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Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Biennial Regulatory Review -- Amendment of	)	
Parts 0, 1, 13, 22, 24, 26, 27, 80,	)	WT Docket No. 98-20
87, 90, 95, 97, and 101 of the Commission's Rules	)	
to Facilitate the Development and Use of the	)	
Universal Licensing System in the Wireless	)	
Telecommunications Services	)	

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

COMMENTS

Respectfully submitted,

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Date: May 22, 1998

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SUMMARY

The Personal Communications Industry Association ("PCIA"), hereby respectfully submits its Comments in response to the Notice of Proposed Rule Making issued by the Federal Communications Commission's ("FCC") in the above-captioned proceeding.

PCIA supports the Commission's consolidation of its licensing forms, its licensing rules, and the utilization of an electronic filing system. In addition, an important aspect of this proceeding will be the simplification of the forms. However, as discussed herein, PCIA believes that there are significant problems with the Commission's proposal to require mandatory electronic filing for all applicants in the near future.

There are a vast array of human and technical errors that may (and currently do) occur in the licensing process. Complete reliance on an electronic licensing system, particularly in the beginning of the program, could have unintended consequences. Therefore, PCIA recommends a significant transitional phase in order to accomplish the Commission's laudable goals.

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COMMENTS

The Personal Communications Industry Association ("PCIA")[1], pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, hereby respectfully submits its Comments in response to the Notice of Proposed Rule Making issued by the Federal Communications Commission's ("FCC") in the above-captioned proceeding.[2]

I. BACKGROUND

In this proceeding, the Commission seeks to streamline many of its license application processes by consolidating its application forms and requiring the filing of the forms via the Commission's Internet site, utilizing a Universal Licensing System ("ULS"). In addition, the

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[1]PCIA is the only international trade association representing the interests of both commercial mobile radio service ("CMRS") and private mobile radio service ("PMRS") users and businesses involved in all facets of the personal communications industry. PCIA's Federation of Councils include: the Paging and Narrowband PCS Alliance, the Broadband PCS Alliance, the Mobile Wireless Communications Alliance, the Site Owners and Managers Association, the Association of Communications Technicians, and the Private System Users Alliance. In addition, PCIA is the FCC-appointed frequency coordinator for the Business Radio Service, the 800 and 900 MHZ Business Pools, 800 MHZ General Category frequencies, and for the 929 MHZ paging frequencies.

[2]63 FR 16938 (April 7, 1998).

Commission has proposed to make its application rules consistent across the various radio services that it licenses.

PCIA processes approximately 20,000 FCC applications yearly for Part 90 radio services, more than any other frequency advisory committee, and likely more than any other organization reviewing applications prior to their submission to the FCC. In fact, the Commission's licensing contact with PCIA probably exceeds by far its contact with any other organization. Further, the majority of applications filed through PCIA are applications filed by applicants which are not in the communications business, but rather applicants who use communications as an adjunct to their business. These licensees have little contact with the Commission other than initial license acquisition and renewal.

Finally, PCIA has been filing its applications electronically with the Commission since September of 1997. As the largest filer of electronic applications with the Commission, PCIA had seen the value of this system, as well as its short falls. As a result of these experiences, PCIA is intimately familiar with the problems of the FCC's current filing forms, and PCIA is also familiar with the difficulties experienced in the Commission transitioning its forms. Therefore, PCIA believes that its knowledge and experience in this area can be of value to the Commission in this proceeding.

II. COMMENTS

PCIA supports the Commission's consolidation of its licensing forms, its licensing rules, and the utilization of an electronic filing system. In addition, an important aspect of this proceeding will be the simplification of the forms. However, as discussed below, PCIA believes that there are significant problems with the Commission's proposal to require mandatory electronic filing for all applicants in the near future.

A. Electronic Filing

PCIA supports the expansion of the Commission's current electronic filing process. Presently, PCIA and other filers of multiple applications are able to submit all applications to the Commission electronically.[3] In addition, individual filers are able to file FCC Form 900 via the Commission's Internet site for certain license renewals and other changes. Finally, the FCC has made available an electronic software version of its Form 600, which can be used by some filers to file applications directly with the Commission.

Expanding the availability and utilization of this system will enable all users to take advantage of the benefits of electronic filing, including the time and convenience that the system promises to bring. This expansion will also aid the Commission in reducing data input needs and reducing errors which occur in this process.

Electronic filing is particularly appropriate for certain routine, minor filings. License renewals, address changes and other minor modifications can be easily filed electronically. Another important benefit of the system is the automatic completion of items by the ULS when the applicant needs to file a modification or renewal. Thus, the applicant need only make data entries in those fields which are being modified. This feature is critical in reducing errors which occur when applications are filed.

PCIA also supports the ability to file all documents related to applications electronically, including waivers and related pleadings.[4] In conjunction with the Commission's action in GC Docket

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[3]PCIA is one of the coordinating committees submitting its applications using the "EDI" protocol. As part of the ULS, PCIA has received assurances from Commission personnel that it will continue to support this data exchange format.

[4]PCIA questions the suitability of filing STA Requests via any Commission "form". Due to the individualized nature of STAs, using a standardized form would virtually always require some additional statement attached to the form, negating the advantages of using a standardized form.

No. 97-113,[5] this would permit virtually every Commission filing to be submitted and viewed electronically, significantly improving the public's access to the Commission's processes.

Although PCIA supports the expansion of electronic filing options, the FCC must be cognizant that the overwhelming majority of FCC licensees are licensees which are not in the communications business. These licensees have virtually no contact with the Commission other than at the time of initial licensing, renewal, or possibly for a modification. Further, most of these licensees are not aware of changes in the Commission's Rules. For example, when the Commission created Form 600 and eliminated Form 574, the Commission and frequency advisory committees continued to receive Form 574s for years. In addition, many of these licensees are small businesses, and may not have access to the Internet or the skill to complete the applications electronically.

Another issue which must be considered by the Commission is system outages and flaws. A system outage, when experienced by an applicant, can be devastating, especially when the applicant is facing a filing deadline. Occasionally, such an outage is not the applicant's fault. For example, when the Commission updated its electronic Form 600, electronic filing was not possible for a number of days as the system was taken offline. Further, because of a lack of clarity on the Commission's web site as to where the new version could be found, further time was lost. Contacting numerous Commission employees for help was unproductive at that time, as many of the employees did not know themselves where the new version could be found. Any entity that needed to file an application to meet a deadline was unable to do so electronically.

Therefore, although PCIA suggests that the Commission permit STAs to be filed electronically, such filings should be similar to the electronic filing of pleadings.

[5]Electronic Filing Of Documents In Rulemaking Proceedings, Report and Order, GC Docket No. 97-113, FCC 98-56, released April 6, 1998.

Occasionally, there are also system flaws. For example, PCIA is aware of a recent attempt by a licensee to file an application for renewal using the electronic Form 900 on the day that the license expired. However, the system would not allow the application to be filed, responding instead with a message that stated that the license had expired that day. Thus, although the Commission's Rules permit a renewal to be filed on the same date as the expiration, the system would not permit the filing.

Given this background, it is important that the Commission not mandate electronic filing of its various applications for a long time. Applicants must continue to have a paper filing option available for at least one more license cycle (i.e. five years). Although applicants should be encouraged to the maximum extent possible to file electronically, the option must remain available for paper filing.

B. FCC Form Simplification And Consolidation

PCIA is pleased that the Commission, as part of its ULS effort, has sought to combine and simplify its forms. The Commission's past forms have often been confusing, resulting in many work hours by applicants trying to properly complete the form as well as Commission employees returning the forms for corrections or attempting to assess what the applicant really wanted for its authorization.

As an example, on the current electronic Form 600, on Exhibit G, the Commission requires an entry next to "output power". The proper entry for most applicants is "X". However, this format is not used on the paper version of Form 600. Therefore, most applicants using the electronic form would not know to insert the "X", and would repeatedly have their application rejected by the

Commission's electronic mailbox, without adequate explanation from the system as to the reason for the rejection.

In addition, the current version of the Form 600 Main Form asks a series of eleven questions, to which the overwhelming majority of applicants answer "no". Most importantly, questions seven through ten must be answered "no" in order for the applicant to qualify for a Commission license. However, question eleven, which also is a qualification question, must be answered "yes", in order to qualify as a Commission licensee. For numerous applicants who do not file Commission forms routinely, the question is easily misinterpreted. As a result of the lack of clarity of the question, and the consistent "no" responses, applicants frequently answer "no", thus disqualifying the applicant for a license. Commission processing personnel are then faced with the choice of returning the application for corrections, assuming the proper answer to be "yes" and correcting it themselves, or dismissing the application. For the past several months, the Commission has been dismissing these applications, which inevitably results in an additional round of applications (and fees) for a question that need not be asked as a "yes" or "no" question.

PCIA is pleased that the Commission has chosen to address this issue by changing the question from "yes/no" to a certification on the proposed Form 601. This is one clarification which will significantly reduce the time spent processing and filing applications. PCIA believes that the Commission should strive to make as many other questions as possible simple "check-marks", similar to the "click-box" bidding currently used for auctions.

C. Public Notice To Licensees And Security

The Commission has proposed to permit licensees to specify that the Commission's notification to the licensee of the upcoming renewal of a license may be made via electronic mail.

PCIA has several concerns with this proposal, if the Commission intends to eliminate its mail notification. First, there is no certainty that "e-mail" always is received.[6] Second, users need to occasionally change their e-mail addresses, or an employee leaves without informing the company that it is the employee's own personal e-mail address at the office that the Commission would ordinarily be using. In short, there are too many potential flaws with the system to make electronic notification the only means by which the Commission notifies licensees of impending expiration dates. Therefore, PCIA recommends that the Commission maintain its regular mail notification system.

PCIA also supports the Commission using electronic notification of impending construction dates. However, once again, the use of the United States Mail should not be eliminated. More importantly, the Commission must improve its current construction notification process. For the past several years, the Commission has utilized the Form 800A for every type of construction inquiry, even where the form is inappropriate or misleading. For example, the Commission uses the Form 800A for modification applications, leaving applicants unsure as to whether the Commission wants the original construction date, or the date of the move or additional channel(s). In addition, the Commission frequently loses the letters. Numerous PCIA members have had to supply the Commission with additional letters when the Commission has sent out additional queries. These are not simply cases where the Commission did not receive the response, because often the licensee possesses a Commission date-stamped copy of the filing.

The Commission has not been effective in maintaining information concerning its licensing process. PCIA is concerned that this pattern may continue, and be made worse, in the Universal

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[6]One solution would be for the Commission to code its e-mail to prompt the user to return a receipt notification. However, the Commission must be willing to associate such responses with the original notification.

Licensing System. For example, until approximately three years ago, the Commission did not keep receipted copies of Form 405A applications received which requested a cancellation of a license. As a result, it would have been fairly easy to forge the Form, and there is some evidence that some licenses were improperly deleted. The Commission's 800A construction notification system is similarly flawed. The Commission's computer system often does not indicate whether a construction letter has been sent or whether it has been received.

A striking example of the problems with the Commission's record keeping is a current dispute involving an SMR licensee, authorized under call sign WPBB846. The license for the system was originally issued in November of 1992. The licensee dutifully constructed the system in a timely manner. In late 1997, upon not receiving a renewal form from the Commission, the licensee sought to file its own renewal form. However, the licensee discovered that the Commission had canceled the license in March of 1994. The Commission's database indicated the reason for cancellation is "other". Unfortunately, the Commission has absolutely no documentation as to the reason for the cancellation, and thus far the Commission has refused to reinstate the license. The licensee, whose address is correct in the FCC's database and who has responded to any and all Commission correspondence with regard to all of its licenses, is now faced with moving hundreds of customers and losing important channels, and the Commission cannot tell the licensee why.[7] With these examples, PCIA is concerned with the sole use of electronic notification for renewals and construction information and PCIA suggests that paper notifications remain for at least one more renewal cycle.

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[7]These channels are part of the spectrum which the Commission auctioned in the 800 MHZ "Upper Band" auction.

In addition, PCIA is concerned with the security of the system. The Commission has proposed to utilize the Taxpayer Identification Number as one means of security, however this number is easily obtained. PCIA supports the use of an additional, private number, known only to the Commission and the licensee (and anyone the licensee cares to provide this information to).

D. Application Return And Reinstatement Policy

The Commission has proposed to eliminate the 30 day reinstatement period for expired licenses and reduce the period in which returned applications must be refiled from 60 days to 30 days. PCIA is concerned with both of these proposals. As described above, elimination of the reinstatement period is problematic in light of the problems which may be associated with electronic filing. The inability to accurately track responses, FCC software problems and network outages mandate that the reinstatement period remain.[8] Further, applications are occasionally returned for changes which necessitate confirmation by the frequency advisory committee. It often is not possible to have such applications refiled with the Commission within 30 days. The present system for application returns and reinstatements works well, and should be retained.

E. Consolidation Of Assignment Forms

PCIA is pleased that the Commission has sought to consolidate its application forms. This is most beneficial in the case of the Commission's assignment forms, where CMRS licensees need only file Form 490, but PMRS licensees must file Forms 600 and 1046. There is no need for the

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[8]In fact, on May 8, 1997, a PCIA member requested a copy of a file for a 470 MHZ pending assignment application through ITS, the Commission's copy contractor. On May 11, 1997, Commission personnel informed ITS that they could not "locate" the application. The ULS would permit an identical copy of the filing to be downloaded from the Commission's database, however the cases discussed in the filing point out the problems with the Commission's processes that must be considered in any consolidation or change in the manner in which documents are accepted by the Commission.

different filing methods, and the rules have led to much confusion for Part 90 licensees, particularly where the assignment involves multiple Part 90 stations, both PMRS and CMRS. In fact, PCIA is aware of instances where applicants have filed one form, the application has been returned by a Commission processor requesting that the other form be used, and the applicant has returned the requested form, only to have another processor return the application a second time, requesting the first form. On other occasions, the Commission has had difficulty deciding which form the applicant should file where the applicant wishes to change the regulatory classification (by adding or subtracting interconnect) when filing the assignment application.

The confusion with multiple assignment forms has caused significant delays in businesses being able to function efficiently and effectively by implementing their radio systems and providing service where needed, and has caused the Commission significant expenditures of time in attempting to process applications. PCIA is hopeful that the proposed simplification will make the application process more efficient and effective for applicants, PCIA and the Commission.

F. Conversion To NAD83 Coordinates

PCIA supports the Commission's conversion to the use of the North American Datum 1983 ("NAD83") coordinates, replacing the 1927 Datum which has been used by the Commission. In using NAD83, the Commission will be able to synchronize coordinates with the FAA, which also uses the 1983 Datum.

In its conversion to NAD83, the Commission must be sensitive to two important issues. First, the Commission must recognize that a significant period of time will be required before all members of the land mobile industry are aware of the requirement and are able to supply their coordinates in

NAD83 format.[9] Therefore, PCIA believes that Form 601 should continue to permit applicants to supply their coordinates in either format. However, the Commission can then issue the license in NAD83 format, with a notation on the license indicating NAD83 coordinates. Presently, the Commission issues licenses in NAD27 format, with a notation on the license indicating NAD27 coordinates.

The second area of concern for PCIA is the impact of the coordinate change on the licensing process. Specifically, the new coordinates may impact the spacing between currently licensed systems, making some new distances improper under the Commission's Rules. Therefore, the Commission must specifically grandfather such spacings when making the coordinate change.[10]

In addition, certain coordinate changes may appear to place the licensee in violation of other Commission Rules, such as proper construction, and ultimately subjecting the licensee to a Finder's Preference Request, or similar revocation action. Therefore, the Commission must specify that conversions from NAD27 to NAD83 may not be the basis for license revocation proceedings.

G. Public Notices

PCIA believes that the Commission's proposal to list newly available frequencies as the result of license cancellations is unnecessary and unproductive. The Commission's previous experience with such Public Notices for 800 MHZ SMR Subpart S frequencies resulted in a significant delay in the availability of such frequencies. Further, the Commission found that the Public Notices generated

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[9]As the Commission is aware, applicants continued to file FCC Form 574 for years after the Commission's adoption of FCC Form 600.

[10]This assumes that the spacing was proper under the NAD27 coordinates. For example, the Commission is continuing to discover instances where issued licenses were improperly granted in violation of Section 90.621 of the Commission's Rules.

numerous applications from parties with no real intention of constructing systems. Given the Commission's recent experience with application mills,[11] it seems unwise to again openly invite speculative applications, at least with regard to transmitter site-based licenses.

H. Ownership Reports

In paragraphs 47 and 48 of the Notice of Proposed Rule Making the FCC proposes to require ownership reports from private user systems. PCIA opposes this new requirement. This is no valid rationale for additional information gathering by the Commission regarding non-commercial systems. There are no limitations on the amount of spectrum such entities may utilize (other than loading requirements, if any), therefore there is no useful purpose in gathering private system ownership information.

I. Coordinator Notification

In paragraph 50 of the Notice of Proposed Rule Making, the Commission suggests that applicants need only send frequency advisory committees a notification of certain minor changes. PCIA believes that notification is important to ensure the accuracy of databases. However, PCIA believes that the notification rule should be more specific. PCIA recommends that frequency advisory committees be supplied with an exact copy of whatever form or document is filed with the Commission. In this manner, frequency advisory committees will have the same information as that provided to the Commission by which to make frequency recommendations.

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[11] Memorandum Opinion and Order, Daniel R. Goodman, Receiver; Dr. Robert Chan, Petition for Waiver of Sections 90.633(c) and 1.1102 of the Commission's Rules, 10 FCC Rcd 8537 (1995).

III. CONCLUSION

The Commission is poised to make a dramatic change in its licensing process, which promises a radical streamlining and simplification for applicants, coordinators and the Commission. PCIA supports this effort, with the caveats expressed herein. PCIA believes that if the Commission can implement the ULS, while at the same time addressing the issues raised by PCIA, the improvement in the Commission's speed-of-service, and the reduction in applicant errors, will be dramatic.

WHEREFORE, the premises considered, it is respectfully requested that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

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