

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

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Federal Communications Commission  
Office of Secretary

In the Matter of )  
)  
Guidelines for Evaluating the Environmental ) ET Docket No. 93-62  
Effects of Radiofrequency Radiation )  
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**COMMENTS IN SUPPORT OF PETITIONS FOR PARTIAL RECONSIDERATION**

The Personal Communications Industry Association ("PCIA")<sup>1</sup> hereby files its comments in support of the Petitions For Partial Reconsideration in the above-captioned docket filed by Ameritech and Northeast Louisiana Telephone, Inc. ("Petitioners").<sup>2</sup> Specifically, PCIA supports Petitioners' request that the Commission tie the compliance deadline for the new radiofrequency ("RF") emission requirements to the release of the revised OET Bulletin No. 65. In granting these petitions, the Commission will smooth the transition to the new environmental impact rules by providing time for licensees to review, understand, and implement the RF compliance rules —

<sup>1</sup> 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.

<sup>2</sup> Ameritech Petition For Partial Reconsideration, ET Docket 93-62 (filed Jan. 23, 1997); Northeast Louisiana Telephone, Inc. Petition For Partial Reconsideration, ET Docket 93-62 (filed Jan. 23, 1997).

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as clarified by OET Bulletin No. 65 — and minimize unnecessary waiver filings with the Commission.

## I. INTRODUCTION

Until recently, the Commission's regulations on the environmental effects of RF emissions were based on the 1982 ANSI guidelines. In 1992, however, ANSI and IEEE approved a revised version of the guidelines and, as a result, the Commission initiated this proceeding to update its own rules. On August 1, 1996, the Commission adopted a *Report and Order* setting forth new regulations, which are a blend of the 1992 ANSI/IEEE and 1982 NCRP guidelines, and were to be made effective on January 1, 1997.<sup>3</sup> At that time, the Commission stated it would shortly release an update to OET Bulletin No. 65, which would provide licensees with additional pragmatic information on measuring RF fields and achieving compliance with the new rules. A number of parties, including PCIA, filed petitions for reconsideration of this *Report and Order*, noting that because the *Report and Order* substantially altered the regulatory framework of environmental impact analyses, the transition period should be extended for one year after the new OET Bulletin No. 65 is issued.

On December 24, 1996, the Commission released a *First Memorandum Opinion and Order* in this docket, "extending the transition period so that the new RF guidelines will apply to station applications filed after September 1, 1997" in order to allow the Commission to address the remaining issues on reconsideration and to "allow applicants to review the revised Bulletin 65

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<sup>3</sup> See *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, ET Docket No. 93-62, FCC 96-326 (Aug. 1, 1996) ("*Report and Order*").

...<sup>4</sup> The Petitioners requested partial reconsideration of this Order, noting that because the issuance of OET Bulletin No. 65 should resolve many of the ambiguities in the *Report and Order*, the Commission should tie the beginning of the transition period to the release of the Bulletin. For the reasons stated below, PCIA joins the Petitioners in this request.

## **II. WIRELESS CARRIERS NEED THE GUIDANCE PROVIDED BY OET BULLETIN NO. 65 TO COMPLY WITH THE NEW RF REQUIREMENTS**

In the *First Memorandum Opinion and Order*, the Commission extended the transition period for compliance with the new rules until September 1, 1997, because:

An extension of the transition period would eliminate the need for the filing and the granting of individual waiver requests and would allow time for our applicants and licensees to review the results of the decisions we will be taking in the near future to address the other issues raised in the petitions. It would also allow applicants to review the revised Bulletin 65 and to make the necessary measurements or calculations to determine that they are in compliance.<sup>5</sup>

PCIA applauds the Commission for extending its compliance deadline, and agrees with its reasons for doing so. It does not believe, however, that even the FCC's revised deadline provides sufficient time for carriers to certify that their facilities are in compliance with the new regulations. Accordingly, PCIA believes the Commission should reconsider its proposed transition date, and instead adopt a transition date of one year from the issuance of OET Bulletin No. 65.

Preliminarily, if the Commission is requiring that carriers be capable of certifying that all pre-existing transmitters, whether or not previously categorically excluded, comply with the new

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<sup>4</sup> *Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation*, FCC 96-487, ¶ 7 (Dec. 24, 1996) ("*First Memorandum Opinion and Order*").

<sup>5</sup> *Id.*

regulations, the transition date is unreasonable. Carriers cannot even estimate how long it will take to determine whether a transmitter is in compliance without needed clarifications that will ostensibly be included in the Commission's resolution of various petitions for reconsideration and OET Bulletin No. 65. Once the Bulletin is released, as the Commission recognizes, applicants must then "review the revised Bulletin 65 and . . . make the necessary measurements or calculations to determine that they are in compliance."<sup>6</sup> In particular, carriers will need time to understand the procedures, definitions, and requirements for transmitter evaluations. Based upon this understanding, carriers will then be required to survey all of their sites to determine which transmitters do and do not qualify for a categorical exclusion. Because many carriers do not have consolidated site databases, this task itself may be a tremendous undertaking. Indeed, even if a carrier has a unified site database, it is unlikely to have any information on whether sites are rooftop or tower-based, since that information was never before relevant.

Once the carrier has been able to identify and categorize its sites, only then can it determine how many sites will require "routine evaluations." Given the current, very low, threshold for area-wide compliance, it appears likely that the large majority of the sites requiring routine evaluation will also require area-wide compliance assessments, a time-consuming and burdensome task. Moreover, because, as a practical matter, the information is unlikely to be available to conduct mathematical modeling for area-wide compliance checks, each of these sites will, in all probability, require a field measurement.<sup>7</sup> Unless procedures for such field

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<sup>6</sup> *Id.*

<sup>7</sup> Although the Commission's regulatory impact statement indicates that all representatives at the site could cooperate to divide the costs of a field measurement engineer, the practical reality is that the other licensees will not be known to a prospective site applicant.

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measurements are defined, a field measurement will probably require at least a day because a carrier will have no way of determining peak loading conditions for the transmitters in the area.<sup>8</sup>

PCIA does not believe that it is reasonable or feasible for carriers to complete all of these tasks in the short period between the release of OET Bulletin No. 65 and September 1, 1997. At present, the Bulletin has not been released, and it is unclear when it will be. Based upon the limited time available for transitioning to the new regulations, PCIA believes the Commission will precipitate a flood of waiver requests immediately prior to the September 1, 1997 date, resulting in an inefficient drain on FCC staff resources.

Furthermore, PCIA notes that providing a more extended transition time period is fully consistent with the Commission's obligations under the National Environmental Policy Act. In particular, because the facilities in question are those that were previously categorically excluded from compliance, there is "little potential" for these facilities to cause exposures in excess of the guidelines in any event.<sup>9</sup> Moreover, ANSI/IEEE have explicitly reaffirmed the safety of facilities conforming to prior ANSI standards, and therefore a slight delay in transitioning to the updated regulations would not implicate any policy concerns under NEPA.<sup>10</sup>

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Moreover, pre-existing licensees have no incentive to cooperate with the licensee, unless the site is actually shown to exceed MPE limits.

<sup>8</sup> Because peak loading may not be evidenced except on a weekly, monthly, or even seasonal basis, OST Bulletin No. 65 should provide some practical guidance on the what reasonable assumptions carriers are permitted to make.

<sup>9</sup> *Order*, ¶75; *see also Second Report and Order Erratum 2 FCC Rcd 2526 (1987)* (stating that for categorically excluded services, "the likelihood of the protection guides actually being exceeded is slight," even if "hypothetically, RF radiation limits could be exceeded in a few instances, such situations apparently seldom occur in actual operation.").

<sup>10</sup> *See ANSI/IEEE C95.1-1992 at 23* (stating "[n]o verified reports exist of injury to  
(Continued...)

Under these circumstances, PCIA joins the Petitioners in urging the Commission to adopt a transition date keyed to the release of OET Bulletin No. 65, with a period of at least one year for carriers to complete their appointed tasks. At a minimum, the Commission should extend the period where liberal waivers are available for a period of one year following the release of OET Bulletin No. 65 and establish a presumption that such waivers are deemed granted unless otherwise denied.<sup>11</sup>

### III. CONCLUSION

The Commission should not require wireless carriers to comply with its revised RF emission rules until one year after the release of OET Bulletin No. 65. Such a revised compliance deadline will give licensees sufficient time to apply the teachings of this Bulletin to

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human beings or of adverse effects on the health of human beings who have been exposed to electromagnetic fields within the limits of frequency and SAR specified by . . . ANSI C95.1-1982").

<sup>11</sup> Given the legal ramifications of failure to comply with safety regulations, and the high probability that the Commission will not be able to act on the large number of waivers that will be filed, establishing a presumption of grant until denial is critical.

their transmission facilities, thereby determining whether the facilities are in compliance with the revised rules.

Respectfully submitted,

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