WT 98-100

PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
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WASHINGTON, D.C. 20554 **DA 98-1687**
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Released: August 21, 1998

WIRELESS BUREAU SEEKS COMMENT ON JULY 31, 1998 LETTER FROM PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION PROPOSING STREAMLINING OF WIRELESS REGULATIONS

In numerous proceedings, the Commission has emphasized its desire to take a "common sense" approach to regulation, committing to streamlining its regulations to the greatest extent possible in order to reduce unnecessary regulatory costs and burdens consistent with the public interest.[1] As the Commission recently noted, its deregulatory actions have contributed significantly to the growth of the Commercial Mobile Radio Services (CMRS) industry.[2] The Commission has also encouraged and received industry input on these issues.[3] Staff of the Wireless Telecommunications Bureau (Bureau) has met with the Personal Communications Industry Association (PCIA) and other industry representatives, as well as the Federal Communications Bar Association, to discuss potential areas for streamlining regulations pertaining to CMRS and other wireless telecommunications carriers.

On July 31, 1998, PCIA submitted a letter to the Bureau concerning potential streamlining or elimination of certain wireless regulations.[4] In the letter, PCIA identified three categories of regulations that it regards as administratively unnecessary: 1) regulations that have been the subject of comment in the Commission's Universal Licensing System (ULS) rulemaking; 2) other regulations that PCIA contends could be eliminated or modified by the Commission without the need for prior notice and comment; and 3) regulations that PCIA believes should be eliminated or modified but that may require prior notice and

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1 *See, e.g.*, Forbearance from Applying Provisions of the Communications Act to Wireless Telecommunications Carriers, WT Docket No. 98-100, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, FCC 98-134 (released July 2, 1998), 63 Fed. Reg. 43025 (Aug. 11, 1998) (*Forbearance Order and NPRM*); Federal Communications Bar Association's Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Licenses and Transfers of Control Involving Telecommunications Carriers Licensed by the Wireless Telecommunications Bureau, *Memorandum Opinion and Order*, 13 FCC Rcd. 6293 (1998); Amendment of Part 1 of the Commission's Rules -- Competitive Bidding Procedures, WT Docket No. 97-82, *Third Report and Order and Second Further Notice of Proposed Rule Making*, 13 FCC Rcd. 539 (1997).

2 *Forbearance Order and NPRM* at 5, para. 8.

3 *See, e.g.*, Petition for Section 11 Biennial Review, filed May 8, 1998, by SBC Communications, Inc. This petition is currently under review by the Commission. The Commission staff has also held several round tables with industry in conjunction with the Commission's 1998 biennial regulatory review. *See, e.g.* "Office of General Counsel and Wireless Telecommunications Bureau to Hold Public Forum to Discuss Biennial Review of Wireless Telecommunications Bureau Rules," *Public Notice*, DA 98-39, January 9, 1998.

4 Letter from Mary McDermott, Senior Vice President & Chief of Staff, Public Relations, PCIA, to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, July 31, 1998 (PCIA Letter). A copy of the PCIA Letter is attached to this Public Notice as Attachment A.

comment.[5]

We note that many of the specific proposals in the PCIA letter are already the subject of ongoing Commission proceedings. In the ULS rulemaking, for example, the Commission has proposed numerous rule changes that would consolidate and streamline our rules governing application processing and licensing.[6] We anticipate that the Commission will take action in this proceeding in the near future. Similarly, in the *Forbearance Order and NPRM*, the Commission sought comment on additional areas where it could apply streamlining or forbearance to its wireless regulations.[7] We also anticipate that some issues raised by PCIA may be considered in other proceedings as part of the Commission's biennial review of regulations under Section 11 of the Communications Act. In the interest of furthering the above initiatives, the Bureau believes it serves the public interest to seek public comment on the PCIA Letter, and on the proposals made therein for streamlining and elimination of Commission regulations. We note that this will not delay any streamlining action that the Bureau or the Commission may elect to take without further notice and comment. In addition, we will incorporate comments on the PCIA Letter into the record of our ULS and Wireless Forbearance proceedings, and will incorporate them into other proceedings as appropriate.

Interested parties should file their comments on the PCIA Letter no later than 15 days from Federal Register Publication of this Public Notice. In their captions, commenters should reference the ULS and Wireless Forbearance dockets (WT Docket No. 98-20 and WT Docket No. 98-100) as well as this Public Notice. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies.[8]

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Commenters must transmit one electronic copy of the comments to each docket number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket number. Parties may also submit an electronic comment by Internet e-mail. To obtain filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, "get form <your e-mail address>." A sample form and directions will be sent in reply.

Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket number appears in the caption, commenters must submit two additional copies for each additional docket number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 1919 M St. N.W., Room 222, Washington, D.C. 20554.

Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Bobby Brown, Commercial Wireless Division, Wireless Telecommunications Bureau, 2100 M Street, Room 700, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The

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[5] PCIA Letter, Appendices A, B, and C.

[6] Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 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 Service, WT Docket No. 98-20, *Notice of Proposed Rulemaking*, 13 FCC Rcd. 9672 (1998).

[7] *Forbearance Order and NPRM*, note 1, *supra*.

[8] *See* Electronic Filing of Documents in Rulemaking Proceedings, GC Docket No. 97-113, *Report and Order*, 13 FCC Rcd. 11322 (1998).

diskette should be accompanied by a cover letter and should be submitted in "read only" mode. The diskette should be clearly labelled with the commenter's name, proceedings affected (including the docket numbers, WT Docket No. 98-20 and WT Docket No. 98-100), type of pleading (comment on PCIA letter), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase "Disk Copy - Not an Original." Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

Because the ULS and Wireless Forbearance proceedings are permit-but-disclose proceedings pursuant to Section 1.1206(a) of the Commission's Rules, 47 CFR § 1.1206(a), *ex parte* communications related to this Public Notice are permitted but must be disclosed in both dockets in accordance with the requirements of Section 1.1206(b).

For further information, contact Jeffrey Steinberg, Commercial Wireless Division, Wireless Telecommunications Bureau, (202) 418-0620.

This Public Notice is issued by the Chief, Wireless Telecommunications Bureau.

ATTACHMENT A

VIA COURIER

July 31, 1998

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

Re: *Ex Parte Notification: Biennial Review -- Amendment of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, NPRM,* WT Docket No. 98-20
PCIA Request for Removal or Streamlining of Regulations

Dear Ms. Salas:

Attached is a letter that the Personal Communications Industry Association ("PCIA") is submitting today to Mr. Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau ("WTB"), Rosalind K. Allen, Deputy Chief, WTB, Jeannine Poltronieri, Associate Chief, WTB, Steve Weingarten, Chief, Commercial Wireless Division ("CWD"), and Diane Conley, Deputy Chief, CWD, regarding the captioned proceeding. The letter provides three lists of regulations that PCIA believes could easily be eliminated or revised on a fast track under WTB's Section 11 authority to lessen the regulatory burden on the wireless industry. One of the lists includes regulations under consideration in the captioned Universal Licensing System ("ULS") proceeding. PCIA believes that acting on the listed ULS regulations immediately would allow WTB to focus on the resolution of the remaining more controversial ULS proposals.

Pursuant to section 1.1206(b) of the Commission's rules, two copies of this 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,

Mary McDermott

Mary McDermott
Senior Vice President & Chief of Staff, Government Relations

cc: Rosalind K. Allen, Jeannine Poltronieri
Steve Weingarten, Diane Conley

• 500 Montgomery Street • Suite 700 • Alexandria, VA 223 14-1561 •
• Tel: 703-739-0300 • Fax: 703-836-1608 • Web Address: http://www.pcia.com •

VIA COURIER

July 31, 1998

Mr. Daniel B. Phythyon
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW
Washington, DC 20554

Re. Section I I Wireless Telecommunications Bureau Biennial Review Removal or Streamlining of Regulations

Dear Mr. Phythyon,

The wireless industry in this country is a driving force in an economy that is increasingly dependent upon instant, anytime, anywhere communications. In your recent testimony before Congress, you recognized that wireless "is one of the most dynamic [industries] within the field of telecommunications, one in which technological innovation is occurring rapidly, and services to consumers are expanding and prices dropping."[1]

It is clear to PCIA and its members that regulatory changes are needed to ensure that wireless communications fulfills its potential as a viable alternative to today's wireline services. We know that you share that vision, and as you stated to Congress, "[i]n recent years, we have broadened our focus to explore opportunities to facilitate wireless competition with wireline carriers. We believe that wireless technologies are uniquely positioned to become full scale competitors to the wireline network. We are committed to fostering competition in the telecommunications marketplace, including the local telecommunications marketplace, by reducing regulatory barriers to the greatest extent possible."[2]

One month ago, the Federal Communications Commission ("FCC") issued its ruling on a PCIA petition filed on behalf of its PCS membership in which we sought forbearance from a

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[1] *Hearing on Wireless Telecommunications Bureau Oversight Before the Subcomm. on Communications of the Senate Comm. on Commerce, Science, and Transportation,* 105th Cong., 2nd Sess. at 2 (May 13, 1998) (statement of Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau).

[2] *Id.* at 7.

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(as Commissioner Powell termed them) along that path.[4] Despite this setback, PCIA will continue to use every opportunity to press our case on these vital issues.

In that regard, we have been very encouraged by recent discussions with your staff. PCIA believes that, despite our differences on the *Forbearance Decision,* we can make positive forward progress in streamlining or eliminating many aspects of the FCC's current regulations. To that end, PCIA has identified administratively unnecessary regulations whose elimination or revision would not be controversial. Our suggestions are contained in three appendices attached to this letter. The changes we have identified can be made promptly as part of the FCC's biennial review process. Indeed, a number of these rule sections have already been subject to public comment and changes can be made immediately.

PCIA looks forward to working with you and your staff to clear all of this "regulatory underbrush" from the rules. Together, we can make it possible for wireless carriers to take the time and effort they now expend to comply with these outdated regulations and devote it instead to meeting consumers' needs in the marketplace.

Sincerely,

Mary McDermott
Senior Vice President & Chief of Staff, Government Relations

cc: Rosalind K. Allen, Deputy Chief, WTB
Jeannine Poltronieri, Associate Chief, WTB
Steve Weingarten, Chief, Commercial Wireless Division, WTB
Diane Conley, Deputy Chief, Commercial Wireless Division, WTB

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[3] *In the Matter of Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Personal Communications Services, Memorandum Opinion and Order and Notice of Proposed Rulemaking,* FCC 98-134 (July 2, 1998) *("Forbearance Decision").*

[4] *Commission Grants in Part and Denies in Part PCIA's Petition for Forbearance; Solicits Comment on Further Forbearance, News Release,* Report No. 98-1 8 (June 23, 1998) (separate statement of Commissioner Michael K. Powell dissenting in part).

The attached three appendices catalog a number of wireless regulations that PCIA believes could easily be modified or deleted to lessen the burden on the wireless industry. We have sought to identify administratively unnecessary regulations whose elimination or revision would not be controversial. In general, this compilation does not include regulations governing competitive bidding procedures, interference/equipment restrictions, and coverage/construction requirements.

The first appendix, Appendix A, lists rule sections that have been the subject of comment in the Commission's Universal Licensing System ("ULS") proceeding.[1] PCIA believes that the Commission should proceed expeditiously to act upon these proposals rather than delay relief until resolution of the remaining issues involved in this rulemaking. Indeed, acting on the items listed in Appendix A would help to streamline the regulatory burden imposed on wireless licensees at an earlier date, while permitting the Commission to focus its energies on the resolution of the remaining universal licensing system proposals. Thus, in addition to streamlining the regulatory requirements imposed on the competitive wireless industry, the Commission would promote efficient resolution of outstanding rulemaking proposals.

The second appendix, Appendix B, lists administrative rules that may be eliminated or modified by the Commission without prior notice and comment rulemaking proceedings. Specifically, we believe that the proposals contained in Appendix B fall within the scope of Section 1.412(c), as rule changes that may be adopted without prior notice in any situation in which the Commission for good cause finds that notice and public comment procedures are impracticable, unnecessary, or contrary to the public interest.*

Appendix C contains rule elimination and streamlining proposals that may require notice and comment prior to final Commission action. Of course, if the Bureau determines that any of these actions can be taken without the need to compile a rulemaking record, PCIA urges prompt adoption of the suggested relief. For those items where rulemaking is appropriate, PCIA is ready and willing to file a petition for rulemaking after consultation with the Bureau.

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[1] *Biennial Regulatory Review-Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 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,* WT Docket No. 98-20, FCC 98-25, 63 Fed. Reg. 16938 (Apr. 7, 1998) (Notice of Proposed Rulemaking) ("*ULS Notice*"). Comments in this proceeding were filed on May 22, 1998, and reply comments were filed on June 16, 1998. Accordingly, the proposals raised in the Universal Licensing System *Notice are* ripe for action.

See 47 C.F.R. § 1.412(c).

Part 22 Paging and Cellular Regulations

- Application Rules (§ 22.101 - 22.169):

  - Microfiche requirements (§ 22.105) should be removed as this restriction is only required of Part 22 and Part 24 applicants and not uniformly applied to all CMRS licensees. Additionally, the commenters to the ULS NPRM unanimously argued for the immediate removal of all microfiche requirements.

  - Information to be filed concerning parties in interest to an application (§ 22.1 OS) requires more information and more detail than necessary for application processing and to support a finding that an applicant is qualified to hold a license, and should be streamlined.

Part 22 Paging Regulations (§§ 22.501 - 22.659)

- Extraneous application requirements for paging systems (§ 22.529, some proposed to be removed by ULS NPRM) should be eliminated. These filing requirements are inconsistent with data requested in the application form and reduce flexibility to change application requirements to accommodate new technology.

Part 22 Cellular Regulations (§§ 22.901 - 22.967)

- Application requirements for cellular systems (§ 22.929, some proposed to be removed by the ULS NPRM) should be streamlined. These filing requirements are inconsistent with data requested in the application form and reduce flexibility to change application requirements to accommodate new technology.

- Restriction on transfers of interests in cellular applications (§ 22.944) should be eliminated. In light of the status of initial cellular application processing, this rule limitation is virtually obsolete. Moreover, this provision is unnecessary with a competitive market and with the CMRS spectrum cap protecting the consolidation of cellular interests.

- Application Procedures (§§ [illegible]):

  - Microfiche requirements (§ 24.406(e)(1)) should be removed as this restriction is only required of Part 22 and Part 24 applicants and not uniformly applied to all CMRS licensees. Additionally, the commenters to the ULS NPRM unanimously argued for the immediate removal of all microfiche requirements.

  - Ownership/real party in interest requirements (§ 24.413) require more information than necessary for application processing and to support a finding that an applicant is qualified to hold a license, and should be streamlined.

  - Amendment procedures for other applications (§ 24.423) should be modified. These guidelines are inconsistent with other wireless services and inappropriately list amendments that are not necessary under the Narrowband PCS licensing scheme..

  - Procedures for ownership changes (§ 24.429) should be consolidated with the amendment procedures in § 24.423.

  - Procedures for assignments of authorization and transfers of control (§ 24.439) should be streamlined. Specifically, the requirement to file the FCC Form 430 is unnecessary and not required for the filing of other Part 24 applications.

Part 24 Broadband PCS Regulations

- Application Procedures (§§ 24.803 - 24.844):

  - Microfiche requirements (§ 24.806(e)(1)) should be eliminated as this restriction is only required of Part 22 and Part 24 applicants and not uniformly applied to all CMRS licensees. Additionally, the commenters to the ULS NPRM unanimously argued for the immediate removal of all microfiche requirements.

  - Ownership/real party in interest requirements (§ 24.8 13) require more information than necessary for application processing and to support a finding that an applicant is qualified to hold a license, and should be streamlined.

  - Amendment procedures for other applications (§ 24.823) should be modified. These provisions are inconsistent with other wireless services and inappropriately list amendments that are not necessary under the Broadband PCS licensing scheme.

  - Procedures for ownership changes (§ 24.829) should be consolidated with amendment procedures in § 24.823.

is not required for the filing of other Part 24 applications.

Part 27 WCS Regulations

- Application Procedures (§§ 27.301 - 27.325):

  - Ownership/real party in interest requirements (§ 27.307) require more information than necessary for application processing and to support a finding that an applicant is qualified to hold a license, and should be streamlined.

  - Procedures for ownership changes (§ 27.3 19) are duplicative of other amendment procedures and should be combined with § 27.3 13.

Part 90 SMR, 220 MHz and Paging Regulations

- Application Procedures (§§ 90.111 – 90.159):

  - Ownership/real party in interest requirements (§ 90.123) require more information than necessary for application processing and to support a finding that an applicant is qualified to hold a license, and should be streamlined.

  - Modification filing requirements (§ 90.135) should be relaxed. The filing of modification applications for some of the listed modifications is unnecessary. Specifically, modification applications should not be required for CMRS: (1) when the number of base stations are changed; (2) when the area of mobile operations is changed; or (3) for any change in ownership. The third requirement has been eliminated for *pro forma* applications through forbearance, in the Commission's *pro forma* forbearance order.[1]

  - Requirements for the transfer and assignment of licenses (§ 90.153) should be streamlined. Specifically, FCC Form 430 should not be necessary to be filed as part of application package as it is not required for any other Part 90 CMRS application.

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[1] Federal Communications Bar Association's Petition for Forbearance from Section 310(d) of the Communications Act Regarding Non-Substantial Assignments of Wireless Licenses and Transfers of Control Involving Telecommunications Carriers and Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance For Broadband Personal Communications Services, *Memorandum Opinion and Order*, 13 FCC Rcd 6293 (1998).

be combined with other amendment rules and made consistent across services.

Part 101 Fixed Microwave and LMDS Regulations

- Application Procedures (§§ 101.4 - 101.81):

  - General application requirements (§ 101.19) should be streamlined. For example, the requirement to disclose real party (or parties) in interest to applications is unnecessary and duplicative of other filing requirements.

  - In addition, requirements (§ 101.2 1) that licensees include information regarding type acceptance, line loss, channel capacity and baseband signal type in their applications can and should be eliminated, as the Commission has proposed.

  - Amendment provisions for pending applications (§ 101.29) should be modified. These guidelines should be consolidated with and made consistent with modification provisions,

  - Ownership change procedures (§ 101.41) should be eliminated. Additional ownership filing requirements are duplicative of requirements for other licensees and an unnecessary burden for fixed microwave service applicants where license holders hold other common carrier licenses.

  - Provisions for the handling of transfers of control and assignments of authorization (§§ 101.53 - 101.55) should be streamlined. "Trafficking" protections and other showings are unnecessary for fixed microwave service systems.

  - Modification guidelines for minor and major changes (§ 101.57 - 101.61) should be streamlined and consolidated. These requirements should be made consistent with modification and amendment procedures contained in other parts of the fixed microwave rules, by eliminating requirements that LMDS licenses must notify the Commission of the addition, removal or relocation of facilities within a BTA.

Ownership Data Collection

- The Commission's proposals in the *ULS Notice* and existing regulations governing ownership data collection, as well as staff requests for ownership information in the context of specific applications, are of significant concern to the wireless industry. Industry members generally welcomed the Commission's decisions to eliminate the annual tiling of the FCC Form 430 for ownership information. The *ULS Notice,* however, seeks not only to resurrect a similar filing requirement, but to increase the breadth and scope of ownership data collection. In addition, staff members request cellular licensees to file Form 430 with their license renewal applications. PCIA

public, without adding in any meaningful way to the Commission's review process. Without some relief, wireless providers will be forced to file a steady stream of ownership data in order to be in compliance with the Commission's guidelines. This undesired result benefits neither the Commission nor the wireless industry. We therefore propose that applicants be required to file ownership information with initial applications and file additional updated data only when a non-*pro forma* assignment of authorization or transfer of control is contemplated. Such a modified requirement should serve both parties well, minimizing the burden on the public while delivering the needed data to the Commission to perform its mandated duties.

Part 22 Paging Regulations (§§ 22.501 - 22.659)

- Restrictions on licensing of additional channels for paging systems (§ 22.539) should be eliminated. The transition to geographic area licensing has removed the need to dictate the number of channels and methods for allocation-for site-licensed systems and therefore can be eliminated for future licensing via competitive bidding.

- Regulations governing the nationwide network paging services (§ 22.55 1) should be modified. Specifically, rules governing the reallocation of nationwide paging systems are no longer necessary or appropriate with competitive bidding procedures in place.

Part 22 Cellular Regulations (§§ 22.901 - 22.967)

- Requirements for cellular service and limitations (§ 22.901) should be relaxed. For example: (1) the requirement to notify potential subscribers of reliable service area can be eliminated; (2) the need to report to the FCC any denial of service for lack of capacity can be removed; and (3) the requirement to perform additional engineering analysis prior to implementing alternative technologies can be stricken. These provisions are inconsistent with the regulations governing other CMRS providers and should be removed to reflect the competitive environment and to ensure that substantially similar services are regulated equivalently.

Part 24 Narrowband PCS Regulations

- Application Procedures (§§ 24.403 - 24.444):

  - Requirement to retain list of station locations (§ 24.415) should be eliminated. PCS providers must maintain a station location list in order to ensure seamless wireless operations. Additional Commission regulations are unnecessary.

  - Amendment procedures for the Form 175 (§ 24.422) should be eliminated. This is duplicative of provisions in Part 1 of the Commission's rules concerning amendment of auction applications.

Part 24 Broadband PCS Regulations

- Application Procedures (§§ 24.803 - 24.844):

- Amendment procedures for the Form 175 (§ 24.822) should be eliminated. This is duplicative of provisions of §1.2105(b) of the Commission's rules concerning amendment of auction applications.

Part 90 SMR, 220 MHz and Paging Regulations

- Application Procedures (§§ 90.111 – 90.159):

  - Requirements for supplemental information to be filed with applications (§ 90.129) should be streamlined. A number of extraneous supplemental exhibits that are currently required are largely unnecessary (such as a detailed system diagram, statement of sharing transmitters).

Part 90 SMR Regulations (§§ 90.601 – 90.699)

- Reporting requirements (§ 90.65 1) should be eliminated. Annual reporting of the number of mobile units being served is no longer necessary and is inconsistent with other CMRS provider regulations.

Part 90 220 MHz Regulations (§§ 90.701 - 90.771)

- Reporting requirements for initial 220 MHz licensees (§ 90.737) should be modified. Specifically, the requirement to file supplemental report detailing progress made in constructing systems should be removed since its not a requirement for other CMRS providers that are similarly situated.

Part 101 Fixed Microwave and LMDS Rep-

- Technical Standards (§§ 101.101 - 101.151):

  - Transmitter construction and installation procedures (§ 101.13 1) should be modified. Extraneous provisions regarding the installation and maintenance of transmitter sites are inconsistent with requirements for all other wireless services.

- Operational Requirements (§§ 101.201 - 101.2 17):

  - The requirements concerning maintenance of station records (§ 10 1.2 17) should be eliminated. These specific guidelines listing the methods and measurements used to maintain fixed microwave systems are inconsistent with all other wireless service requirements and are unnecessary.

(1) requirements regarding notification to the Commission if service is discontinued, (2) providing reasons for discontinuance, and (3) notice of resumption of service are all unnecessary.

- Tariff and reporting requirements (§ 101.307) should be removed. Tariffing requirements, to the extent applicable, are covered in other parts of the Commission's rules, independent of the technology used.

Part 22 Paging and cellular Regulations

- Application Rules (§ 22.101 - 22.169):
  - Restrictions against "trafficking" in license; and applications (§ 22.139) should be removed. License trafficking provisions were necessary when comparative hearings and lotteries were prevalent. With competitive bidding procedures in place, these outdated restrictions are no longer necessary.
  - Restrictions on operation prior to grant of authorizations for paging and cellular should be eased in a manner similar to Part 10 1 guidelines (see § 10 1.3 1). Under Part 10 1, fixed microwave applicants are permitted to operate systems at their own risk prior to the grant of an authorization if certain specific requirements are met (§ 22.143 permits construction prior to grant, but not operation).
- Developmental Licensing Guidelines (§§ 22.401 - 22.417):
  - Classification of developmental applications as "major" actions (§ 22.123(b)) should be modified; these are more appropriately "minor" applications.
  - Requirement that a petition for rule making be filed prior to receiving developmental authorization and other extensive limitations on the capability of entities seeking to develop new services (§ 22.409) should be removed.
- Operational Requirements (§§ 22.301 - 22.325):
  - Station identification requirements (§ 22.3 13) should be eliminated or modified. Specifically, the requirement for site-licensed paging systems to transmit station identification within 5 minutes of the hour, or upon completion of the first transmission after the hour, should be eliminated. This provision is inconsistent with other CMRS regulations for substantially similar services, especially Part 90 paging systems.
  - Restrictions on discontinuance of station operations should be modified, including removing the requirement to submit the license of such a station to the Commission (§ 22.3 17).
  - Restrictions and requirements for incidental communications services (§ 22.323) should be eliminated. Specifically, requirements to: (1) not increase cost and charges of subscribers who do not use such services; (2) not degrade the primary public mobile

- Duplicative/redundant requirements concerning antenna structures and tower registration (§§ 22.115(a)(3), 22.365) should be consolidated and clarified. These two sections repeat similar regulatory guidelines and can easily be conformed into a single set of provisions that are more clear and understandable.

Part 22 Paging Regulations (§622.501 - 22.659)

- Restrictions on permissible communications paths (§ 22.5 15) should be modified. Currently, mobile stations are only permitted to communicate with and through base stations while base stations are only permitted to communicate with mobile stations. This leftover product of site-by-site licensing is inconsistent with the operational flexibility other CMRS providers have in their operating bands.

Part 22 Cellular Regulations (§§ 22.901 - 22.967)

- The existing requirements on cellular systems and how they are to be configured (§ 22.923) should be modified. Specifically, restrictions limiting mobile stations to communicate with and through base transmitters and base transmitters with mobile stations or repeaters are no longer necessary and are inconsistent with the capabilities other CMRS providers have in their bands.

- Requirement to demonstrate financial qualifications by each applicant for a new cellular system (§ 22.937) should be eliminated. This provision remains from when cellular licenses were authorized via competitive hearings and lotteries and is no longer appropriate with competitive bidding procedures in place.

- The system identification number (SID) process (§ 22.941) should be privatized. The Commission continues to require SID information to be filed and assigned by it rather than permitting the industry (as it does for PCS) to handle the process. This is unnecessary and inefficient, requiring cellular providers to file a notification with the Commission whenever there is a change in SIDs that could be much more expeditiously handled by the industry.

- Trafficking limitations for cellular transfers and assignments (§ 22.943) should be eliminated. License trafficking provisions were necessary when comparative hearings and lotteries were prevalent. With competitive bidding procedures in place, these outdated restrictions are no longer necessary.

- Requirements concerning the form and content of unserved area cellular applications (§ 22.953) should be streamlined. The majority of these are unnecessary formatting requirements remaining from when numerous applications were filed during one-day filing windows.

- Application Procedures (§§ 24.403 - 24.444).

  - Restrictions on-operation prior to grant of authorizations for paging and cellular should be eased in a manner similar to Part 10 1 guidelines (see § 10 1.3 1). Under Part 10 1, fixed microwave applicants are permitted to operate systems at their own risk prior to the grant of an authorization if certain specific requirements are met (§ 24.425 permits construction prior to grant, but not operation).

Part 24 Broadband PCS Regulations

- Application Procedures (§§ 24.803 - 24.844):

  - Restrictions on operation prior to grant of authorizations for paging and cellular should be eased in a manner similar to Part 10 1 guidelines (see § 10 1.3 1). Under Part 10 1, fixed microwave applicants are permitted to operate systems at their own risk prior to the grant of an authorization if certain specific requirements are met (§ 24.825 permits construction prior to grant, but not operation).

Part 27 WCS Regulations

- Application Procedures (§§ 27.301 - 27.325):

  - Restrictions on operation prior to grant of authorizations for paging and cellular should be eased in a manner similar to Part 101 guidelines (see § 101.3 1). Under Part 101, fixed microwave applicants are permitted to operate systems at their own risk prior to the grant of an authorization if certain specific requirements are met (§ 27.314 permits construction prior to grant, but not operation).

Part 90 SMR, 220 MHz and Paging Regulations

- CMRS Application Provisions (§§ 90.160 – 90.169):

  - Prohibitions on unjust enrichment and trafficking (§ 90.162) should be eliminated. License trafficking provisions were necessary when comparative hearings and lotteries were prevalent. With competitive bidding procedures in place, these outdated restrictions are no longer necessary.

Part 90 Paging Regulations (§§ 90.490 – 90.494)

- One-way paging operation guidelines (§ 90.490) should be modified. In particular, specific limitations on when one-way paging service can be provided appear unnecessary. Moreover,

Part 90 SMR Reeulations (§§ 90.601 – 90.699)

- Supplemental information needed for SMR applications (§ 90.607) should be streamlined. Specifically: (1) a statement of the planned mode of operation, and (2) a statement certifying that no person not eligible to use the system will be offered or provided service should both be eliminated.

- Limitations on channels for conventional systems (§ 90.623) should be eliminated for commercial SMR systems. Additionally, limits on number of frequencies available to conventional systems and co-channel system separation guidelines are unnecessary for commercial SMRs.

Part 90 220 MHz Regulations (§§ 90.701 - 90.771)

- Restrictions on assignments of authorization and transfers of control (§ 90.709) should be eliminated. Licensees of initial 220 MHz licenses are not permitted to assign or transfer unconstructed stations, which is inconsistent with the treatment of 800 MHz SMR incumbents.

- Criteria for entry for a Phase I applicant (§ 90.713) should be streamlined. The existing requirement for an initial 220 MHz applicant to provide a certification that it would meet certain construction benchmarks is no longer necessary because the initial 220 MHz application process is complete.

- Permissible operation limitations (§ 90.733) should be eliminated. These arbitrary restrictions limit the use of 220 MHz systems, needlessly requiring licensees and applicants to meet certain standards that are inconsistent with the treatment of other CMRS providers.

Part 101 Fixed Microwave and LMDS Regulations

- Application Procedures (§§ 101.4 - 101.81):

  - Temporary authorization requirements (§ 101.3 1) should be modified. The conditional authorization provision should be modified to extend to the 900 MHz, 2 GHz and 21 GHz bands.

  - Provisions for the handling of transfers of control and assignments of authorization (§§ 101.53 - 101.55) should be streamlined; "trafficking" protections and other showings are unnecessary for fixed microwave service systems. License trafficking provisions were necessary when comparative hearings and lotteries were prevalent. With

- Technical Standards (§§ 101.101 - 101.151):

  - Transmitter location guidelines (§ 101.129) should be revised; the requirement to determine site availability prior to filing an application is an unnecessary regulatory burden. Site availability requirements were necessary when random selection was used to guard against speculative applicants who sought licenses without performing necessary engineering and site planning. With the use of competitive bidding mandated for these bands, it is no longer necessary to require prior site availability for these bands.

  - Limitations on use of transmitters (§ 101.133) should be eliminated; restrictions on the use of private microwave transmitters are no longer necessary.

  - Restrictions on the shared use of radio stations (§ 101.135) should be eliminated; specifically, the requirement to maintain an up-to-date list of system sharers of facilities and their basis for eligibility is unnecessary.