brenner
Neal M. Goldberg
David Nicoll
1724 Massachusetts Ave., N.W.
Washington, D.C. 20036

Paul H. Kuzia
Arch Communications Group, Inc.
1800 West Park Drive
Suite 350
Westborough, MA 01581

Charles C. Hunter
Catherine M. Hannan
Hunter & Mow, P.C.
1620 I Street, N.W.
Suite 701
Washington, D.C. 20006

Mark C. Rosenblum
Roy E. Hoffinger
Clifford K. Williams
James H. Bolin, Jr.
295 North Maple Avenue
Room 3245I1
Basking Ridge, NJ 07920

Werner K. Hartenberger
Laura H. Phillips
J.G. Harrington
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue
Suite 800
Washington, D.C. 20036

Robert B. McKenna
Kathryn M. Krause
Jeffrey S. Bork
1020 19th Street, N.W.
Washington, D.C. 20036

Marlin D. Ard
John W. Bogy
140 New Montgomery Street
Room 1530A
San Francisco, CA 94105

Leon Kestenbaum
Jay C. Keithley
Norina T. Moy
1850 M Street, N.W.
Suite 1110
Washington, D.C. 20036

Steven T. Nourse
Public Utilities Section
180 East Broad Street
Columbus, OH 43266

John L. Bartlett
Angela N. Watkins
Wiley, Rein & Fielding
1776 K Street, N.W.
Washington, D.C. 20006

Jan David Jubon, P.E.
Jubon Engineering, P.C.
3816 Winters Hill Drive
Atlanta, GA 30360-1331

Donna M. Roberts
Lisa B. Smith
Donald J. Elardo
MCI Telecomms. Corp.

1801 Penn. Ave., N.W.
Washington, D.C. 20006

Andrew D. Lipman
Russell M. Blau
Swidler, Berlin, Chartered
3000 K Street, N.W.
Suite 300
Washington, D.C. 20007

Howard J. Symons
Michelle M. Mundt
Mintz, Levin, Cohn, Ferris,
Glovsky & Popeo, P.C.
701 Penn. Ave., N.W.
Suite 900
Washington, D.C. 20004

Maureen O. Helmer
General Counsel
State of New York
Department of Public
Service
Three Empire State Plaza
Albany, NY 12223-1350

Mark J. Tauber
Kecia Boney
Mark J. O'Connor
Piper & Marbury L.L.P.
1200 19th Street, N.W.
Seventh Floor
Washington, D.C. 20036

Shirley A. Woo
Pacific Gas and Electric
Co.
P.O. Box 7442
San Francisco, CA 94120

Judith St. Ledger-Roty
Reed, Smith, Shaw & McClay
1301 K Street, N.W.
Suite 1100 East Tower
Washington, D.C. 20005

Lee A. Rau
Reed, Smith, Shaw & McClay
8251 Greensboro Drive
Suite 1100
McLean, Virginia 22102

Maureen A. Scott
Commonwealth of
Pennsylvania
Pennsylvania Public Utility
Commission
P.O. Box 3265
Harrisburg, PA 17105-3265

James D. Ellis
Robert M. Lynch
David F. Brown
175 E. Houston
Room 1254
San Antonio, TX 78205

Durward D. Dupre
Mary W. Marks
J. Paul Walters, Jr.
One Bell Center
Room 3520
St. Louis, MI 63101

Teresa Marrero
Senior Regulatory Counsel
Teleport Communications
Group Inc.
Two Teleport Drive
Staten Island, NY 10311

Henry D. Levine
Levin, Blaszak, Block &
Boothby
1300 Connecticut Ave., N.W.
Suite 500
Washington, D.C. 20036

Antoinette Cook Bush
Mark C. Del Bianco
Jeffry A. Brueggeman
Skadden, Arps, Slate,
Meagher & Flom
1440 New York Ave., N.W.
Washington, D.C. 20005

William J. Balcerski

Campbell L. Ayling
NYNEX Telephone Companies
1111 Westchester Avenue
White Plains, NY 10604

Mary McDermott
Linda Kent
Charles D. Cosson
Keith Townsend
U.S. Telephone Association
1401 H Street, N.W.
Suite 600
Washington, D.C. 20005

M. Robert Sutherland
Theodore R. Kingsley
BellSouth Corporation
BellSouth
Telecommunications, Inc.
1155 Peachtree Street, N.E.
Suite 1700
Atlanta, GA 30309-3610

Margot Smiley Humphrey
National Rural Telecom
Assoc.
Koteen & Naftalin, LLP
1150 Connecticut Ave., N.W.
Suite 1000
Washington, D.C. 20036

Russell D. Lukas
Lukas, McGowan, Nace &
Gutierrez, Chartered
1111 19th Street, N.W.
Suite 1200
Washington, D.C. 20036

David Gross
Kathleen Abernathy
AirTouch Communications,
Inc.
1818 N Street, N.W.
Suite 800
Washington, D.C. 20036

Christine Crowe

Christine M. Crowe