

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of Part 22 and Part 90 of the)
Commission's Rules To Facilitate Future)
Development of Paging Systems)
)
Implementation of Section 309(j) of the)
Communications Act — Competitive Bidding)

WT Docket No. 96-18

PP Docket No. 93-253

**PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION
OPPOSITION TO PETITION FOR CLARIFICATION
AND/OR RECONSIDERATION**

The Personal Communications Industry Association ("PCIA"),¹ by its attorneys, hereby submits this opposition to the Petition for Clarification and/or Reconsideration filed by Blooston, Mordkofsky, Jackson and Dickens² concerning the Memorandum Opinion and Order on Reconsideration and Third Report and Order in the above-captioned proceeding.³ The Blooston Petition seeks reconsideration of the Commission's action taken in paragraph 48 of the *Paging*

¹ PCIA is an international trade association established to represent the interests of the commercial and private mobile radio service communications industries and the fixed broadband wireless industry. PCIA's Federation of Councils includes: the Paging and Messaging Alliance, the PCS Alliance, the Site Owners and Managers Association, the Private Systems Users Alliance, the Mobile Wireless Communications Alliance, and the Wireless Broadband Alliance. As an FCC appointed frequency coordinator for the Industrial/Business Pool frequencies below 512 MHz, the 800 MHz and 900 MHz Business Pools, the 800 MHz General Category frequencies for Business Eligibles and conventional SMR systems, and the 929 MHz paging frequencies, PCIA represents and serves the interests of tens of thousands of FCC licensees.

² Blooston, Mordkofsky, Jackson and Dickens Petition for Clarification and/or Reconsideration, WT Dkt. No. 96-18 (filed July 26, 1999) ("Blooston Petition").

³ FCC 99-98 (rel. May 24, 1999) ("*Paging Recon. Order*").

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Recon. Order, whereby the Commission clarified that “MEA, EA, and nationwide geographic area licensees will be able to share with non-exclusive incumbent licensees on a non-interfering basis.”⁴ The Blooston Petition argues that instead *all* incumbents, even those granted authorizations on a non-exclusive basis, should have the same level of protection from the eventual market area licensees.

PCIA opposes grant of the Blooston Petition. PCIA was one of the parties that had sought reconsideration of the Second Report and Order and Further Notice of Proposed Rulemaking in this docket⁵ in order to correct the “windfall” that the rules adopted in that order gave to licensees that had not previously met the standards for exclusivity.⁶ As PCIA pointed out then, and the Commission apparently agreed with in the *Paging Recon. Order*, the effect of the policy adopted in the *Second Report and Order* was “to give such non-exclusive licensees greater protection rights than they had previously attained under the Commission’s Rules”⁷ PCIA urged the Commission to revise the policy “so that licensees operating on a non-exclusive basis are entitled to maintain their operations on the same basis as at present and without a windfall grant of *de facto* exclusivity.”⁸

⁴ *Paging Recon. Order*, ¶ 48.

⁵ 12 FCC Rcd 2732, 2769 (1997) (“*Second Report and Order*”).

⁶ Personal Communications Industry Association Petition for Reconsideration, WT Dkt. No. 96-18, at 16-17 (filed Apr. 11, 1997).

⁷ *Id.* at 16.

⁸ *Id.*

The Blooston Petition does not justify why the Commission should grant a windfall to non-exclusive licensees. Instead, the Blooston Petition purports to show why the action originally taken in the *Second Report and Order* would be consistent with prior Commission statements, and cites the application freeze and licensee reliance on the Commission's *Second Report and Order*. As PCIA and other parties have previously demonstrated, there simply is no justification for non-exclusive licensees to gain greater interference protection rights vis-à-vis market area licensees than such licensees would have in the absence of the adoption of the auction and market area licensing rules.

Accordingly, the Commission should deny the Blooston Petition.

Respectfully submitted,

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Dated: August 25, 1999

CERTIFICATE OF SERVICE

I hereby certify that on this 25th day of August, 1999, I caused copies of the foregoing
“Personal Communications Industry Association Opposition to Petition for Clarification and/or
Reconsideration” to be deposited in United States mail, first class postage prepaid, addressed to
the following:

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A handwritten signature in cursive script, reading "Cerise E. Turner". The signature is written in black ink and is positioned above a horizontal line.

Cerise E. Turner