Dockets

Federal Communications Commission
Washington, D.C. 20554

The Honorable Phil English
U. S. House of Representatives
City Annex Building
900 North Hermitage Road, Suite 6
Hermitage, Pennsylvania 16148-3243

Dear Congressman English:

Thank you for your letter of March 24, 1997, on behalf of your constituent, John A. Reimold, regarding the Commission's policies with regard to licensing of 931 MHz paging systems. Mr. Reimold expresses concern that his paging application will be dismissed and that paging frequencies will be awarded in a competitive bidding process.

On February 20, 1997, the Commission released a Second Report and Order and Further Notice of Proposed Rule Making in WT Docket 96-18 and PP Docket 93-253, which adopted rules governing geographic area licensing for Private Carrier and Common Carrier paging licenses and established competitive bidding procedures for those systems. For your convenience and information, enclosed is a copy of the Press Release concerning the Second Report and Order and Further Notice of Proposed Rule Making, which includes a summary of the principal decisions made. Specifically, all mutually exclusive applications for non-nationwide Common Carrier Paging licenses and exclusive non-nationwide Private Carrier Paging channels will be subject to competitive bidding procedures. Additionally, all pending mutually exclusive applications filed with the Commission on or before February 20, 1997, will be dismissed.

The Commission's interim paging freeze did not require prior issuance of a Notice of Proposed Rule Making. Indeed, the Commission has imposed freezes in a number of other proceedings to facilitate the transition to geographic licensing and auctions, including Multipoint Distribution Service, 800 and 900 MHz Specialized Mobile Radio (SMR) Service, Location and Monitoring Service, 220 MHz Service and 39 GHz Service. Our decision in these proceedings to suspend acceptance of applications while the related rulemaking was pending advances two critical goals -- preservation of our ability to assign licenses through auctions, and deterrence of license fraud and speculation. In particular, we are concerned that the potential benefits of geographic area licensing, with competitive bidding used to select from among competing applicants, would be undermined by continuing to invite site-specific applications for "free" spectrum on a first-come, first-served basis.

Assigning frequencies by auction, in turn, helps deter fraud and speculation and ensures that this valuable public resource is assigned rapidly and efficiently to the parties who value it the most, rather than given away to the first party who files its application with the Commission. The Commission has stated its belief in other contexts (such as Specialized Mobile Radio) that auctions will minimize administrative or judicial delays in licensing, particularly in comparison to other licensing methods such as comparative hearings, lotteries (which are specifically prohibited by the statute if the service is auctionable), or "first-come, first-served" procedures.

The Commission's newly adopted rules to auction paging frequencies is consistent with Section 309(j) of the Communications Act, which sets forth certain criteria for determining when auctions should be used to award spectrum licenses. Pursuant to these criteria, auctions are to be used to award mutually exclusive initial licenses or construction permits for services likely to involve the licensee receiving compensation from subscribers. The statute also requires that the Commission determine that auctioning the spectrum will further the public interest objectives of Section 309(j)(3) by promoting rapid development of service, fostering competition, recovering a portion of the value of the spectrum for the public, and encouraging efficient spectrum use.

Moreover, the Commission has taken a number of steps to ensure that paging providers that are small businesses are not adversely affected by the transition to geographic area licensing and the use of competitive bidding procedures to award paging licenses. Additionally, the Part 90 shared paging channels will not be auctioned; instead they will be licensed on a site-by-site basis. We are establishing licensing areas of a size that will provide realistic bidding opportunities for small and medium-sized operators. We have also adopted special provisions in our competitive bidding rules for small businesses to facilitate their participation in the auction process, including bidding credits and installment payment provisions. In the Further Notice of Proposed Rule Making, we have proposed to allow paging licensees to partition their licensing areas in order to promote quicker build-out of small markets and rural areas.

Thank you for your inquiry.

Sincerely,

David L. Furth /SK

David L. Furth
Chief, Commercial Wireless Division
Wireless Telecommunications Bureau

Enclosure

PHIL ENGLISH
21ST DISTRICT, PENNSYLVANIA

WAYS AND MEANS
COMMITTEE

SUBCOMMITTEES:
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OVERSIGHT

SMALL BUSINESS
COMMITTEE

Congress of the United States
House of Representatives
Washington, DC 20515–3821

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☐ THE BUTLER MALL
310 NEW CASTLE ROAD, SUITE 140
BUTLER, PA 16001–2428
(412) 285–7005

PMB
PR-PAGING
2067

March 24, 1997

Lou Sizemore
Federal Communications Commission
Congressional inquiries
1919 M Street NW
Washington, DC 20554

Dear Ms. Sizemore:

The enclosed information is submitted for your consideration.

I received the enclosed letter from my constituent, John A. Reimold, O.D., regarding his application for a 931 MHz paging license in the Reno, Nevada market. As you can see from the letter he believes that his application should be honored because he filed it in compliance with the policies in effect at the time of filing.

Will you please investigate this situation and let me know your findings and any action that you are able to take on behalf of my constituent. Thank you very much for your kind attention to this matter.

Sincerely,

Phil English

Phil English
Member of Congress

PE/ac

In Response: Hermitage Office
Attention: Ann Coleman

American Optometric Association

John A. Reimold, O.D
Doctor of Optometry

Phil English
Congressional Representative
900 North Hermitage Rd.
Hermitage, PA 16148

Dear Congressman English:

I am an applicant for a 931 MHz paging license in the Reno, Nevada market, which application is currently pending before the Federal Communications Commission. I am writing to urge you to insist that the Federal Communications Commission reverse its February 24, 1997, decision in WT Docket No. 96-18 looking to dismiss my pending application and issue 931 MHz paging licenses in my market solely by auctions in the future.

I paid thousands of dollars for application preparation and filing services and properly filed my application in accordance with the FCC Rules and policies then in effect at the time of filing. The fact that the FCC now wants to change its rules, dismiss my application and hold an auction means that the substantial amount of money I invested in this project will be lost. Neither I nor many other similarly situation applicants who properly filed in good faith have the resources to bid hundreds of thousands of dollars to win an auction license for an entire, big as a state-sized MTA geographic area, as proposed by the Commission.

I will have no opportunity to obtain an FCC license, build a paging station and participate in the communications industry as I had hoped to do, and which Congress has committed to seeing happen. I will lose all of my substantial investment to date because the FCC wants to arbitrarily change its Rules after I filed my application. This retroactive action by a Federal agency is not fair, and should not be condoned by Congress. Congress has oversight of this federal agency and the FCC should be held accountable.

I urge you to conduct an inquiry and take appropriate action on behalf of your constituents and have the FCC correct its action before it is too late. All I am asking is equitable treatment, which in this case could include "grandfathering" of mine and similar applications by the Commission, and appropriate processing and grant of these applications. Such would not interfere with future auctions, as planned by the FCC.

Sincerely,

John A. Reimold

5 Greenville Orthopedic Center
Greenville, PA 16125
(412) 588-3322