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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**VIA COURIER**

August 27, 1998

Magalie Roman Salas, Esq.  
Secretary, Federal Communications Commission  
1919 M Street, NW Room 200  
Washington DC 20554

Re: *Ex Parte Notification: In the Matter of Assessment and Collection of  
Regulatory Fees for Fiscal Year 1998, MD Docket No. 98-36  
Request for Clarification of CMRS Fee Category Descriptions*

Dear Ms. Salas:

Attached is a letter that the Personal Communications Industry Association ("PCIA") is submitting today to Mr. Terry D. Johnson, Office of Managing Director ("OMD"), with copies to Andrew S. Fischel, Managing Director, OMD, Rosalind K. Allen, Deputy Chief, Wireless Telecommunications Bureau ("WTB"), and Steve Weingarten, Chief, Commercial Wireless Division, WTB, regarding the captioned proceeding. The letter requests clarification on the description of Commercial Mobile Radio Service ("CMRS") fee categories in Attachment H and in the Fee Schedule of the *1998 Report and Order* assessing and collecting regulatory fees for Fiscal Year 1998. In addition, PCIA seeks clarification on the descriptions of "Who Must Pay" and the fee code category information contained in the *1998 Public Notice* providing instructions for filing regulatory fee payments for Fiscal Year 1998.

Pursuant to section 1.1206(b) of the Commission's rules, two copies of the letter are being provided for inclusion in the public record. *Id.* § 1.1206(b). If you have any questions regarding this matter, please call me at 703-739-0300.

Sincerely,

A handwritten signature in black ink, appearing to read "Cynthia S. Thomas", written over a horizontal line.

Cynthia S. Thomas  
Director, Regulatory Affairs

cc: Andrew S. Fischel, Terry D. Johnson, Rosalind K. Allen, and Steve Weingarten



**VIA COURIER**

August 27, 1998

Mr. Terry D. Johnson  
Office of Managing Director  
Federal Communications Commission  
2000 M Street, NW, Room 240-C  
Washington DC 20554

Re: *Ex Parte Notification: In the Matter of Assessment and Collection of Regulatory Fees for Fiscal Year 1998, MD Docket No. 98-36 Request for Clarification of CMRS Fee Category Descriptions*

Dear Mr. Johnson:

As you know, on June 16, 1998, the Commission released its *1998 Report and Order* on assessing and collecting regulatory fees for Fiscal Year 1998.<sup>1</sup> In addition, on August 3, 1998, the Commission released its Public Notice providing specific instructions for submitting annual regulatory fee payments for Fiscal Year 1998 ("*1998 Public Notice*").<sup>2</sup> Each of these documents contain descriptions of Commercial Mobile Radio Services ("CMRS") fee categories. Unfortunately, the descriptions are apparently incomplete or inconsistent and, as a result, are causing some confusion in the industry. Pursuant to our telephone conversation on August 25, 1998, the Personal Communications Industry Association ("PCIA") submits this letter requesting clarification on the description of CMRS fee categories in Attachment H and in the Fee Schedule of the *1998 Report and Order*. In addition, PCIA seeks clarification on the descriptions of "Who Must Pay" and the fee code category information contained in the *1998 Public Notice*.

The *FY 1998 Report and Order* provides for two CMRS fee categories: CMRS Mobile Services and CMRS Messaging Services. The *FY 1998 Report and Order* describes CMRS Mobile Services as "an 'umbrella' descriptive term attributed to various existing

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<sup>1</sup> *In the Matter Assessment and Collection of Regulatory Fees for Fiscal Year 1998, Report and Order*, MD Docket No. 98-36, FCC 98-115 (June 16, 1998) ("*1998 Report and Order*").

<sup>2</sup> *FY 1998 Commercial Wireless Regulatory Fees, Public Notice* (Aug. 3, 1998) ("*1998 Public Notice*").

broadband services,”<sup>3</sup> and further states that:

[w]hile specific rules pertaining to each covered service remain in separate parts 22, 24, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Service (part 90) (footnote omitted); Personal Communications Services (part 24); Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22)).<sup>4</sup>

The *1998 Report and Order* describes CMRS Messaging Services as “an ‘umbrella’ descriptive term attributed to various existing narrowband services,”<sup>5</sup> and further states that:

CMRS Messaging Services include certain licensees which formerly were licensed as part of the Private Radio Services (*e.g.*, Private Paging, qualifying interconnected Business Radio Services,<sup>5</sup> and 220-222 MHz Land Mobile Systems); licensees formerly licensed as part of the Common Carrier Radio Services (*e.g.*, Public Mobile One-Way Paging); and licensees of Personal Communications Service one-way and two-way. While specific rules pertaining to each covered service remain in separate parts 22, 24 and 90, general rules for CMRS are contained in part 20. We have replaced the CMRS One-Way Paging regulatory fee category with a CMRS Messaging Services category for regulatory fee collection purposes.<sup>6</sup>

PCIA seeks clarification on several issues related to the descriptions of CMRS fee categories in the Commission’s officially released documents regarding annual regulatory fees. First, the description of CMRS Mobile Services in Attachment H of the *1998 Report and Order* does not reflect the Commission’s decision to include Wireless Communications Services (“WCS”) in the CMRS Mobile Services category. Specifically, in its *1998 Report and Order*, the Commission decided to exclude Rural Radio Service from CMRS and to classify WCS as a

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<sup>3</sup> *1998 Report and Order* at Att. H, ¶ 14.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at Att. H, ¶ 15.

<sup>6</sup> *Id.*

CMRS Mobile Service.<sup>7</sup> In addition, WCS is regulated under Part 27 of the Commission's regulations, 47 C.F.R. § 27.1 *et seq.* PCIA asks that the Commission issue a correction to the *1998 Report and Order* revising Attachment H to include WCS. For example, the CMRS Mobile Services description could read:

[w]hile specific rules pertaining to each covered service remain in separate parts 22, 24, 27, 80 and 90, general rules for CMRS are contained in part 20. CMRS Mobile Services will include: Specialized Mobile Radio Service (part 90) (footnote omitted); Personal Communications Services (part 24); Public Coast Stations (part 80); Public Mobile Radio (Cellular, 800 MHz Air-Ground Radiotelephone, and Offshore Radio Services) (part 22); and Wireless Communications Services (part 27).

Second, PCIA notes that the "CFR Parts" lists for CMRS providers in the "FY 1998 Schedule of Fees" contained in Attachment F of the *1998 Report and Order* has lead to some confusion in the industry.<sup>8</sup> Specifically, the Fee Schedule for CMRS Messaging Services lists "47 CFR Parts 20, 22 and 90" and CMRS Mobile Services lists "47 CFR Parts 20, 22, 24, 80 and 90" as the relevant rules sections covering these fee categories. The first problem is that Part 24, which governs both broadband and narrowband PCS, is included in the CMRS Mobile Services fee category, but not in the CMRS Messaging Services fee category. As a result, it appears from the Fee Schedule that narrowband PCS one-way and two-way licensees must pay the CMRS Mobile Services annual fee. Part 24 should be reflected in both categories in the Fee Schedule. Second, the CMRS Mobile Services CFR Parts list does not include Part 27, which governs WCS. PCIA asks that the Commission issue a correction revising the Fee Schedule in the *1998 Report and Order*, or any other officially released document containing the Fee Schedule,<sup>9</sup> to include Part 24 in the CMRS Messaging Services fee category CFR Parts list, and to include Part 27 in the CMRS Mobile Services fee category CFR Parts list.

Third, the *1998 Public Notice* includes the following description, in relevant part, of "Who Must Pay" under the heading "Fee Payment Procedures for CMRS Service Providers."

CMRS cellular providers (common carriers providing cellular radio service to the public), CMRS mobile service licensees

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<sup>7</sup> *Id.* at ¶ 49.

<sup>8</sup> *Id.* at Att. F.

<sup>9</sup> For example, the Fee Schedule was also published in the Commission's News Release dated June 17, 1998, revising its Schedule of Regulatory Fees. *Commission Adopts FY 1998 Regulatory Fee Schedule, News Release, Report No. GN 98-9 (June 17, 1998).*

(common carriers authorized under Part 22, 80 and 90 to offer land-based or air-to-ground mobile telephone or paging services to the public) [footnote 1: In addition to cellular telephone service, these services include those using radio to provide telephone services at fixed locations, such as Basic Exchange Telecommunications Radio Services, Rural Radio, Public Coast, and Offshore Radio.], and CMRS one-way paging licensees (authorized under Part 22 and 90).<sup>10</sup>

This “Who Must Pay” description in the *1998 Public Notice* appears to reflect the fee categories that pre-date the modifications made in 1997 and 1998, to CMRS fee categories. Specifically, in the *1997 Report and Order*, the Commission amended its fee schedule to replace the CMRS One-Way Paging fee category with a new CMRS Messaging Services fee category.<sup>11</sup> The amendment, for example, reclassified narrowband PCS one-way and two-way service under the CMRS Messaging Services category.<sup>12</sup> Moreover, as already noted, the Commission decided to exclude Rural Radio Service from CMRS and to classify WCS as a CMRS Mobile Service in its *1998 Report and Order*.<sup>13</sup> None of these amendments are reflected in the *1998 Public Notice* description.

Because the CMRS fee category descriptions in the *1998 Report and Order* and the *1998 Public Notice* are inconsistent, PCIA asks that the Commission to issue a correction to the *1998 Public Notice* revising the description of “Who Must Pay” to be consistent with the description provided in the *1998 Report and Order*, revised to include WCS. PCIA suggests that the Commission simply include the descriptions of CMRS fee categories from a revised Attachment H of the *1998 Report and Order* in the “Who Must Pay” narrative.

Finally, PCIA notes that the *1998 Public Notice* includes three “Types of Fees” in the chart setting out the fee payment and fee codes for CMRS providers: CMRS Cellular Radio Licensees (Part 22); CMRS Mobile Services (Parts 22, 80, and 90); and CMRS Messaging

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<sup>10</sup> *1998 Public Notice* at 5.

<sup>11</sup> *In the Matter Assessment and Collection of Regulatory Fees for Fiscal Year 1997, Report and Order*, MD Docket No. 98-186, FCC 97-215 at ¶ 60 (June 26, 1997) (“*1997 Report and Order*”).

<sup>12</sup> *Id.* at ¶¶ 60-62. As a result of this amendment, the *1997 Report and Order* contains the language quoted above from the *1998 Report and Order* to describe CMRS Mobile and CMRS Messaging Services. *Id.* at Att. H, ¶¶ 14 & 15.

<sup>13</sup> *1998 Report and Order* at ¶ 49.

Services (Parts 22 and 90).<sup>14</sup> The chart gives the appearance that three fee categories exist for CMRS providers, rather than two. PCIA understands that the *1998 Public Notice* distinguishes CMRS Cellular Radio Licensees from other CMRS Mobile Services for purposes of tracking cellular services separately. PCIA asks that the Commission confirm whether this is accurate, and issue a public notice or some other official document briefly explaining the reason for the three fee code categories in *1998 Public Notice* and, to the extent relevant, include the explanation in future public notices. In addition, PCIA asks the Commission again to issue a correction that updates the CFR Parts lists in the *1998 Public Notice* and future public notices to include all relevant rules sections. For example, assuming cellular will continue to be tracked separately, the Commission could revise as follows: “ CMRS Cellular Radio Licensees (Parts 20 and 22); CMRS Mobile Services (Parts 20, 22, 24, 27, 80 and 90); and CMRS Messaging Services (Parts 20, 22, 24 and 90).

Because of the confusion stemming from incomplete and inconsistent CMRS fee category descriptions, PCIA respectfully asks the Commission, in the near future, to clarify the descriptions included in the *1998 Report and Order* as well as the *1998 Public Notice*. In addition, while PCIA brings these specific situations to the Commission's attention, the problem may exist in other documents. As a result, PCIA urges the Commission to review other instances where descriptions of CMRS fee categories may arise to ensure accuracy and consistency throughout the documents that the Commission officially releases on annual regulatory fee calculations and collections. If you have any questions or need any additional information on this matter, please call me at 703-739-0300, ext. 3150.

Sincerely,



Cynthia S. Thomas  
Director, Regulatory Affairs

cc: Andrew S. Fischel, Managing Director, OMD  
Rosalind K. Allen, Deputy Chief, WTB  
Steve Weingarten, Chief, Commercial Wireless Division, WTB

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<sup>14</sup> *1998 Public Notice* at 2.