

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 27 2001

OFFICE OF
MANAGING DIRECTOR

46-285

Laura Kathryn Pettinato, Vice President
Telecom Procurement
Vocall Communications Corporation
9 B. Fadem Road
Springfield, New Jersey 07081

Re: Petition for Waiver of FY 2001
Regulatory Fees
Fee Control No.: 00000RROG-01-052

Dear Ms. Pettinato:

This letter responds to your petition for waiver of the fiscal year ("FY") 2001 regulatory fees in the amount of \$6,904.67 submitted on behalf of Vocall Communications Corp.

You assert that the request for waiver of Vocall's FY 2001 common carrier regulatory fees is based on financial hardship, which is demonstrated by Vocall's Chapter 11 bankruptcy status. In support, you attach information showing that Vocall filed a petition under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court, District of New Jersey, on February 26, 2001.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. Evidence of bankruptcy or receivership is sufficient to establish financial hardship. See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). In light of Vocall's Chapter 11 bankruptcy filing, your petition for a waiver of the FY 2001 regulatory fees is granted.

If you have any questions concerning this letter, please contact the Revenue and Receivable Operation Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer



RECEIVED
FCC

H/DG

2001 SEP 24 P 3:10

September 21, 2001

ACCOUNT PROCESSING
GROUP-CPT/RPT/TMT

Office of the Commission Secretary
Attention: Managing Director
Federal Communications Commission
445 12th. Street, S.W., Room 1-A625
Washington, D.C. 20554

RE: VoCall Communications Corp. TIN # 13-3577025, FRN # 004-3680-49
Pettinato

Dear Managing Director:

Per my telephone conversation with Carla Conover, the Federal Communications Commission Counsel, on September 19, 2001, and in accordance with the Federal Communications Commission's Code of Federal Regulations, Title 47, Volume 1, Part 1, Subpart G, Section 1.1166, I hereby am petitioning for a waiver of VoCall Communications Corp.'s 2001 Common Carrier Regulatory Fees detailed on the FCC forms 159 and 159-W attached, due to financial hardship supported by our Chapter 11 Bankruptcy status (copy of Bankruptcy filing attached).

Accordingly, and in accordance with Bankruptcy procedures, any amounts due prior to our Chapter 11 Bankruptcy filing, which occurred on February 26, 2001, must be treated as "Pre Petition" debt. Accordingly, please be advised that we are prohibited at this time from paying "Pre Petition" liabilities and all "Pre Petition" creditors must file a "Proof of Claim" with the Bankruptcy Court.

Also, please return the copy of this waiver petition in the self addressed stamped envelope enclosed, date stamped when received by the Federal Communications Commission, for our records to ensure proof of deliver prior to the September 26, 2001 deadline to petition for a waiver.

Thank you in advance for your attention in this matter. Please feel free to contact me at 973-376-2565, X 234, if you require any additional information.

Sincerely,

Laura Kathryn Pettinato
Vice President, Telecom Procurement

9 B. Fadem Road, Springfield, NJ 07081
Tel: 973-376-2565, X 234 FAX: 973-376-6216

00000 KRUG - 01-0001

UNITED STATES BANKRUPTCY COURT
 District of New Jersey (Trenton)

A bankruptcy case concerning the debtor corporation listed below was originally filed under Chapter 7 on 9/19/00 and was converted to a case under Chapter 11 on 2/26/01.

You may be a creditor of the debtor. This notice lists important deadlines. You may want to consult an attorney to protect your rights. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below.

NOTE: The staff of the bankruptcy clerk's office cannot give legal advice.

See Reverse Side For Important Explanations.

Debtor (name(s) and address):
Vocall Communications Corp.
 284 Sheffield Street
 Mountainside, NJ 07092

Social Security Number(s)/Taxpayer ID(s):
 13-3577025 (Vocall Communications Corp.)

United States Bankruptcy Judge:
 Honorable Stephen A. Stripp

Attorney for Debtor (name and address):
 Robert C. Lopez
 Wolf, Block, Schorr & Solis-Cohen
 One Port Center - Suite 502
 Two Riverside Drive
 Camden, NJ 08103

Attorney for Debtor(s)
 Telephone number: (856) 225-1055

Date: 04/12/01 Time: 1:00 pm

Location: Room 129, 1st Floor, United States Courthouse, 402 E. State Street, Trenton, NJ 08608-1507

Proof of Claim must be received by the bankruptcy clerk's office by the following deadline:

For all creditors (except a governmental unit): 07/11/01

For a governmental unit: 180 days from date of order for relief. 11 U.S.C. § 502(b)(9)

The filing of the bankruptcy case automatically stays certain collection and other actions against the debtor and the debtor's property. If you attempt to collect a debt or take other action in violation of the Bankruptcy Code, you may be penalized.

Address of the Bankruptcy Clerk's Office:
 United States Bankruptcy Court
 District of New Jersey
 402 E. State Street
 Trenton, NJ 08608-1507

Clerk of the Bankruptcy Court:
 James J. Waldron

Business Hours:
 8:30 a.m. - 4:00 p.m., Monday - Friday (except holidays)

Date:
 03/15/01

READ INSTRUCTIONS CAREFULLY
BEFORE PROCEEDING

FEDERAL COMMUNICATIONS COMMISSION
REMITTANCE ADVICE

Approved by OMB
3060-0589
Page No 1 of 1

(1) LOCKBOX #
358835

SPECIAL USE

FCC USE ONLY

SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card, enter name exactly as it appears on your card)
VoCall Communications Corp.

(3) TOTAL AMOUNT PAID (U.S. Dollars and cents)
\$0.00

(4) STREET ADDRESS LINE NO. 1
9 B. Fadem Road

(5) STREET ADDRESS LINE NO. 2

(6) CITY
Springfield

(7) STATE
NJ

(8) ZIP CODE
07081

(9) DAYTIME TELEPHONE NUMBER (include area code)
973-376-2565, X 234

(10) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(11) PAYER (FRN)
004-3680-49

(12) PAYER (TIN)
13-3577025

IF PAYER NAME AND THE APPLICANT NAME ARE DIFFERENT, COMPLETE SECTION B
IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

(13) APPLICANT NAME

(14) STREET ADDRESS LINE NO. 1

(15) STREET ADDRESS LINE NO. 2

(16) CITY

(17) STATE

(18) ZIP CODE

(19) DAYTIME TELEPHONE NUMBER (include area code)

(20) COUNTRY CODE (if not in U.S.A.)

FCC REGISTRATION NUMBER (FRN) AND TAX IDENTIFICATION NUMBER (TIN) REQUIRED

(21) APPLICANT (FRN)

(22) APPLICANT (TIN)

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID
815154-2001

(24A) PAYMENT TYPE CODE
0172

(25A) QUANTITY
\$5,230,812.41

(26A) FEE DUE FOR (PTC)
0.00132

(27A) TOTAL FEE
\$6,904.67

FCC USE ONLY

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

FCC USE ONLY

(28B) FCC CODE 1

(29B) FCC CODE 2

SECTION D - CERTIFICATION

(30) CERTIFICATION STATEMENT

I, GARY FRANK, certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.

SIGNATURE

DATE 09-21-01

SECTION E - CREDIT CARD PAYMENT INFORMATION

(31) MASTERCARD

MASTERCARD/VISA ACCOUNT NUMBER:

EXPIRATION DATE:

VISA

I hereby authorize the FCC to charge my VISA or MASTERCARD for the service(s)/authorization herein described.

SIGNATURE

DATE

**FEDERAL COMMUNICATIONS COMMISSION
INTERSTATE TELEPHONE SERVICE PROVIDER WORKSHEET**

Payer Name: VoCall Communications Corp. 9. B. Fadem Road Springfield, NJ 07081	Filer 499 ID (Form 499-A Line 101): 815154-2001
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Form 159-W Regulatory Fee Worksheet (based on your Form 499-A filing)

Calendar 2000 revenue information (show amounts in whole dollars)		
1	Service provided by U.S. carriers that both originates and terminates in foreign points. Form 499-A Line 412 (e)	\$0.00
2	Interstate end-user revenues from all telecommunications services. Form 499-A Line 420 (d)	\$3,487,208.27
3	International end-user revenues from all telecommunications services except international-to-international. Form 499-A Line 420 (e)	\$1,743,604.14
4	Total interstate and international end-user revenues (Sum of lines 1, 2 and 3) Note: also enter this number on Block (28A)- "FCC Code 1".	\$5,230,812.41
5	End-user interstate mobile service monthly and activation charges. Form 499-A Line 409 (d)	\$0.00
6	End-user international mobile service monthly and activation charges. Form 499-A Line 409 (e)	\$0.00
7	End-user interstate mobile service message charges including roaming charges but excluding toll charges. Form 499-A Line 410 (d)	\$0.00
8	End-user international mobile service message charges including roaming charges but excluding toll charges. Form 499-A Line 410 (e)	\$0.00
9	End-user interstate satellite services. Form 499-A Line 416 (d)	\$0.00
10	End-user international satellite services. Form 499-A Line 416 (e)	\$0.00
11	Surcharges on mobile and satellite services identified as recovering universal service contributions and included in line 403 (d) or 403 (e) on your FCC Form 499-A. [Note: you may not include surcharges applied to local or toll services, nor any surcharges identified as intrastate surcharges.]	\$0.00
12	Interstate and international revenues from resellers that do not contribute to USF. Form 499-A Line 511 (b)	\$0.00
13	Total excluded end-user revenues. (Sum lines 5 through 12.) Note: also enter this number on Block (29A)- "FCC Code 2".	\$0.00
14	Total subject revenues. (Line 4 minus Line 13) Note: also enter this number on Block (25A)- "Quantity".	\$5,230.812.41
15	Interstate telephone service provider fee factor	.00132
16	2001 Regulatory Fee (Line 14 times Line 15)* Note: also enter this number on Block (27A)- "Total Fee"	\$6,904.67
* You are exempt from filing if the amount on line 16 is less than \$10. If you file, you MUST complete a Form 159. Please also include a copy of the FCC Form 159-W.		

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 28 2001

OFFICE OF
MANAGING DIRECTOR

David L. Hill
Audrey P. Rasmussen
Hall, Estill, Hardwick, Gable,
Golden & Nelson, P.C.
1120 20th Street, N.W.
Suite 700, North Building
Washington, D.C. 20036-3406

Re: Petitions for Waiver of Regulatory Fees
Fee Control No.: 00000RROG-01-044

Dear Counsel:

This letter is in response to your requests, submitted on behalf of WebLink Wireless, Inc., Debtor-in-Possession, PageMartII, Inc., Debtor-in-Possession, and PageMart PCS, Inc., Debtor-in-Possession, for waiver pursuant to Section 1.1166(a)(2) of the Commission's Rules, 47 C.F.R. § 1.1166(a)(2), of regulatory fees for various licenses providing paging services to the public using wireless telecommunications services. You also seek a waiver of the provisions of Section 1.1166(c) of the Commission's Rules, 47 C.F.R. § 1.1166(c), which would ordinarily require submission of the fees along with the request for waiver of the regulatory fees.

You state that WebLink Wireless, Inc., along with two of its wholly owned subsidiaries, PageMart II, Inc., and PageMart PCS, Inc., filed voluntary petitions for bankruptcy on May 23, 2001 under Chapter XI of the Bankruptcy Code and that the public interest would be served by not requiring PageMart to bear the burden of expending funds that would be better used to sustain operations and for the benefit of innocent creditors.

Section 1.1166 of the Commission's Rules, 47 C.F.R. § 1.1166, provides that regulatory fees may be waived upon a showing of good cause and a finding that the public interest will be served thereby. We find that WebLink's filing of a Chapter XI petition in bankruptcy court substantiates its claim of financial hardship and demonstrates good cause for waiver of its regulatory fees. See Implementation of Section 9 of the Communications Act, 10 FCC Rcd 12759, 12762 (1995) (evidence of bankruptcy or receivership sufficient to establish financial hardship for purposes of waiver of regulatory fees). Therefore, your requests for waiver of the provisions of Section 1.1166(c) and for waiver of regulatory fees are granted.

If you have any questions concerning this letter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Reger". The signature is fluid and cursive, with a large initial "M" and "R".

 Mark A. Reger
Chief Financial Officer

COPY
00000 KREG - 01 - 044

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

RECEIVED

SEP - 7 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

FILE NO.

WF9

_____)
In the Matter of)
)
WEBLINK WIRELESS, INC.,)
DEBTOR-IN-POSSESSION)
PAGEMART II, INC.)
DEBTOR-IN-POSSESSION)
PAGEMART PCS, INC.)
DEBTOR-IN-POSSESSION)
)
Petition for Waiver of §§1.1152 of the)
Commission's Rules in Connection With)
Annual Regulatory Fees)
_____)

To: Office of Managing Director

**PETITION FOR
WAIVER OF REGULATORY FEES PAYMENT**

WebLink Wireless, Inc., Debtor-in-Possession ("WebLink"), PageMart II, Inc., Debtor-in-Possession, and PageMart PCS, Inc., Debtor-in-Possession (together, "the Parties"), pursuant to Section 1.1166(a)(2) of the Commission's Rules and by their attorneys, hereby seek a waiver of Section 1.1152 of the Federal Communications Commission's ("Commission's") Rules which requires that WebLink pay annual regulatory fees for its two subsidiaries, PageMart II, Inc., Debtor-in-Possession, and PageMart PCS, Inc., Debtor-in-Possession (together, "PageMart"). The PageMart entities hold licenses in the wireless telecommunications services. As permitted by Section 1.1166(a)(2), the Parties do not include a regulatory fee payment with this Petition,

It is respectfully requested that the Commission waive the regulatory fee payment requirements due to the circumstances discussed below.

I. BACKGROUND

WebLink Wireless, Inc. filed voluntary petition forms along with its two referenced wholly owned subsidiaries^{1/} for bankruptcy in the United States Bankruptcy Court, the Northern District of Texas, Dallas Division, on May 23, 2001. See Exhibit 1. With these filings, the legal status of the Parties was converted to “debtors-in-possession.” The two subsidiaries currently hold radio licenses granted to them by the Commission in connection with WebLink’s provision of paging services to the public.

II. THE SECTION 1.1152 WAIVER IS IN THE PUBLIC INTEREST

The Parties request that they not be required to pay the regulatory fees that are associated with the provision of service over frequencies licensed to the PageMart subsidiaries.

Section 1.3 of the Rules provides that the Commission’s Rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. See Northeast Cellular Tel. Co. v. F.C.C., 897 F.2d 1164 (D.C. Cir. 1990). In addition, the United States Court of Appeals for the District of Columbia Circuit has stated that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. WAIT Radio v. F.C.C., 418

^{1/} See In re WebLink Wireless, Inc., Debtor, et al., Chapter 11 Case Nos. 01-34275-SAF-11, 01-34279-BJH-11; and 01-34277-HCA-11, Jointly Administered Under Case No. 01-34275-SAF-11, United States Bankruptcy Court, Northern District of Texas, Dallas Division.

F.2d 1153, 1158 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972). Waiver is thus appropriate if special circumstances warrant a deviation from the general rule and such deviation would better serve the public interest than would strict adherence to the general rule. Northeast Cellular, 897 F.2d at 1166. Under the present circumstances, grant of the waiver request is clearly in the public interest.

Further, Section 1.1166 of the Commission's Rules provides that regulatory fees may be "waived or deferred in specific instances...where good cause is shown and where waiver or deferral of the fee would promote the public interest." 47 C.F.R. §1.1166(a). Accordingly, the Parties request relief pursuant to this rule section.

In In re Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal year, 10 FCC Rcd 12759, 12762 (1995), the Commission stated that evidence of bankruptcy or receivership is sufficient to establish financial hardship for purposes of waiving of regulatory fees. Further, in calculating the regulatory fees, the Commission routinely makes provisions for waivers. See Report and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2001, MD Docket No. 01-76, released July 2, 2001. ("Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2001...")

On that same basis, in Memorandum Opinion and Order, In Mobile Media Corporation, et al., 14 FCC Rcd 8017, 8027 (1999), the Commission waived application fees pursuant to Section 1.1117 of its Rules associated with the reorganization of a

bankrupt paging carrier solely on the fact that its bankruptcy status served as “good cause” for waiver of filing fees. The Commission also held that “waiver of the fee will serve the public interest by enabling [the carrier] to preserve assets that will accrue to innocent creditors.” Supra. See also, In the Matter of Daniel R. Goodman, Receiver; Dr. Robert Chan, Petition for Waiver of Sections 90.633(c) and 1.1102 of the Commission’s Rules, Memorandum Opinion and Order, FCC 95-211 (rel. May 24, 1995).

In the present case, the Parties submit that their bankruptcy requires like treatment in the grant of this waiver request. See Melody Music, Inc. v. FCC, 345 F.2d, 730, 733 (D.C. Cir. 1965). As set forth above, the Parties have filed for Chapter 11 bankruptcy and have been awarded Debtor-in-Possession status. In the absence of a waiver, WebLink will be required to pay \$188,748.60. See Exhibit 2. This is another financial burden which, based on FCC precedent, should be avoided because of the bankruptcy. As stated above, grant of this waiver would conserve funds better used to sustain operations to existing subscribers and, as the Commission pointed out in Mobile Media, supra, this payment would direct monies from the innocent creditors whose claims are already compromised in the bankruptcy proceedings.

As further evidence of its bankruptcy policy, the Commission recently modified Section 1.1166 of the Commission’s Rules to delete the requirement that a carrier requesting a waiver of the regulatory fees under Section 1.1166 submit the regulatory fees nevertheless, along with the FCC Form 159 and the waiver petition. See Report and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2001, supra. In doing so, it appears that the Commission recognized that carriers like the Parties must avoid any expenditure of fee payments due to their financial

hardship/bankruptcy status and conserve their cash to operate their business, even during the time the waiver request is pending.

It is a fact that the Parties have filed for bankruptcy protection and that the Commission's Rules require that the referenced regulatory fees be filed on an annual basis. In Mobile Media, supra, the Commission has established that bankruptcy, by itself, is good cause to permit the waiver of regulatory and application fees. A bankruptcy filing per se establishes financial hardship, which justifies a grant of the waiver of Section 1.1152.

III. CONCLUSION

For all of the foregoing reasons, the Parties respectfully request, pursuant to Section 1.1166(a)(2), that the Commission grant this petition for waiver of the regulatory fee requirements of Section 1.1152 of the Commission's Rules, as discussed herein.

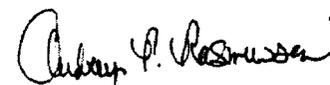
Respectfully submitted,

**WEBLINK WIRELESS, INC.,
DEBTOR-IN-POSSESSION**

**PAGEMART II, INC.,
DEBTOR-IN-POSSESSION**

**PAGEMART PCS, INC.,
DEBTOR-IN-POSSESSION**

By:



David L. Hill
Audrey P. Rasmussen
Their Attorneys

Hall, Estill, Hardwick, Gable, Golden & Nelson, P.C.
1120 20th Street, N.W.
Suite 700, North Building
Washington, D.C. 20036-3406
(202) 973-1210

Dated: September 7, 2001

37306v1/mwd

EXHIBIT 1

See Petition for Waiver of Application Fees, FCC File No. 0000465757, Exhibit 2, which contains the United States Bankruptcy Court documents, filed with the Federal Communications Commission's Office of the Secretary on May 29, 2001. This Petition for Waiver of Application Fees was also directed to the Office of Managing Director.

EXHIBIT 2

Subject: Text File from FCC FeeFiler
Date: Mon, 27 Aug 2001 14:10:31 -0400 (EDT)
From: <root@hengifoss.fcc.gov>
To: clare.harrison@weblinkwireless.com

0752283921	188748.60	WebLink Wireless, Inc.	2059				
2025551212							
WebLink Wireless, Inc. Aug 27 2001 2:04:19:626PM							
0752503366	0001662097	0113	909	45.45	KNNG381	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNF534	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNF642	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNF661	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNF662	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNF714	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG366	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG367	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG369	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG370	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG382	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG383	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG479	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG480	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNK483	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG840	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG841	PageMart	
II,							
Inc 75219							
0752503366	0001662097	0113	909	45.45	KNNG842	PageMart	
II,							

0004544805

0752283921 188748.60 WebLink Wireless, Inc. 2059 2025551
212 WebLink Wireless, Inc. Aug 27 2001 2:04:19:626PM□

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

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SEP - 7 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

_____)
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PAGEMART II, INC.)
DEBTOR-IN-POSSESSION)
PAGEMART PCS, INC.)
DEBTOR-IN-POSSESSION)
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FILE NO.

To: Office of Managing Director

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II. THE SECTION 1.1152 WAIVER IS IN THE PUBLIC INTEREST

The Parties request that they not be required to pay the regulatory fees that are associated with the provision of service over frequencies licensed to the PageMart subsidiaries.

Section 1.3 of the Rules provides that the Commission’s Rules may be waived for good cause shown. The Commission may exercise its discretion to waive a rule where the particular facts make strict compliance inconsistent with the public interest. See Northeast Cellular Tel. Co. v. F.C.C., 897 F.2d 1164 (D.C. Cir. 1990). In addition, the United States Court of Appeals for the District of Columbia Circuit has stated that the Commission may take into account considerations of hardship, equity, or more effective implementation of overall policy on an individual basis. WAIT Radio v. F.C.C., 418

^{1/} See In re WebLink Wireless, Inc., Debtor, et al., Chapter 11 Case Nos. 01-34275-SAF-11, 01-34279-BJH-11; and 01-34277-HCA-11, Jointly Administered Under Case No. 01-34275-SAF-11, United States Bankruptcy Court, Northern District of Texas, Dallas Division.

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In In re Implementation of Section 9 of the Communications Act Assessment and Collection of Regulatory Fees for the 1994 Fiscal year, 10 FCC Rcd 12759, 12762 (1995), the Commission stated that evidence of bankruptcy or receivership is sufficient to establish financial hardship for purposes of waiving of regulatory fees. Further, in calculating the regulatory fees, the Commission routinely makes provisions for waivers. See Report and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2001, MD Docket No. 01-76, released July 2, 2001. ("Where appropriate, we adjusted and/or rounded our final estimates to take into consideration the fact that certain variables that impact on the number of payment units cannot yet be estimated exactly. These include an unknown number of waivers and/or exemptions that may occur in FY 2001...")

On that same basis, in Memorandum Opinion and Order, In Mobile Media Corporation, et al., 14 FCC Rcd 8017, 8027 (1999), the Commission waived application fees pursuant to Section 1.1117 of its Rules associated with the reorganization of a

bankrupt paging carrier solely on the fact that its bankruptcy status served as “good cause” for waiver of filing fees. The Commission also held that “waiver of the fee will serve the public interest by enabling [the carrier] to preserve assets that will accrue to innocent creditors.” Supra. See also, In the Matter of Daniel R. Goodman, Receiver; Dr. Robert Chan, Petition for Waiver of Sections 90.633(c) and 1.1102 of the Commission’s Rules, Memorandum Opinion and Order, FCC 95-211 (rel. May 24, 1995).

In the present case, the Parties submit that their bankruptcy requires like treatment in the grant of this waiver request. See Melody Music, Inc. v. FCC, 345 F.2d, 730, 733 (D.C. Cir. 1965). As set forth above, the Parties have filed for Chapter 11 bankruptcy and have been awarded Debtor-in-Possession status. In the absence of a waiver, WebLink will be required to pay \$188,748.60. See Exhibit 2. This is another financial burden which, based on FCC precedent, should be avoided because of the bankruptcy. As stated above, grant of this waiver would conserve funds better used to sustain operations to existing subscribers and, as the Commission pointed out in Mobile Media, supra, this payment would direct monies from the innocent creditors whose claims are already compromised in the bankruptcy proceedings.

As further evidence of its bankruptcy policy, the Commission recently modified Section 1.1166 of the Commission’s Rules to delete the requirement that a carrier requesting a waiver of the regulatory fees under Section 1.1166 submit the regulatory fees nevertheless, along with the FCC Form 159 and the waiver petition. See Report and Order, Assessment and Collection of Regulatory Fees for Fiscal Year 2001, supra. In doing so, it appears that the Commission recognized that carriers like the Parties must avoid any expenditure of fee payments due to their financial

hardship/bankruptcy status and conserve their cash to operate their business, even during the time the waiver request is pending.

It is a fact that the Parties have filed for bankruptcy protection and that the Commission's Rules require that the referenced regulatory fees be filed on an annual basis. In Mobile Media, supra, the Commission has established that bankruptcy, by itself, is good cause to permit the waiver of regulatory and application fees. A bankruptcy filing per se establishes financial hardship, which justifies a grant of the waiver of Section 1.1152.

III. CONCLUSION

For all of the foregoing reasons, the Parties respectfully request, pursuant to Section 1.1166(a)(2), that the Commission grant this petition for waiver of the regulatory fee requirements of Section 1.1152 of the Commission's Rules, as discussed herein.

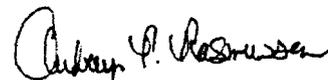
Respectfully submitted,

**WEBLINK WIRELESS, INC.,
DEBTOR-IN-POSSESSION**

**PAGEMART II, INC.,
DEBTOR-IN-POSSESSION**

**PAGEMART PCS, INC.,
DEBTOR-IN-POSSESSION**

By:



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Audrey P. Rasmussen
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(202) 973-1210

Dated: September 7, 2001

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EXHIBIT 1

See Petition for Waiver of Application Fees, FCC File No. 0000465757, Exhibit 2, which contains the United States Bankruptcy Court documents, filed with the Federal Communications Commission's Office of the Secretary on May 29, 2001. This Petition for Waiver of Application Fees was also directed to the Office of Managing Director.

EXHIBIT 2

Subject: Text File from FCC FeeFiler
Date: Mon, 27 Aug 2001 14:10:31 -0400 (EDT)
From: <root@hengifoss.fcc.gov>
To: clare.harrison@weblinkwireless.com

0752283921	188748.60	WebLink Wireless, Inc.	2059				
2025551212							
WebLink Wireless, Inc. Aug 27 2001 2:04:19:626PM							
0752503366	0001662097	0113	909	45.45	KNNG381	PageMart	
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212 WebLink Wireless, Inc. Aug 27 2001 2:04:19:626PM□