

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

In the Matter of	)	
	)	
Amendment of the Commission’s	)	GEN Docket No. 90-314
Rules to Establish New Personal	)	ET Docket No. 92-100
Communications Services,	)	
Narrowband PCS	)	
	)	
Implementation of Section 309(j) of	)	PP Docket No. 93-253
the Communications Act -	)	
Competitive Bidding, Narrowband PCS	)	

**REPLY TO OPPOSITION TO PETITION FOR RECONSIDERATION  
OF THE PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION**

The Personal Communications Industry Association (“PCIA”)<sup>1</sup> hereby files its reply to the opposition to petition for reconsideration submitted by WebLink Wireless, Inc. (“WebLink”) in the above-captioned proceeding.<sup>2</sup> In its opposition, WebLink urges the Commission to adhere

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<sup>1</sup> 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.

<sup>2</sup> In the Matter of Amendment of the Commission’s Rules to Establish New Personal Communications Services, Narrowband PCS, GEN Docket No. 90-314, ET Docket No. 92-100; Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS, PP Docket No. 93-253, Opposition of WebLink Wireless, Inc. (filed August 3, 2000) (“Opposition”).

rigidly to its decision in the *Second R&O* to “license the remaining spectrum, including the response channels, based on [Major Trading Areas].”<sup>3</sup> WebLink mistakenly claims that the use of Major Trading Areas (“MTAs”) will most effectively promote competition and viability among narrowband PCS carriers, without creating any corresponding coordination or efficiency concerns. Moreover, WebLink believes that its reliance upon the Commission’s decision to license narrowband PCS spectrum on an MTA basis somehow justifies the Commission’s adherence to the continued use of MTAs. As discussed below, WebLink’s assertions are inconsistent with current market realities within the paging and messaging industry.

As PCIA has explained,<sup>4</sup> MTA-based licenses fail to satisfy the needs and interests of both consumers and the messaging industry; accordingly, adherence to a decision to use MTA-based areas would be contrary to the public interest. PCIA instead urges the Commission to license the majority of the remaining spectrum using nationwide geographic areas, which will accommodate both current consumer and industry demands. In order to optimize flexibility for all potential market incumbents and entrants, however, PCIA encourages the Commission to provide for some

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<sup>3</sup> Amendment of the Commission’s Rules to Establish New Personal Communications Services, Narrowband PCS, GEN Docket No. 90-314, ET Docket No. 92-100; Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS, PP Docket No. 93-253, *Second Report and Order and Second Further Notice of Proposed Rule Making*, 65 FR 35875, ¶ 10 (rel. May 18, 2000) (“*Second R&O and Second FNPRM*”).

<sup>4</sup> In the Matter of Amendment of the Commission’s Rules to Establish New Personal Communications Services, Narrowband PCS, GEN Docket No. 90-314, ET Docket No. 92-100; Implementation of Section 309(j) of the Communications Act - Competitive Bidding, Narrowband PCS, PP Docket No. 93-253, Petition for Reconsideration of the Personal Communications Industry Association (filed July 6, 2000) (“Petition for Reconsideration”); *see also* Comments of the Personal Communications Industry Association (filed July 19, 2000) (“PCIA Comments”) and Reply Comments of the Personal Communications Industry Association (filed August 3, 2000) (“PCIA Reply Comments”).

licenses based upon regional and MTA service areas.<sup>5</sup> In this way, the business plans of all industry players can be facilitated and, as a result, consumers can enjoy optimal service.

**I. NATIONWIDE AUTHORIZATIONS WILL MAXIMIZE COMPETITION IN THE NARROWBAND PCS INDUSTRY AND OPTIMIZE USE OF AVAILABLE SPECTRUM.**

First, as PCIA has explained, nationwide licenses are necessary for members of the messaging industry to compete with other wireless carriers, who increasingly provide nationwide services. Narrowband PCS carriers must compete for customers with broadband wireless players, all of whom offer nationwide service.<sup>6</sup> Artificially constraining the geographic scope of narrowband PCS providers' coverage areas, by licensing remaining spectrum on an exclusively or predominantly MTA-based plan, will impose a considerable competitive disadvantage upon the messaging industry.

To this end, PCIA strongly disagrees with WebLink's claim that MTA-based licenses alone will promote "viable, competitive [narrowband PCS] businesses."<sup>7</sup> WebLink cites the *Second RO&O* for support of this claim; however, the Commission's conclusion in the *Second RO&O* that MTA-based licenses are "large enough to support wide-area service and provide for

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<sup>5</sup> PCIA has proposed a consensus spectrum band plan, developed after lengthy deliberation with members of the messaging industry, providing channelization of the remaining narrowband PCS spectrum. The consensus band plan balances the interests of current members of the industry as well as new entrants and, through predominantly nationwide but also regional and MTA licenses, seeks to accommodate a variety of needs. *See* PCIA Comments and PCIA Reply Comments.

<sup>6</sup> *See* Implementation of Section 6002(b) of the Omnibus Reconciliation Act of 1993; Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, *Fourth Report*, 14 FCC Rcd 10145, 10185-87 (1999) (noting increasing competition between narrowband PCS licensees and broadband PCS and Specialized Mobile Radio licensees, among others).

<sup>7</sup> Opposition at 4.

economies of scale” is based upon the counsel of comments submitted by industry members over three years ago.<sup>8</sup> As the Commission is well aware, the passing of three years is sufficient time for technology in the telecommunications industry, as well as concomitant consumer needs, to change dramatically. Indeed, WebLink notes that it used to be called PageMart Wireless, Inc., but changed its name to “reflect a strategic shift in the focus of its offerings from traditional paging services to more advanced, innovative services.”<sup>9</sup> Just as WebLink has changed to accommodate innovation within the messaging industry, so should the Commission’s licensing scheme.

WebLink goes on to suggest that PCIA “emphasize[s] . . . large mergers and acquisitions,” and mistakenly infers that “PCIA is really concerned about . . . whether a viable, competitive large business can be maintained using MTA licenses.”<sup>10</sup> By alluding to recent consolidation within the telecommunications industry, PCIA provides concrete, real-world evidence of the kinds of competitors that face narrowband PCS carriers, both large and small alike. To remain in business, all carriers—regardless of their business plans or their intent to grow into a large entity or remain a small, regional player—must compete with wireless operators who can provide nationwide, seamless service. Licensing of spectrum on an MTA basis—or even on a predominantly MTA-basis—reflects outdated market needs. In order to maintain competitiveness with other wireless carriers, PCIA merely requests that the Commission provide members of the paging industry with the tools to remain competitive through the issuance of nationwide licenses.

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<sup>8</sup> *Second RO&O* at ¶ 10 (referencing comments submitted in 1997).

<sup>9</sup> *Opposition* at 1.

<sup>10</sup> *Id.* at 5.

Second, nationwide licensing will ensure healthy competition in the forthcoming narrowband PCS auction. PCIA's members are representative of the entire messaging industry, and include market players of all sizes. In formulating the consensus band plan, which was submitted in PCIA's comments in this proceeding, PCIA discussed the range of geographic area licensing options with industry members. The overwhelming consensus among industry members of all sizes was in favor of nationwide licenses. Despite WebLink's assertion that carriers may aggregate MTAs in order to form larger service areas,<sup>11</sup> the fact remains that aggregation introduces transaction costs and uncertainty into the competitive bidding process. Requiring carriers to go through the process of piecing together numerous MTAs to form a nationwide license is unnecessary when, from the outset, nationwide licenses are clearly what is desired by auction participants.

Finally, nationwide licenses will greatly facilitate the satisfaction of interference coordination requirements and lead to more efficient spectrum use. WebLink states that "coordination issues . . . are no worse for MTA-based licensing than they are for licensing based on larger areas."<sup>12</sup> Initially, WebLink's claim that MTA licensees have for many years been required to coordinate with licensees in adjacent areas is incorrect.<sup>13</sup> Narrowband PCS licenses have only been issued on a nationwide and regional basis.<sup>14</sup> Moreover, the only operating

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<sup>11</sup> *Id.* at 8.

<sup>12</sup> *Id.* at 7.

<sup>13</sup> *Id.* at 8.

<sup>14</sup> The Commission's first narrowband PCS auction (Auction No. 1) offered eleven nationwide licenses (including one license awarded by pioneer's preference). *See* Public Notice, "Announcing the High Bidders in the Auction of Ten Nationwide Narrowband PCS Licenses; Winning Bids Total \$617,006,674," WL 94-004 (rel. Aug. 2, 1994). The second narrowband

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regional narrowband PCS licensees have aggregated their regional license holdings (as has WebLink) into a nationwide footprint, mitigating interference coordination problems. Thus, it is difficult to understand how WebLink can claim that there has been any amount of adjacent area coordination that has occurred in the narrowband PCS industry.

Any discussion about interference that compares, as WebLink has, the one-way industry to the narrowband PCS industry would also be inappropriate. Narrowband PCS systems utilize two-way systems, with low power mobile transmitters operating in conjunction with high power base stations. The dynamics and interference issues surrounding narrowband PCS facilities are therefore much different than a traditional one-way paging network that consists only of high powered base station transmissions.

In contrast, nationwide authorizations necessarily implicate fewer adjacent service area co-channel licensee obligations, because there are simply fewer market boundaries that require coordination. Moreover, with fewer adjacent service area licensees, spectral efficiency can also be optimized. Without co-channel, adjacent service area licensees, narrowband PCS licensees would be able to simply protect adjacent channel licensees through compliance with the Commission's emission mask limits. Narrowband PCS licenses would therefore not be required to set aside "guard band" spectrum to protect adjacent area, co-channel license holders, which in

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PCS auction (Auction No. 3) divided the United States geographically into five regional license areas; of these licenses, two-thirds of the available licenses were then combined by the auction winners to form nationwide licenses. Pagemart II, Inc. (now WebLink Wireless), PCS Development Corporation (now CONXUS), MobileMedia PCS, Inc. and Advanced Wireless Messaging, Inc. (now TSR Wireless) each won licenses in all five regions, creating nationwide licenses. *See* Public Notice, "Announcing the High Bidders in the Auction of 30 Regional Narrowband (PCS) Licenses; Winning Bids Total \$490,901,787" WL 94-027 (rel. Nov. 9, 1994).

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turn will allow more usable spectrum for their communications needs. PCIA believes that nationwide licenses will help ensure the most efficient use of finite narrowband PCS spectrum, which is already limited in capacity in comparison to broadband providers.

**II. WEBLINK’S RELIANCE UPON THE COMMISSION’S PREVIOUS DECISION TO LICENSE NARROWBAND SPECTRUM ON AN MTA BASIS IS UNFOUNDED.**

WebLink attempts to support its argument in favor of MTA-based licensing on the grounds that it has “formulated and executed its business plans based upon [the] reasonable expectation” that the Commission would license spectrum using smaller areas.<sup>15</sup> As a result of its reliance, WebLink states that it now has discrete spectrum needs in order to complete its network.<sup>16</sup> The establishment of a licensing scheme that optimizes implementation of WebLink’s business plans, however, is not among the FCC’s mandates. First, the logical inference from WebLink’s statement is that bidding for MTA-based licenses will be uneven—with many competitors shopping for particular MTAs in order to fill coverage gaps while leaving other MTAs without any bidders (and, as a result, any service). The FCC is under no obligation to accommodate this type of scheme, which will cause a lack of service to the public in certain geographic areas. Such a result is clearly not in the public interest and is detrimental to the

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<sup>15</sup> Opposition at 10.

<sup>16</sup> *Id.* at 11.

Commission's goal of fostering communications service to underserved and rural areas of the country.<sup>17</sup>

Second, the Commission has expressly disclaimed any representations or warranties in the bidding context and, accordingly, WebLink has no basis for its reliance.<sup>18</sup> Under the directives of the Communications Act of 1996, the Commission is obligated to serve the public interest. By providing auction participants with nationwide licenses, the Commission can ensure healthy competition in the auction process and the subsequent provision of paging and messaging services across the entire United States, not simply in the most desirable regions.

### **III. CONCLUSION.**

For the foregoing reasons, PCIA disagrees with WebLink's opposition and encourages the Commission to reconsider its decision to license narrowband PCS spectrum on an MTA basis.

PCIA does support licensing of some spectrum based upon regional or MTA areas to ensure

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<sup>17</sup> See Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, *Twelfth Report and Order, Memorandum Opinion and Order, and Second Further Notice of Proposed Rulemaking*, FCC 00-208 at ¶ 2 (rel. June 30, 2000) (Noting that “[t]he 1996 Act provides that ‘[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high[-]cost areas, should have access to telecommunications and information services,’” and seeking to identify “impediments to increased telecommunications deployment and subscribership in unserved and underserved regions of our Nation, including tribal lands and insular areas, and proposed particular changes to our universal service rules to overcome these impediments.”) (internal citation omitted).

<sup>18</sup> See, e.g., Public Notice, “Auction of Licenses For 800 MHz Specialized Mobile Radio (SMR) Service in the General Category Band (851-854 MHz) and Upper Band (861-865 MHz),” DA 00-1100 (rel. May 18, 2000) (“The FCC makes no representations or warranties about the use of this spectrum for particular services. Applicants should be aware that [*sic*] an FCC auction represents an opportunity to become an FCC licensee in this service, subject to certain conditions and regulations. An FCC auction does not constitute an endorsement by the FCC of any particular services, technologies or products, not [*sic*] does an FCC license constitute a guarantee of business success.”)

flexibility and the availability of licenses to meet all carriers' needs. However, PCIA urges the Commission to license the majority of the remaining spectrum on a nationwide basis. Adoption of PCIA's proposed consensus band plan, which provides for a majority of nationwide licenses as well as some regional and MTA licenses, will facilitate competition in both the forthcoming narrowband PCS auction as well as in the marketplace after licenses are granted.<sup>19</sup> The availability of larger spectrum areas will accommodate the evolving business needs of members of

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<sup>19</sup> WebLink's allegation that PCIA has improperly "supplemented" its petition for reconsideration with its comments in this proceeding is unfounded. Opposition at 12-13. PCIA's proposed band plan was submitted in direct response to the Commission's request for comments regarding channelization of the remaining spectrum. As a practical matter, it is impossible to extricate a discussion of geographic service areas from a discussion on spectrum block sizes. As the Commission has asked for comment on geographic areas in conjunction with channelization plans in virtually every other proceeding, PCIA's discussion of service areas was appropriate. Moreover, in seeking comment on whether to license the reserve spectrum, the Commission gave no indication that it would license this reserve spectrum on an MTA basis. Accordingly, PCIA's proposed band plan, with its discussion of service areas, was a rational and logical response to the Commission's request for comments and provided the Commission with needed and requested information.

the paging and messaging industry, while minimizing interference concerns and maximizing utilization of the already limited narrowband PCS spectrum.

Respectfully submitted,

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