

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

RECEIVED
JAN 13 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of Part 22 and Part 90 of the) WT Docket No. 96-18
Commission's Rules to Facilitate)
Future Development of Paging Systems)

To: Chief, Wireless Telecommunications Bureau

PETITION FOR RECONSIDERATION

AirTouch Paging of Kentucky (the "Petitioner" herein), by its attorneys and pursuant to Section 1.106 of the Commission's Rules,^{1/} hereby files this Petition for Reconsideration of the Commercial Wireless Division's (the "Division") *Order*^{2/} in the captioned proceeding. The following is respectfully shown:

I. INTRODUCTION

1. Petitioner filed applications with the Commission seeking authorizations relating to paging facilities pursuant to the Commission's Rules. Those applications are identified on Attachment 1 to this petition. Those applications were pending with the Commission until the Division issued its *Order* on December 14, 1998. In the *Order*, the

^{1/} 47 C.F.R. §1.106.

^{2/} *Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, Order, WT Docket No. 96-18, DA 98-2543 (rel. Dec. 14, 1998).*

No. of Copies rec'd _____
List ABCDE

Division dismissed all pending mutually exclusive paging applications, all pending paging applications (other than those filed for nationwide and shared channels) filed after July 31, 1996, and all pending paging applications that requested spectrum that was previously assigned to another licensee on an exclusive basis.^{3/} Certain of the applications dismissed were those filed by Petitioner and identified on Attachment 1 hereto. Therefore, Petitioner was directly and adversely affected by the Division's *Order*.

2. Petitioner is filing the instant petition to place on the record its protest of the Division's *Order*. Petitioner respectfully submits that the Commission is required, by statute, to employ "engineering solutions, negotiation, threshold qualifications, service regulations, and other means to avoid mutual exclusivity in application and licensing proceedings."^{4/} Further, Petitioner does not believe that there exists a rational basis supporting the dismissal of all applications filed subsequent to July 31, 1996.

3. Notwithstanding the foregoing, Petitioner notes that the Division indicated in its *Order* that these specific issues have been raised by several parties in the context of Petitions for Reconsideration of the Commission's *Second Report and Order and Further Notice of Proposed Rulemaking*^{5/} adopted in this proceeding, and that the Commission will address these issues in that forum. The Division indicated further that, if such Petitions for Reconsideration are granted, the applications identified on Attachments A

^{3/} *Order*, para. 1.

^{4/} 47 U.S.C. §309(j)(6)(E).

^{5/} 12 FCC Rcd. 2732 (1997).

and B to the *Order* will be reinstated. Petitioner agrees that resolution of these issues by the Commission in the broader rulemaking proceeding represents the most appropriate procedure and forum. Therefore, Petitioner will not argue the merits in full in this petition. Rather, Petitioner seeks to have this petition serve as notice of the Petitioner's objection to the *Order*, and as a request that, should the Commission grant the Petitions for Reconsideration filed with respect to these issues in the broader proceeding, that the Petitioner's applications be reinstated *nunc pro tunc*.

WHEREFORE, the foregoing having been duly considered, Petitioner respectfully submits that the Commission should reconsider the Division's *Order* in the context of the broader rulemaking proceeding, reverse the Division's dismissal of the pending paging applications, and order the Division to reinstate the applications *nunc pro tunc*.

Respectfully submitted,

AirTouch Paging of Kentucky

By: Christine M. Crowe

Christine M. Crowe
PAUL, HASTINGS,
JANOFSKY & WALKER LLP
1299 Pennsylvania Avenue, N.W.
Tenth Floor
Washington, D.C. 20004
(202) 508-9562

Its Attorneys

January 13, 1999

AirTouch Paging of Kentucky
Petition for Reconsideration

Attachment 1

LICENSEE NAME	CALL SIGN	FCC FILE #	FREQUENCY	CITY	STATE
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2248596	931.0625	FAIRDALE	KY
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2242996	931.0625	ELIZABETHTOWN	KY
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2243996	931.0625	DANVILLE	KY
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2244696	931.0625	BARDSTOWN	KY
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2174296	931.4125	LONDON	KY
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2173996	931.4125	SOMERSET	KY
AIRTOUCH PAGING OF KENTUCKY, INC.	KIF656	2968495	931.0625	LOUISVILLE	KY