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March 12, 1998

Federal Communications Commission
1919 M Street
Room 222
Washington, DC 20036

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MAR 18 1998

FCC FILED



Secretary's Office:

In our original filing of Comments to Further Notice of Proposed Rulemaking,
CC Docket No 92-237, dated March 6, 1998 we neglected to submit Attachment I.
Enclosed are one original and 9 copies with Attachment I.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "WRJ", is written over the typed name.

William Roughton, Jr.

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

In the Matter of)
Administration of the)
North American Numbering Plan)
Carrier Identification Codes (CICs))

CC Docket No. 92-237

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF GENERAL COUNSEL

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COMMENTS OF PRIMECO PERSONAL COMMUNICATIONS TO
FURTHER NOTICE OF PROPOSED RULEMAKING

PrimeCo Personal Communications, L.P. ("PrimeCo")¹ hereby files the following comments in response the Commission's further notice of proposed rule making seeking comment on the North American Numbering Plan. For the reasons given below, PrimeCo urges the Commission to adopt an exception to the ownership test for commonly owned entities when making carrier identification code ("CIC") assignments.

In the further notice, the Commission proposed several changes to the way in which CICs are managed. Among the proposals is one that would alter the definition of an "entity" from "a firm or group of firms under common ownership or control" to one that would focus solely upon ownership.² PrimeCo believes that this test is too broad and instead urges the Commission to adopt the test proposed by the CIC Ad Hoc Working Group to the North American Numbering Council ("NANC"). That test would define an

¹ PrimeCo is the broadband A/B Block licensee or is the general partner/majority owner in the licensee in the following MTAs: Chicago, Milwaukee, Richmond-Norfolk, Dallas-Fort Worth, San Antonio, Houston, New Orleans-Baton Rouge, Jacksonville, Tampa-St. Petersburg-Orlando, Miami, and Honolulu.

² *In the Matter of Administration of the North American Numbering Plan Carrier Identification Codes (CICs), Further Notice of Proposed Rule Making*, CC Docket No. 92-137 (October 9, 1997) at ¶ 24 (hereafter "CIC Notice").

entity as a firm or group of firms under common ownership and control, with "control" defined as one firm having a 50% or greater ownership interest in another.³ PrimeCo supports this definition so long as the FCC will also recognize certain exceptions to the ownership test for commonly owned entities, as proposed in the *CIC Notice*.⁴

PrimeCo needs its own, dedicated CIC to ensure its customers can take advantage of the automatic roaming agreements it is now executing with other wireless carriers. Because wireless carriers increasingly verify that the CIC is known and assigned as part of a broader roaming validation and authentication check to ensure roamer authenticity, PrimeCo's lack of a CIC many times results in a denial of automatic roaming privileges to its customers. Without a valid CIC, the other carrier's validation check sometimes completely prevents PrimeCo's customers from roaming onto that carrier's network and making calls. PrimeCo expects to encounter this problem more often as it enters into more automatic roaming agreements.

Under current practice, PrimeCo is ineligible to receive a CIC of its own because there is "common ownership or control between PrimeCo Personal Communications, Bell Atlantic, US WEST, and AirTouch Communications."⁵ However, adopting the proposals

³ *Report and Recommendations of the CIC Ad Hoc Working Group to the North American Numbering Council Regarding the Use and Assignment of Carrier Identification Codes* (February 18, 1998) (hereafter "*Ad Hoc Report*").

⁴ *Id.* at ¶ 30.

⁵ See, Letter from Ms. Nancy K. Fears, CIC Administrator, to Mr. Jeremy Azif dated February 19, 1998 (Attachment 1). PrimeCo is a joint venture of AirTouch, Bell Atlantic, and US WEST. Currently, AirTouch and US WEST each own 25% of PrimeCo; Bell Atlantic owns 50%. The existing rules make PrimeCo an "entity of each of the owners who, together, have a total of 8 CICs." Accordingly, the NANP administrator has denied PrimeCo's request for its own CIC because the "other companies listed as being under common ownership and/or control presently have their full complement of FGD CIC assignments." (Attachment 1).

of the NANC would make PrimeCo and Bell Atlantic a commonly owned entity for CIC purposes and, presumably, enable it to have its own CIC even under the limits proposed by the *CIC Notice*.⁶

PrimeCo's formation and operation also justify an exceptional grant of a CIC to it even if the proposed limit on CICs per entity were exceeded under any of the tests proposed for common ownership. For example, PrimeCo's owners are three separate and unaffiliated communications companies whose operations are widespread, separate, and varied. PrimeCo's operations are largely independent of the owners' activities: PrimeCo maintains and operates its own networks, staffs its own customer service operations, and has finance, marketing, operations, and legal departments separate from its owners. In short, PrimeCo does not fit the expected mold of an affiliated company; it is instead a company whose operations are separate and distinct from its owners'. Forcing PrimeCo to rely upon the CIC of one of the owners will disturb this operational independence. Moreover, use of one owner's CIC could also confer an advantage upon one owner to the disadvantage of the others, or result in the inadvertent transfer of CPNI from PrimeCo to another carrier.⁷

The *CIC Notice* recognizes that there may be instances in which exceptions to the ownership test for certain commonly owned entities are appropriate. In raising this issue, the further notice focuses on the potential competitive problems suggested by a hypothetical situation involving a wireless subsidiary of a landline telephone company.⁸ PrimeCo's case presents additional concerns because there exist not only the potential issues arising

⁶ A limit of six CICs per commonly owned entity is proposed. *CIC Notice* at ¶¶ 24, 35.

⁷ *Ad Hoc Report* at 9 - 10.

sues arising between PrimeCo and its owners, but among the owners themselves as well. As the telecommunications industry continues to evolve, more and more of these situations will arise. The FCC should, therefore, provide for appropriate and flexible treatment of CIC assignment in such cases.

For these reasons, then, PrimeCo urges the Commission to find that there are circumstances in which an exception to the ownership test is warranted. Those circumstances justifying an exception include multiple owners, none of whom is affiliated with any of the others; and, a commonly owned entity operating separately and apart from its owners.

⁸ *CIC Notice* at ¶ 30.

CONCLUSION

For the foregoing reasons, PrimeCo respectfully urges the Commission to adopt the test for commonly owned entities proposed by the NANC and to find that certain circumstances will merit an exception to the ownership test of commonly owned entities. Specifically, the Commission should find that, in cases where multiple, unaffiliated owners exist and the commonly owned entity operates separately from any of the owners, a separate CIC may issue upon application by the commonly owned entity.

Respectfully submitted,

PRIMECO PERSONAL COMMUNICATIONS, L.P.



By: William L. Roughton, Jr.
Associate General Counsel
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Its Attorney

March 6, 1998



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Communications Industry Services
1123 15th Street, N.W. Washington, D.C. 20005
Telephone 202-756-5800 Facsimile 202-847-0331



February 19, 1998

**Mr. Jeremy Azif,
Manager-Industry Relations & Regulatory
PrimeCo Personal Communications
6 Campus Circle
Westlake, TX 76262
FAX 817-258-1202**

Re: CIC Application for PrimeCo Personal Communications

Dear Mr. Azif:

On February 11, 1998 we received the CIC application you forwarded directly to NANPA for processing on behalf of PrimeCo Personal Communications.

The CIC Assignment Guidelines currently define "entity" as "a firm or group of firms under common ownership or control." The FCC has not disturbed the treatment of the term "entity" in the CIC assignment guidelines and NANPA's long-standing view that an affiliate or subsidiary of an entity that has its permitted complement of CICs, or an entity or corporation under common ownership or control with such entity or corporation, is ineligible for additional FGD CIC assignments.

After a review of this application and the information you have provided, we have determined that there is common ownership or control between PrimeCo Personal Communications, Bell Atlantic, US West and Air Touch. Currently Bell Atlantic Communications, Inc. has 3 FGD CIC assignments (0272, 0652 and 5050); Bell Atlantic Network Services, Inc. has 1 (6500); NETECH Comm., a US West Company has 1 (0098); US West Communications has 1 (5123); US West Long Distance has 1; and Air Touch Cellular has 1 FGD CIC assignment (5380), for a total of 8 FGD CIC assignments. Based upon the FCC's "two-per-entity CIC limit," NANPA is denying the request for an additional FGD CIC assignment for PrimeCo Personal Communications since the other companies listed as being under common ownership and/or control presently have their full complement of FGD CIC assignments.

Please be advised that you are always entitled to appeal our denial of this assignment to the FCC.

Pursuant to the FCC's directive to NANPA, we are providing a copy of this denial letter to the Common Carrier Bureau staff in our monthly report relating to FGD CIC activity. Please contact me at Tel. 202-756-5782 or by fax at 202-887-0331 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Nancy K. Fears". The signature is written in a cursive style with a large initial 'N' and 'F'.

Nancy K. Fears
CIC Administrator
North American Numbering Plan Administration