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PALMER COKING COAL COMPANY

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August 25, 1999

Office of Secretary FAX: 202-418-0232
Federal Communications Commission
445 - Twelve Street Room #TW-A325
Washington D.C. 20554

Re: WT Docket No. 99-217
CC Docket No. 96-98
Notice of Proposed Rulemaking FCC 99-141

Palmer Coking Coal Company hereby comments on the Notice of Proposed Rulemaking, FCC 99-141, released July 7, 1999. Palmer Coking Coal Company ("Palmer") is a small landowner in King County, Washington. In the past, we have been approached by telecommunication companies to lease a small parcel of land from our company for installation of antennas for the cellular telephone industry. The monthly lease rates are a small but important part of the economic returns we receive on our land, most of which is devoted to the growing and harvesting of forest products.

Palmer opposes the adoption of rules mandating non-discriminatory access to our land. While we have always been able to reach agreement with telecommunication companies who lease from us, the ultimate signed leases have been far more fair to the landowner than the original telecommunication company proposal. We see the proposed rules as an attempt to tip the balances of power towards large multinational telecommunication companies at the expense of small landowners like ourselves. Such a rule, if adopted and implemented would amount to a regulatory takings of our valuable property rights. Our company opposes regulatory taking as we believe the 5th Amendment to the Constitution of the United States ("nor shall private property be taken for public use without just compensation") is one of the bedrock foundations of our economic and political liberty.

Very truly yours,

William Kombol, Manager
Palmer Coking Coal Company

cc: Richard Stern (FAX: 610-260-3138)
James Hobson (FAX: 202-371-0900)

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REALTOR®

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
445 12th Street, S.W.
TW-A325
Washington, D.C. 20554

August 25, 1999

Re: Promotion of Competitive Networks in Local Telecommunications Markets. WT Docket No. 99-217: Implementation of the Local Competition Provisions in the Telecommunications Act of 1996. CC Docket No 96-98

Dear Ms. Salas:

I write to you in response to the FCC's Notice of Proposed Rulemaking released on July 7, 1999, regarding forced access to buildings. We enclose six (6) copies of this letter, in addition to this original for distribution.

I am concerned that any action by the FCC regarding access to private property by large number of communications companies may inadvertency and unnecessarily adversely affect the conduct of our business and needlessly raise additional legal issues, and safety concerns for the tenants. The Commission's public notice also raises a number of other issues which concern us.

I, Edward R. Hulac, am in the commercial, industrial and residential real estate business. My company, Surety Property Management, manage twenty multi-family residential properties, two strip shopping centers, and two industrial properties. These properties are located primarily in the San Fernando Valley, but go into the L.A. and Burbank areas. Additionally, I own, in whole or in part, residential properties is Texas, Nebraska and Iowa.

Issues Raised by the FCC's Notice:

First and foremost, we do not believe the FCC needs to act in this field because we are doing everything we can to satisfy our tenants' demands for access to telecommunications. In addition, the FCC's request for comments raises the following issues of particular concern to us: "nondiscriminatory" access to private property; expansion of the scope of existing easements; location of the demarcation point; exclusive contracts; and expansion of the existing satellite dish or "OTARTY" rules to include nonvideo services. For years we have had the problem of tenant's placing antennas through our roofs (causing damage to our roofs, and flooding to the units below), now we have the problem with the satellite dishes'. Satellite Dish companies are taking no responsibility in informing the tenant that they may not be allowed to place such dishes in common areas. Beyond the aesthetic problems with satellite dishes being placed on the

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outside of the buildings (i.e., front of a newly painted building on a common wall) there are the additional concerns of the damage placing such dishes causes, and the liability that we, the owner/agent, incur if such dishes fall and injure person or property).

FCC Action Not Necessary:

As time goes on telecommunication and such services become more important to our tenants. Consequently, because we are basically in a free market system we are sensitive to such requests by tenants. We must be to keep competitive.

Nondiscriminatory Access:

In this litigious society even the clearest of cases in favor of the landlord can take months to come to an end. In this area specifically, there is a concern about security for our tenants. On the one hand local ordinances are requiring more security measures; i.e., bolt locks on the doors, and locking windows. And additionally, competition and response to tenant's requests means that properties now often look like prisons with gated fencing, walls, and wire at the top of those walls. Last year we installed a $5,000+ camera system in one of our shopping centers. On the other hand, you are requiring that we allow unlimited access to these properties. If we comply, no doubt we will once again find ourselves contemplating litigation because one of the companies did not properly screen their employees. Consequently, you will find higher crime, insurance costs, and good property owners selling their properties tired of the overregulation, litigation, and constant worry.

It also seems inequitable that carriers can choose which buildings and tenants to serve, but we have no such rights. As you see, discrimination can occur in a variety of situations.

Scope of Easements:

It is not reasonable to expand the scope of access by every competitor to use the same easements or right-of-way. If owners had known governments would allow other companies to piggy-back they would have negotiated different terms. This is arguably a taking by the government, and thus if done, should be compensatable.

I also feel that the present proposed regulation is somewhat myopic. We already have several Cable Television Service Agreements which limits access to other completion companies. It can be argues, perhaps, that this is in another vein; however, it is not. Today, with the merging of different technologies (i.e., Web T.V.), this proposed regulation will put us in violation of our other contract agreements. For example, we have contracts with Time Warner for a seven (7) year period for exclusive rights for cable at buildings.

With this contracting ability, we can control aspects of the interaction of the company(ies) with our tenants. (i.e., marketing only by mail - preventing door to door solicitation and harassing of the tenants). Additionally, we can better negotiate prices for the tenants with bulk potential contracts. All this would be lost if this regulation would go through.

Expansion of Satellite Dish Rules:

I do not believe that Congress had the intent to interfere with the ability for us to manage our properties. Nor do I believe that they would wish to interfere with *our* property rights.

We feel that the FCC should not expand the rules to include data and other services, because the law only applies to antennas used to receive video programming. Already, we have had several tenants who have placed satellite dishes in high common areas. These tenants do not have any insurance to compensate for injury should these dishes fall and injure someone. Additionally, again beyond the aesthetics of such dishes in common areas, there is damage being done to our buildings with such installation. This is assuming that the dishes were properly installed, which we do not know to be the fact.

In conclusion, we urge the FCC to consider carefully any action it may take. Thank-you for your attention to growing concerns.

Sincerely,

Edward R. Hulac, CPM
President
Surety Property Management

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