

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

Assessment and Collection of)
Regulatory Fees for Fiscal Year 1998)

MD Docket No. 98-36

To: The Commission

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COMMENTS OF PAGING NETWORK, INC.

Paging Network, Inc. ("PageNet"), by its attorneys and pursuant to Section 1.415, hereby submits these comments in response to the *Notice of Proposed Rulemaking* in the above-captioned docket.¹ In support of these Comments, the following is respectfully shown:

I. INTEREST OF PAGENET

PageNet, through its subsidiaries, is the largest messaging carrier in the United States serving over 10 million mobile units. PageNet is a commercial mobile radio services ("CMRS") provider holding numerous paging, narrowband PCS and 900 MHz Special Mobile Radio ("SMR") authorizations. Each year, PageNet is subject to substantial regulatory fees. In light of these facts, PageNet is an interested party and is qualified to comment in this proceeding.

II. REGULATORY FEES WITHIN THE CMRS MOBILE SERVICE CATEGORY SHOULD DISTINGUISH BETWEEN TWO-WAY VOICE AND NON-VOICE SERVICES

In the *Notice*, the Commission requested comment regarding the CMRS regulatory fee categories and concluded that, rather than basing regulatory fees on the type of services offered by carriers, those fees should be based on the FCC service categories, e.g., cellular, broadband

¹ 63 FR 16188 (1998)("Notice").

PCS, narrowband PCS, paging, etc.² Currently, there are two CMRS regulatory fee categories: CMRS Messaging Services, and CMRS Mobile Services. Under the CMRS Messaging Services category, the Commission assesses fees for narrowband services that either do not have mobile spectrum, or do not have enough spectrum, to provide real-time two-way voice services. PageNet supported the creation of the CMRS Messaging Services fee category and supports maintaining that category without modification.

Under the CMRS Mobile Services fee category, the Commission assesses fees for the services that possess sufficient base and mobile spectrum for carriers to provide real-time two-way voice services. Unfortunately, this service fee category only anticipates carriers offering voice services and does not appropriately distinguish between voice and non-voice services. As such, under the current structure of the CMRS Mobile Services fee category, carriers that choose to provide non-voice services may be subject to a disproportionate share of the overall CMRS Mobile Services regulatory fees because non-voice systems will typically support vastly greater numbers of customers than voice systems.³

PageNet proposes that, within the CMRS Mobile Services fee category, the Commission create a reduced fee that accounts for the differences between the network efficiency and regulatory burdens of non-voice services and voice services. It should be emphasized that, within these service categories, the Commission has already determined that distinctions based on services offered and network capability are appropriate. Specifically, in the context of SMR, the Commission has determined that certain “covered” SMR operators who offer real-time two-

² *Notice* at ¶ 28.

³ *E.g.*, advanced messaging networks can support in excess of 250,000 customers with 25 kHz of spectrum. Some broadband carriers have as much as 30 MHz of spectrum over which to offer messaging or other mobile services.

way voice services should be subject to greater regulatory requirements than “non-covered” SMR operators whose networks do not have voice capability. Because the regulatory burdens that are placed on non-covered SMR carriers are less than those placed on covered SMR carriers,⁴ the costs incurred by the Commission in regulating non-covered SMR carriers are correspondingly less. Having already acknowledged that the differences between real-time two-way voice services are significant enough to warrant different levels of regulation, the Commission should create a reduced regulatory fee sub-category for non-voice networks and services within the CMRS Mobile Services fee category.

Finally, because the non-voice services provided on the broadband spectrum likely will be similar to messaging services, the CMRS Messaging Service fee could be used as a proxy. Otherwise, in order to determine the reduced fee, the Commission would have to calculate the burden of the non-voice networks and services in the broadband services while crediting the non-voice networks for their ability to serve vastly greater numbers of units.

III. CONCLUSION

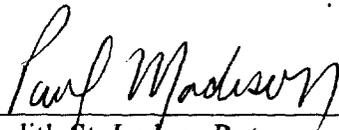
The creation of a modified fee structure for highly efficient non-voice services will ensure that carriers offering such services are not required to cover a disproportionate share of the regulatory fee burden within the CMRS Mobile Services fee category. Distinguishing between services and network capabilities within the CMRS Mobile Services regulatory fee category will not diminish the overall regulatory fee contributions for this category and should only have a *de minimus* impact on carriers that do provide real-time two-way voice services.

⁴ See, e.g., Section 52.31 of the Commission’s Rules (number portability). Covered SMR carriers are also subject to enhanced 911 requirements. See Revision of the Commission’s Rules to Ensure Capability with Enhanced 911 Emergency Calling Systems, 1997 Lexis 6664 (December 1997).

WHEREFORE, for the foregoing reasons, PageNet requests that the Commission create a reduced fee structure for efficient non-voice services and networks within the CMRS Mobile Services fee category.

Respectfully submitted,

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Dated: April 22, 1998