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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of the Semi-Annual)	
Report of the PCIA Microwave)	
Clearinghouse Regarding Operation)	WT Docket No. 95-157
of Microwave Relocation Cost)	
Sharing Clearinghouse)	

PCIA MICROWAVE CLEARINGHOUSE
SEMI-ANNUAL REPORT TO THE COMMISSION

The PCIA Microwave Clearinghouse ("the Clearinghouse") hereby submits its second semi-annual report on its progress implementing the Federal Communications Commission's (the "Commission") microwave relocation cost sharing plan.¹

A. OVERVIEW

As detailed below, the Clearinghouse has continued in its efforts to streamline and facilitate the cost sharing reimbursement process for PCS industry participants and those entities eligible to share in cost sharing under the Commission's Rules. Since the previous report, filed for the period ending February 1, 1997, the Clearinghouse Board of Directors has met on three occasions to continue to develop and to review the policies and operating procedures of the Clearinghouse. Because of the broad membership of the Clearinghouse Board, and because membership in the Clearinghouse is open to all entities that are subject to the Commission's cost sharing Rules who pay a transaction cost, the Board's structure has enabled the Clearinghouse to obtain

¹See Memorandum of Opinion and Order, WT Docket 95-157 at 12 (August 14, 1996).

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valuable industry input with respect to the microwave relocation and reimbursement process.

B. MEMBERSHIP AND BOARD PARTICIPATION

The current Board of Directors consists of:

William J. Todd, PrimeCo

Scott Fox, BellSouth

Brian Zelk, Sprint Spectrum

Jerry O'Brien, Omnipoint

Barclay Jones, APC

Roni Jackson, Cox Communications PCS, L.P.

Rich Freewalt, Aerial Communications

Steve Aspell, Pacific Bell

Mark McDowell, Tele Corp.

Jay Kitchen, PCIA

Board meetings have been held on almost a monthly basis, with future board meetings scheduled through the end of the year on at least a bi-monthly basis. The Board and staff have been involved with the review of the following areas: (i) development of an accurate database particularly involving the filing of PCNs by PCS Licensees; (ii) refinement of policies and procedures pertaining to dispute resolution guidelines; (iii) appointment of an *ad hoc* committee to develop and review the type and breadth of documentation to be submitted by parties to facilitate the cost sharing determination; (iv) the role of incumbents in the microwave relocation process and the role of unlicensed PCS users; and (v)

consideration by a technical committee of questions pertaining to relocation of transmitter links involving offshore operations.

The Board will continue to meet to oversee Clearinghouse operations. As a group, current Board members hold licenses in most of the PCS blocks. The Board continues to actively encourage additional C-F block participants to join the Clearinghouse Board and expects to add additional members within the next several months.

In an effort to resolve various issues that have arisen and assist the Clearinghouse, the Board continues to rely upon various technical subcommittees made up of representatives of Clearinghouse members with engineering expertise. Such subcommittees have and will continue to study various issues which present more complex technical issues to be resolved with respect to the cost sharing obligations. As detailed below, there are still certain issues on which the Clearinghouse requires assistance from the Commission in order to clarify certain aspects of the cost sharing reimbursement process.

C. Clearinghouse Operations Since February 1, 1997.

Since February 1, 1997, the Clearinghouse has registered 149 additional transmitter links from a large number of PCS licensees, for a total number of 2,076 links registered since the Clearinghouse began its operation. In addition, since February 1, 1997, the Clearinghouse has received additional PCNs for 14,615 PCS base stations, for a total of 22,205 PCNs received to date. Since operations began, the Clearinghouse has identified 186 cost sharing

obligations, requiring amounts to be paid to parties who relocated those links. Of the 186 cost reimbursement obligations identified, 3 involve second level reimbursements after the initial reimbursement obligation had previously been triggered by a PCS licensee.

At the present time, the current fee structure is set as previously established by the Board. A copy of such current fee schedule is attached. The Board of Directors of the Clearinghouse continues to review the operations of the Clearinghouse and may, if it so determines, revise the fee structure accordingly.

The process of cost sharing obligations has, in the Clearinghouse's view, slowed from its earlier projections based upon the reported financial difficulties encountered by some of the C block licensees with respect to their licensing and funding requirements.

D. REIMBURSEMENT AND ALTERNATIVE DISPUTE RESOLUTION AND DOCUMENTATION GUIDELINES

The PCIA Microwave Clearinghouse Board and staff have developed policies and procedures to facilitate the cost sharing process and alternate dispute resolution issues. The Clearinghouse's goal is to provide a form and procedure to assist PCS licensees in reaching voluntary agreement in an expeditious manner for any dispute involving microwave relocation cost sharing obligations. In implementing this goal, the Clearinghouse has adopted the following guidelines:

- (i) Identification of Dispute. In the event a PCS entity disagrees with its cost sharing obligation, it

will be required to notify the Clearinghouse and the other party in writing, within thirty (30) calendar days after notification of its obligation. In such event, the Clearinghouse may elect to send a letter to the parties involved, requiring that, pursuant to the Commission's Rules, additional documentation, for example an independent appraisal of equipment, expenses, or such other written evidence, reports, or expert information explaining the reason for the dispute be provided. Once a dispute is identified, the Clearinghouse may request telephonic and/or in person meetings of the parties, as well as the submission of additional documentation.

(ii) With respect to documentation, the Clearinghouse:

- (a) will make certain that the written documentation and information submitted are exchanged and made available to the disputing parties;
- (b) if deemed appropriate by Clearinghouse staff, the Clearinghouse may recommend that the parties mutually agree on a joint appointment of an independent appraiser, engineer, accountant or such other professional to report on the matter in an effort to assist in the resolution of the dispute; and
- (c) after such report, the Clearinghouse will once again schedule an appropriate conference or meeting with the parties, in an effort to resolve any continued dispute.

(iii) In the event the parties are still unable to mutually resolve the cost sharing obligation, the

Clearinghouse will recommend alternate dispute resolution (ADR) alternatives, which will include: (a) use of arbitration (American Arbitration Association); (b) binding or non-binding arbitration; (c) or such other ADR options as the parties might agree to amongst themselves. (iv) If the parties are unable to reach agreement within sixty (60) days of the initial identification of the dispute (or after such extended period as agreed to by the parties), and the parties refuse to undertake ADR alternatives, then the Clearinghouse will conclude that the matter must be submitted to the FCC for resolution. In such event the Clearinghouse will prepare its own report and be prepared to submit the same to the FCC, setting forth the facts of the matter and the details of the dispute.

To date, the Clearinghouse has been advised of one (1) ongoing dispute, which has developed with respect to interpretation of the Commission's Rules involving the cost sharing matrix. In this interpretation, the dispute involves whether or not a path must be "fully within the relocater's block and both end points inside the relocater's MTA or BTA". The dispute involves the fact that the chart in Appendix A to the Rules indicates no reimbursement, while the language of the Rules appears to require *pro rata* reimbursement. Based upon counsel's interpretation, PCIA has indicated that the text of the Rules would govern over the matrix. PCIA is in the process of seeking clarification from the

FCC to ascertain the cost reimbursement obligation of the parties in this instance, as PCIA recognizes the confusion in the interpretation of the language of the Rules and the matrix.

PCIA has also formed an *ad hoc* committee of its members to prepare a detailed documentation guide, the purpose of which is to establish minimum guidelines for documentation of a microwave relocation project, in order to obtain cost reimbursement through the FCC. The scope of the guidelines would include establishing that a specific relocation took place, was carried out or financed by the relocater, and documentation of the costs associated with the relocation, be it a turn-key or "cash" project. The purpose of these guidelines will be to enable both the Clearinghouse and the respective impacted parties engaged in a cost sharing obligation determination to quickly and better be able to respond and finalize, in a voluntary fashion, their respective cost sharing obligations. The Committee has developed initial draft guidelines, which are being reviewed by the Board of Directors, and will be made available and implemented upon passage within the expected next monthly meeting of the Board.

E. FILING OF PCNs

The Clearinghouse believes that its representational membership and the educational efforts undertaken by the Clearinghouse with respect to PCS licensees have resulted in the significant filing of PCNs by PCS licensees with the Clearinghouse. Most recently, in this respect, in order to assist in this effort, the Clearinghouse is in the process of sending letters to all A-F

block licensees, reminding them of their obligations to timely file PCNs. To date, a total of 22,205 PCNs have been received by the Clearinghouse.

F. INDUSTRY AND EDUCATIONAL ACTIVITIES

In addition to the reminder being sent to PCS licensees as to the requirement to file timely PCNs, the Clearinghouse will hold its annual membership meeting in September of 1997. Further, Clearinghouse members will participate in a technical and informational seminar scheduled during the PCIA Showcase 97 in Dallas, Texas, in September, to discuss the microwave relocation cost sharing process, the function and policies of the PCIA Clearinghouse, and technical and other issues which may be incurred in the process. The Clearinghouse has prepared various informational and educational items and has made them available to PCS licensees and interested parties.

CONCLUSION

Within the last six (6) months, the Clearinghouse believes that the implementation and processing of cost sharing obligations has commenced and has been implemented in a successful manner. The Clearinghouse continues to gain information and knowledge as to the process, and continues to develop and refine its own operational guidelines, policies, procedures, and documentation requirements. As the process has developed, the Clearinghouse has identified certain needs for clarification in the Commission's Rules with respect to determination of when a cost sharing obligation occurs. The Commission should promptly respond to clarify any such issues,

in order to assist and not delay the Clearinghouse and all parties in the reimbursement process.

It is the Clearinghouse's view that the cost reimbursement process with respect to PCS licensees who have paid for microwave transmitter site relocation expenses has slowed due to the reported financial difficulties encountered by some of the C Block licensees.

The Clearinghouse continues to hold regular meetings of the Board of Directors and has scheduled its first annual membership meeting in September, in Dallas, Texas, at the PCIA Showcase.

Respectfully Submitted,

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