mandated by Section 90.621(b)(6) for short-spaced licensees, to permit modifications based upon full power at the original site. There is no valid rationale to permit a licensee who has been short-spaced to modify their systems based upon full power at the existing site, but to deny such treatment to licensees who have not been short-spaced. But even if this was the Commission's interpretation, the rule changes in the First Report and Order and the Second Report and Order in this proceeding makes every 800 MHz licensee a short-spaced licensee -- short-spaced at every location by a geographic overlay license. PCIA therefore requests that the Commission specify that incumbent licensees seeking to modify their facilities should utilize a directional HAAT calculation and full ERP for the composite HAAT, regardless of the power for which the system was originally licensed.[37]

2. Federal Register Publication Of The "Goodman/Chan Order"

On May 24, 1995, the Commission issued a Memorandum Opinion and Order in the so-called "Goodman/Chan" proceeding.[38] This document gave hundreds of conventional SMR licensees an additional four months to construct their systems The four month "clock" was not to begin until publication of the Order in the Federal Register.[39] In the more than two years since the Order was issued, the Commission has failed to publish the Order in the Federal Register, ostensibly while the Commission resolved certain co-channel issues With the initiation of an auction for General Category channels, it is vital that the Commission publish the Goodman/Chan Order. Auction participants must know whether these stations have been constructed prior to the auction. The more

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[37]This would not apply to stations that were initially licensed on a short-spaced basis.

[38]In the Matter of Daniel R. Goodman, Receiver; Dr. Robert Chan, FCC 95-211, 78 RR 2d 1017 (1995).

[39]Id. at para. 20.

than four years these licensees have had to construct their stations is more than enough time, and the issue should be resolved immediately. It is clear that few of the licensees have actually constructed their stations, and the Commission unprecedented action has only served to harm independent SMR licensees and user/operators who have been unable to obtain access to spectrum, and benefitted "build-out" mills and large operators who have been able to enter into agreements for dozens of channels in dozens of locations.

3. EA Licensee Notifications To Incumbent Licensees Should Be Specific

Most upper channel incumbent licensees have channels in multiple frequency blocks and often in multiple EAs. PCIA is concerned that the notification received by incumbents may be too vague for the incumbent to make business plans. This is important, as incumbents need to know as soon as possible what portions of their system requires modification. Customer programming, equipment purchase and site location decisions depend on the incumbent's knowledge of the it's future licensing status. Therefore, PCIA requests that the Commission specify that when a new EA licensee provides relocation notice to an incumbent, the EA licensee should specify which frequencies and sites would be involved in the migration. This requirement should make the transition and planning easier for the incumbent.

III. CONCLUSION

For the foregoing reasons, PCIA urges the Commission to modify its proposed rules for 800 MHz licensing consistent with the views expressed herein.

Respectfully submitted,

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