

MAY 29 2002

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

In the Matter of	)	EB Docket No. 02-21
)	
Peninsula Communications, Inc.)	
	)	File No. EB 01-IH-0609
Licensee of stations	)	FRN: 0001-5712-15
KGTL, Homer, Alaska;	)	Facility ID Nos. 52152
KXBA(FM), Nikiski, Alaska;	)	86717
KWVV-FM, Homer, Alaska; and	)	52145
KPEN-FM, Soldotna, Alaska.	)	52149
)	
Licensee of FM translator stations)	
K292ED, Kachemak City, Alaska;	)	52150
K285DU, Homer, Alaska;	)	52157
K285EG and K272DG, Seward, Alaska	)	52158 and 52160
)	
Former licensee of FM translator stations)	
K285EF, Kenai, Alaska;)	
K283AB, Kenai/Soldotna, Alaska;)	
K257DB, Anchor Point, Alaska;)	
K265CK, Kachemak City, Alaska;)	
K272CN, Homer, Alaska; and)	
K274AB and K285AA, Kodiak, Alaska)	

To: The Honorable Richard L. Sippel
 Chief Administrative Law Judge

**ENFORCEMENT BUREAU'S MOTION TO COMPEL
 ANSWERS TO INTERROGATORIES**

1. The Enforcement Bureau ("Bureau"), pursuant to section 1.323(c) of the Commission's rules, hereby requests that the Presiding Judge compel Peninsula Communications, Inc. ("PCI") to fully, promptly and properly answer the Bureau's interrogatories. In support whereof, the following is shown:

2. On April 16, 2002, the Bureau served its interrogatories on PCI. See Attachment A. On May 15, 2002, Bureau counsel received from PCI counsel, via fax, an

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unsigned document entitled “The Response of Peninsula Communications, Inc. to the Enforcement Bureau’s First Interrogatories” (“Response”). *See* Attachment B. The Response does not comply with the requirements of Section 1.323(b) of the Commission’s rules, 47 C.F.R. §1.232(b), because PCI’s answers are not made under oath or affirmation, and the Response is not signed by the person answering the interrogatories.¹ The Bureau has not received a PCI response that is compliant with, and timely under, Section 1.323(b). Consequently, each of the Bureau interrogatories at issue is restated below, followed by the Bureau’s discussion of PCI’s response, as contained in the Response, and the elements of a responsive and acceptable answer:²

3. As a preliminary matter, and in contravention of subsection o. of the Definitions and Instructions section of the Bureau’s interrogatories,³ PCI objected to providing information regarding PCI or its operations during any time prior to August 29, 2001, arguing that such information is irrelevant.

4. Section 1.323(a) of the Commission’s rules requires a party responding to interrogatories to “furnish such information as is available to the party.” 47 C.F.R. §1.323(a). Further, a party is entitled to discover any information that “appears reasonably calculated to

¹ Because the Response did not comply with the requirements of section 1.323(b) of the Commission’s rules, 47 C.F.R. §1.323(b), the Bureau considered it to be only an incomplete advance copy of PCI’s formal Response. The Bureau was unsuccessful in its effort to contact PCI counsel to resolve this matter.

² Section 1.323 of the Commission’s rules, 47 C.F.R. §1.323, requires that any motion “based on the assertion that the answer is evasive or incomplete . . . shall contain a statement as to the scope and detail of an answer which would be considered responsive and complete.”

³ Subsection o. stated: “Unless otherwise stated, the time frame referenced for all interrogatories is from January 1, 2000 to the present.”

lead to the discovery of admissible evidence.” 47 C.F.R. §1.311(b). Inasmuch as the hearing concerns the facts and circumstances surrounding PCI’s failure to cease operating certain translators after the Commission issued a *Notice of Apparent Liability and Order* (“NAL”)⁴ to PCI, the Bureau’s discovery is not limited to information regarding PCI and its operations after the NAL’s release.⁵ Comparison of PCI’s operations before August 29, 2001 to its operations after that date reasonably may provide the Bureau with evidence regarding operational changes made by PCI as a result of the Commission’s and federal courts’ orders. Such information is relevant to the designated issues and is subject to discovery. In addition to the general objection, PCI lodged other, more specific objections to various interrogatories, which we address below.

5. **Interrogatory No. 4: State whether PCI alone (as opposed to PCI as defined by definition a. above), its shareholders, and/or officers have held or possessed a license, permit or pending application requiring Federal Communications Commission approval other than those associated with the licenses at issue in this proceeding. If so:**
 - a. **Identify each applicant or licensee.**
 - b. **Identify the proceeding or license number.**
 - c. **Describe the disposition or outcome of each application. In lieu of description, you may attach the FCC document addressing the matter.**
 - d. **State the current status of each application and license.**
 - e. **State the current term of each license.**

PCI objected this interrogatory only on the grounds that the requested information is available from the Commission’s files. Nevertheless, PCI provided some of the information requested. However, the Bureau believes it is unclear whether the information provided fully responded

⁴ *Peninsula Communications, Inc.*, 16 FCC Rcd 16124 (2001).

⁵ *See Peninsula Communications, Inc.* (Order to Show Cause), 17 FCC Rcd 2838, 2842 (2001).

to the interrogatory. Contrary to PCI's assertions, all of information requested may not currently be available in the Commission's files. Additionally, the Bureau is not required under the Commission's rules⁶ to undertake an exhaustive and time-consuming search for responsive information when that information is easily accessible by PCI and is clearly discoverable by the Bureau. Accordingly, the Presiding Judge should compel PCI to fully respond to this interrogatory and to certify that all of the requested information has been provided to the Bureau.

6. **Interrogatory No. 7: Identify each of the shareholders, directors, employees, agents and officers of PCI since January 1, 2000 and, for each, identify the specific position or relationship held by that person, the dates such position or relationship was held and the duties and authority of that position or relationship.**

Subsections e., f., and g. of the Definitions and Instructions section of the Bureau's interrogatories define the term "identify" and require that PCI give the last known address and phone number of any person or entity it identifies.⁷ In this interrogatory the Bureau seeks the identification of all persons with knowledge of PCI's operations since January 1, 2000. The

⁶ See 47 C.F.R. §§1.311(b), 1.323(a).

⁷ As stated in the interrogatories:

"e. The term "identify" when used with reference to a person or persons, means to state his/her full name, last known business and residence addresses, and last known business and residence telephone numbers.

f. The term "identify" when used with reference to a document, means to state the date, author, addressee, type of document (*e.g.*, the types of documents referenced in definition c., above), a brief description of the subject matter, its present or last known location and its custodian. If any such document was, but no longer is in PCI's possession or control, state the disposition that was made of it, the reason for such disposition, and the date thereof. In lieu of identifying any such document, it may be made available to the Bureau for inspection and copying by so stating in the answer.

g. With regard to each answer, identify the person(s) and document(s) relied upon by PCI in

Bureau may seek to call the persons identified in response to this interrogatory as witnesses at deposition or hearing. Before we can do so, however, PCI must respond to the interrogatory with pertinent information regarding everyone who has been a shareholder, director, employee, agent or officer since January 1, 2000 and must provide the Bureau with sufficient information to locate them. PCI's response seemingly identifies by name only its current employees, shareholders and directors. Accordingly, the Presiding Judge should compel PCI to fully "identify," as that term is defined in the Bureau's interrogatories, each of its shareholders, directors, employees, agents and officers since January 1, 2000.

7. **Interrogatory No. 8: Identify PCI's broadcasting competitors in each of the markets to which PCI serves with the FM translators whose licenses the Federal Communications Commission ("FCC") terminated by its Memorandum Opinion and Order, FCC 01-159, released May 18, 2001 ("May 2001 MO&O").**

PCI contends that the information solicited in this interrogatory is irrelevant to the designated issues. The Bureau disagrees. PCI has admitted operating translators in defiance of a Commission order. The Bureau believes that the requested information will provide evidence regarding PCI's motivation for violating the Commission's orders. For example, increased and continued income from operating the translators, rather than the public policy considerations promoted by PCI, may be the motive for PCI's continued defiance of the Commission's orders. Such evidence is relevant in deciding whether PCI has the requisite character to be a Commission licensee, to wit, designated issue (b).

8. **Interrogatory No. 9: Identify each license and station previously or currently controlled or managed by PCI alone (as opposed to PCI as defined by definition a. above), its officers and/or shareholders, other than those licenses and stations listed in the caption of this matter.**

determining the substance of the answer."

PCI objects to providing the information requested in this interrogatory and contends that the information is available from the Commission's records. Contrary to PCI's assertions, all of information requested may not currently be available in the Commission's files. For example, it would be extremely difficult for the Bureau to determine whether PCI manages other stations. Additionally, the Bureau is not required under the Commission's rules⁸ to undertake an exhaustive and time-consuming search for responsive information when that information is easily accessible by PCI and is clearly discoverable by the Bureau. Accordingly, the Presiding Judge should compel PCI to fully respond to this interrogatory and to certify that all of the requested information has been provided to the Bureau.

9. **Interrogatory No. 10: Explain with particularity each and every reason why PCI has not turned off each of the FM translators whose licenses the FCC terminated by its May 2001 MO&O, and identify all documents relied upon in such explanation.**

PCI objects to this interrogatory only on the grounds that the information is otherwise available to the Bureau. The information the Bureau seeks should illuminate PCI's reasons, and its defenses, for its continued operation of the FM translators in violation of Commission orders. The information is relevant to the designated issues and is discoverable. The Bureau is entitled to a straightforward answer to this question and should not be required to extensively research the long list of sources listed by PCI, and to interpret the meaning of each, in order to obtain the requested information. Consequently, the Presiding Judge should compel PCI to fully, completely and clearly explain each of its reasons for its continued operations of the FM translators in violation of a Commission order.

⁸ See 47 C.F.R. §§1.311(b), 1.323(a).

10. **Interrogatory No. 12: List all sources of income for PCI alone (as opposed to PCI as defined by definition a. above) and the annual gross income from each.**

Interrogatory No. 13: For each of the licenses and stations listed in the caption of this case and for each other entity identified in PCI's responses to (9) and (11) of these interrogatories, describe with particularity the method of bookkeeping or accounting used to record its financial transactions and operations.

Interrogatory No. 14: For each of the licenses and stations listed in the caption of this case and for each other entity identified in PCI's responses to (9) and (11) of these interrogatories, identify the usual custodian of the financial records relating to that license, station and entity.

Interrogatory No. 15: For each of the licenses and stations listed in the caption of this case and for each other entity identified in PCI's responses to (9) and (11) of these interrogatories, identify the current custodian of the financial records relating to that license, station and entity.

Interrogatory No. 16: Identify each accountant used since January 1, 2000 by PCI and the licenses, stations and other entities identified in PCI's responses to interrogatories (9) and (11).

Interrogatory No. 17: Identify each bookkeeper used since December 31, 1991 by PCI and the licenses, stations and other entities identified in PCI's responses to interrogatories (9) and (11).

PCI objects to each of these interrogatories on the grounds that its financial information is irrelevant to the designated issues. The Bureau disagrees. Such information is reasonably calculated to lead to the discovery of admissible evidence, including witness testimony, regarding the profitability of PCI's operations of the unauthorized translators, the competitive advantages that PCI may derive from its operations of the unauthorized translators, PCI's motives for its continued operations of the unauthorized translators and PCI's intent to violate the Commission's rules and orders. The Bureau believes it likely that PCI continues to

operate the unlicensed FM translators because it is profitable to do so. PCI's argument that the financial information sought is "highly confidential and private" is a smokescreen designed to hide the real reason for its continued defiance of the Commission. In any event, if PCI believes that the requested information may constitute information not routinely available for public inspection under Section 0.457 of the Commission's rules, PCI may request that the information be withheld from public inspection pursuant to Section 0.459 of the Commission's rules. 47 C.F.R. §§ 0.457, 0.459. Consequently, the Presiding Judge should compel PCI to fully respond to each of these interrogatories.

11. **Interrogatory No. 18: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 285EF, Kenai, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.**

Interrogatory No. 19: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 283AB, Kenai/Soldotna, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

Interrogatory No. 20: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 257DB, Anchor Point, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

Interrogatory No. 21: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 265CK, Kachemak City, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

Interrogatory No. 22: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 272CN, Homer, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

Interrogatory No. 23: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to

operate Station 274AB, Kodiak, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

Interrogatory No. 24: Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 285AA, Kodiak, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

PCI's response to each of these interrogatories was: "See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI." PCI's responses are not responsive to the questions asked. As PCI knows, PCI did not receive from the Commission a letter or any other document that specifically authorized PCI to operate the stations at variance with the Commission's rules. Indeed, there is no current license issued by the Commission for any of the stations referenced in these interrogatories. If PCI claims to have a copy of an FCC license or any other document granting PCI current authority to operate these stations, PCI must fully "identify," as that term is defined in the Definitions and Instructions section of the Bureau's interrogatories, each of those documents. If PCI does not have any documents responsive to these interrogatories, it should be required to so state.

12. **Interrogatory No. 25: For each of the licenses and stations under its control or management, describe with particularity the terms under which PCI sells advertising, including, but not limited to, the types and frequency of the advertisements, the broadcast coverage afforded each advertisement and the rates or fees charged for each advertisement. If advertising is packaged, bundled or grouped for sale to advertisers, identify each package, bundle or group and describe its terms, including the frequency that the advertisements are aired, the locations or broadcast markets where the advertisements are broadcast, and fees charged for the package.**

PCI objects to this interrogatory as being beyond the scope of the designated issues. The Bureau disagrees for the reasons expressed in paragraph 10, above. Moreover, the Bureau

believes that the information sought will reveal that PCI's continued operation of the non-compliant (and now unlicensed) translators allowed it to charge higher advertising rates and/or tout their coverage as a marketing tool to attract advertisers. PCI's argument that this information is the "highly confidential and private business matters of PCI" is irrelevant and non-persuasive. As noted above, if PCI believes that the requested information may constitute information not routinely available for public inspection under Section 0.457 of the Commission's rules, PCI may also request that the information be withheld from public inspection pursuant to Section 0.459 of the Commission's rules. 47 C.F.R. §§ 0.457, 0.459. Consequently, the Presiding Judge should compel PCI to fully respond to each of these interrogatories.

13. **Interrogatory No. 26: For each tower used by PCI in its operation of the seven FM translators whose call signs the FCC deleted by its May 2001 MO&O (K285EF, K283AB, K257DB, K265CK, K272CN, K274AB, K285AA) and in the operations of the two primary stations, KPEN-FM and KWVV-FM :**
 - a. **identify the owner of the tower;**
 - b. **provide the address of the tower;**
 - c. **identify the PCI owned or controlled station(s) utilizing the tower;**
 - d. **identify each piece of equipment owned or controlled by PCI that is located at the tower site;**
 - e. **state the terms of the tower rental, sales or loan agreement controlling PCI's use of the tower.**

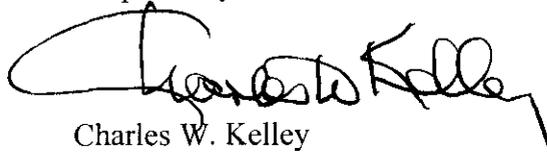
PCI did not object to this interrogatory but failed to provide the information requested in d. and e. of this interrogatory. Consequently, the Presiding Judge should compel PCI to answer subsections d and e of this interrogatory.

14. **Interrogatory No. 29: Identify each advertiser currently advertising on a station licensed to or managed by PCI and, for each, state the terms of agreement between PCI and the advertiser regarding PCI's broadcast of advertising on behalf of that advertiser.**

PCI objected to this interrogatory on the grounds that its advertising practices are beyond the scope of the designated issues and are confidential business matters. The Bureau disagrees for the reasons noted in paragraphs 10 and 12, above. Consequently, the Presiding Judge should compel PCI to fully respond to each of these interrogatories.

15. The Bureau believes the requested information is reasonably calculated to lead to the discovery of admissible evidence and is subject to discovery pursuant to Sections 1.323(a) and 1.311(b) of the Commission's rules. 47 C.F.R. §§1.323(a), 1.311(b). As demonstrated above, PCI's objections are without merit. Consequently, the Bureau requests that the Presiding Judge compel PCI to promptly provide the information specified herein.

Respectfully submitted,



Charles W. Kelley
Chief, Investigations and Hearings Division
Enforcement Bureau



James W. Shook
Attorney



Judy A. Lancaster
Attorney

Federal Communications Commission
445 12th Street, S.W., Room 3-B443
Washington, D.C. 20554
(202) 418-1420

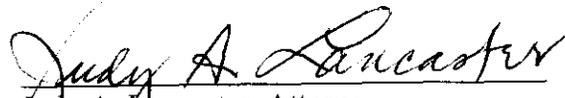
May 29, 2002

CERTIFICATE OF SERVICE

Judy A. Lancaster, an attorney for the Enforcement Bureau's Investigations and Hearings Division, certifies that he has on this 29th day of May, 2002, sent by the method indicated below, copies of the foregoing "Enforcement Bureau's Motion To Compel Answers to Interrogatories" to:

Jeffrey D. Southmayd, Esquire (by mail and facsimile)
Southmayd & Miller
1220 19th Street, NW
Suite 400
Washington, DC 20036

Administrative Law Judge Richard L. Sippel (by hand)
Federal Communications Commission
445 12th Street, S.W., Room 1-C864
Washington, D.C. 20054



Judy A. Lancaster, Attorney
Investigations and Hearings Division
Enforcement Bureau

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

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K272CN, Homer, Alaska: and)	
K274AB and K285AA, Kodiak, Alaska)	

To: Peninsula Communications, Inc.

**ENFORCEMENT BUREAU'S FIRST INTERROGATORIES
TO PENINSULA COMMUNICATIONS, INC.**

The Enforcement Bureau ("Bureau"), pursuant to sections 1.311 and 1.323 of the Commission's rules, submits the following interrogatories to Peninsula Communications, Inc. ("PCI"). These interrogatories are to be deemed continuing in character. Thus, PCI has an obligation to provide to the Bureau any additional responsive information that may come to its attention subsequent to answering these interrogatories.

ATTACHMENT A

Definitions and Instructions

The following definitions and instructions shall control in this pleading:

- a. Unless otherwise qualified, the term "PCI" means Peninsula Communications, Inc., its shareholders, directors, officers, employees, agents, consultants or other persons acting on its behalf.
- b. The term "supervisory personnel" means individuals who are or have been employed by PCI and contractors and other persons who have been retained to perform services on behalf of PCI and who have in-put into the policies, administration or management of PCI or entities controlled or managed by PCI.
- c. The term "document" means handwritten, printed, typed, memorialized, computerized or visually or aurally reproduced material of any kind, and means the original (or duplicate original) and any non-identical copies thereof (whether different from the original because of notes made on or attached to such copy or otherwise), drafts or amendments thereof, including, but not limited to, all writings, correspondence, memoranda (including memoranda of oral conversations), minutes, resolutions, agendas, notices, diaries, notes (including notes of meetings), papers, reports, brochures, bills, cancelled checks, orders, logs, vouchers, calendars, lists, records of telephone conversations, instructions, guidelines, affidavits, receipts, promissory notes, agreements, contracts or any other documentary materials of any nature whatsoever, including computer files, in the possession, custody, or control of PCI.

- d. The terms "relate to" and "relating to" mean constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, or in any way is pertinent to the specified subject, including documents concerning the preparation of the documents.
- e. The term "identify" when used with reference to a person or persons, means to state his/her full name, last known business and residence addresses, and last known business and residence telephone numbers.
- f. The term "identify" when used with reference to a document, means to state the date, author, addressee, type of document (*e.g.*, the types of documents referenced in definition c., above), a brief description of the subject matter, its present or last known location and its custodian. If any such document was, but no longer is in PCI's possession or control, state the disposition that was made of it, the reason for such disposition, and the date thereof. In lieu of identifying any such document, it may be made available to the Bureau for inspection and copying by so stating in the answer.
- g. With regard to each answer, identify the person(s) and document(s) relied upon by PCI in determining the substance of the answer.
- h. An evasive or incomplete answer is deemed to be a failure to answer.
- i. If in answering these interrogatories you encounter any ambiguities construing a question, instruction or definition, set forth the matter deemed ambiguous and the construction used in answering.

- j. Where the knowledge of information in PCI's possession is requested, such request includes knowledge in the possession of PCI's agent, representative, and attorney.
- k. If any information called for in any interrogatory is withheld on the ground that it is subject to the attorney-client privilege, work product doctrine, or to any other privilege or doctrine, state with respect to each such interrogatory that such information is being withheld, the alleged ground on which the information is being withheld and provide sufficient identification to enable Bureau to evaluate and contest the claim of privilege. If the alleged privilege is that of attorney-client: (1) identify the attorney; (2) give the nature of the relationship of the attorney at the time the document was prepared; (3) give the general nature of the factual information alleged to be attorney work product; (4) state whether such claim to work product immunity is in connection with or in anticipation of a legal proceeding; (5) identify such legal proceeding; and (6) identify each and every person to whom the subject matter was communicated.
- l. References to the singular also include the plural and *vice versa*.
- m. For each interrogatory or section response, indicate the number(s) of the interrogatory or section to which it is responsive.
- n. When an interrogatory is prefaced with "[F]or each" the response shall group the information requested by the category or unit described in the interrogatory.

- o. Unless otherwise stated, the time frame referenced for all interrogatories is from **January 1, 2000 to the present.**

Interrogatories

1. Identify each and every person whom you intend to use as a witness at the hearing.
2. Identify each and every document you intend to use at the hearing of this matter.
Copies of those documents may be attached in lieu of identification.
3. State whether PCI alone (as opposed to PCI as defined by definition a. above), any of its shareholders, officers and/or any witness identified in Interrogatory 1., has, since April 16, 1992, been convicted of any crime or offense whatsoever or plead *nolo contendere* or had probation without judgement imposed. If yes, identify each such person or entity and, for each:
 - a. State the imposition date of such conviction, plea or probation.
 - b. Identify the proceeding by court and docket number.
 - c. Identify the charging document.
 - d. Describe the sentence imposed or adverse action taken. In lieu of a description, you may identify and tender the sentencing document.
4. State whether PCI alone (as opposed to PCI as defined by definition a. above), its shareholders, and/or officers have held or possessed a license, permit or pending application requiring Federal Communications Commission approval other than those associated with the licenses at issue in this proceeding. If so:
 - a. Identify each applicant or licensee.

- b. Identify the proceeding or license number.
 - c. Describe the disposition or outcome of each application. In lieu of description, you may attach the FCC document addressing the matter.
 - d. State the current status of each application and license.
 - e. State the current term of each license.
5. State whether PCI alone (as opposed to PCI as defined by definition a. above), its officers and/or shareholders have had a license suspended or revoked by a local, state or federal regulatory agency or been subject to any disciplinary action other than such actions associated with this proceeding. If yes, provide a written explanation of the circumstances, including the name of the disciplining authority, the date(s) of the actions and the disposition.
6. State whether PCI alone (as opposed to PCI as defined by definition a. above), its officers and/or shareholders have been found out of compliance with local, state or federal regulatory requirements imposed by a local, state or federal regulatory agency other than any such finding associated with this proceeding. If yes, provide copies of the findings of non-compliance including, if applicable, reports of non-compliance or any final disposition or conclusion reached by the applicable government authority.
7. Identify each of the shareholders, directors, employees, agents and officers of PCI since January 1, 2000 and, for each, identify the specific position or relationship

held by that person, the dates such position or relationship was held and the duties and authority of that position or relationship.

8. Identify PCI's broadcasting competitors in each of the markets to which PCI serves with the FM translators whose licenses the Federal Communications Commission ("FCC") terminated by its Memorandum Opinion and Order, FCC 01-159, released May 18, 2001 ("May 2001 MO&O").
9. Identify each license and station previously or currently controlled or managed by PCI alone (as opposed to PCI as defined by definition a. above), its officers and/or shareholders, other than those licenses and stations listed in the caption of this matter.
10. Explain with particularity each and every reason why PCI has not turned off each of the FM translators whose licenses the FCC terminated by its May 2001 MO&O, and identify all documents relied upon in such explanation.
11. Identify each business entity owned, controlled or managed by PCI alone (as opposed to PCI as defined by definition a. above), and, for each, state its relationship to PCI.
12. List all sources of income for PCI alone (as opposed to PCI as defined by definition a. above) and the annual gross income from each.
13. For each of the licenses and stations listed in the caption of this case and for each other entity identified in PCI's responses to (9) and (11) of these interrogatories.

describe with particularity the method of bookkeeping or accounting used to record its financial transactions and operations.

14. For each of the licenses and stations listed in the caption of this case and for each other entity identified in PCI's responses to (9) and (11) of these interrogatories, identify the usual custodian of the financial records relating to that license, station and entity.
15. For each of the licenses and stations listed in the caption of this case and for each other entity identified in PCI's responses to (9) and (11) of these interrogatories, identify the current custodian of the financial records relating to that license, station and entity.
16. Identify each accountant used since January 1, 2000 by PCI and the licenses, stations and other entities identified in PCI's responses to interrogatories (9) and (11).
17. Identify each bookkeeper used since December 31, 1991 by PCI and the licenses, stations and other entities identified in PCI's responses to interrogatories (9) and (11).
18. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 285EF, Kenai, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.
19. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 283AB, Kenai/Soldotna.

Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.

20. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 257DB, Anchor Point, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.
21. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 265CK, Kachemak City, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.
22. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 272CN, Homer, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.
23. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 274AB, Kodiak, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.
24. Identify with particularity each FCC document specifically issued to and received by PCI that grants PCI authority to operate Station 285AA, Kodiak, Alaska at variance with the current version of section 74.1232(d) of the Commission's rules.
25. For each of the licenses and stations under its control or management, describe with particularity the terms under which PCI sells advertising, including, but not

limited to, the types and frequency of the advertisements, the broadcast coverage afforded each advertisement and the rates or fees charged for each advertisement. If advertising is packaged, bundled or grouped for sale to advertisers, identify each package, bundle or group and describe its terms, including the frequency that the advertisements are aired, the locations or broadcast markets where the advertisements are broadcast, and fees charged for the package.

26. For each tower used by PCI in its operation of the seven FM translators whose call signs the FCC deleted by its May 2001 MO&O (K285EF, K283AB, K257DB, K265CK, K272CN, K274AB, K285AA) and in the operations of the two primary stations, KPEN-FM and KWVV-FM :

- a. identify the owner of the tower;
- b. provide the address of the tower;
- c. identify the PCI owned or controlled station(s) utilizing the tower;
- d. identify each piece of equipment owned or controlled by PCI that is located at the tower site;
- e. state the terms of the tower rental, sales or loan agreement controlling PCI's use of the tower.

27. For each tower used by PCI in its operation of the seven FM translators whose call signs the FCC deleted by its May 2001 MO&O (K285EF, K283AB, K257DB, K265CK, K272CN, K274AB, K285AA) and in the operations of the two primary

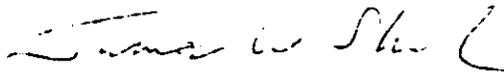
stations. KPEN-FM and KWVV-FM, identify each company that is compensated or paid by PCI for goods or services provided to PCI at each tower site.

28. For each tower used by PCI in its operation of the seven FM translators whose call signs the FCC deleted by its May 2001 MO&O (K285EF, K283AB, K257DB, K265CK, K272CN, K274AB, K285AA) and in the operations of the two primary stations, KPEN-FM and KWVV-FM, identify each person or organization that installs, removes or maintains the equipment used by PCI at the tower site and describe the duties of each regarding such equipment.
29. Identify each advertiser currently advertising on a station licensed to or managed by PCI and, for each, state the terms of agreement between PCI and the advertiser regarding PCI's broadcast of advertising on behalf of that advertiser.

Respectfully submitted,



Charles W. Kelley
Chief, Investigations and Hearings Division



James W. Shook
Attorney



Judy A. Lancaster
Attorney

Federal Communications Commission
445 12th Street, S.W., Room 3B-443
Washington, D.C. 20554
(202) 418-1420

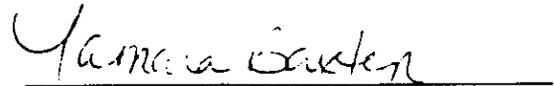
April 16, 2002

CERTIFICATE OF SERVICE

Tamara Baxter, legal technician in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has on this 16th day of April, 2002, sent by first class United States mail, facsimile or by hand, copies of the foregoing "Enforcement Bureau's First Interrogatories to Peninsula Communications, Inc." to:

Mr. Jeff Southmayd (by mail and facsimile)
Southmayd & Miller
1220 19th Street, NW
Suite 400
Washington, DC 20036

Administrative Law Judge Richard L. Sippel (by hand)
Federal Communications Commission
445 12th Street, S.W., Room 1-C864
Washington, D.C. 20054



Tamara Baxter, Legal Technician



SOUTHMAYD & MILLER

1220 19TH STREET, N.W.
SUITE 600
WASHINGTON, D.C. 20036
(202) 331-4100
(202) 331-4123 Telecopier

Writer E-Mail:
jdsouthmayd@sm.com

FAX MEMORANDUM

TO: Administrative Law Judge Richard L. Sippel
Mr. James Shook

AT: Federal Communications Commission

FAX #: (202) 418-0195
(202) 418-2080

FROM: Jeff Southmayd

DATE: May 15, 2002

OF PAGES TO FOLLOW: 21

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE. THANK YOU.

ATTACHMENT B

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of	)	EB Docket No. 02-21
)	
Peninsula Communications, Inc.)	
	)	File No. EB 01-IH-0609
Licensee of stations	)	FRN: 0001-5712-15
KGTL, Homer, Alaska;	)	Facility ID Nos. 52152
KXBA(FM), Nikiski, Alaska;	)	86717
KWVV-FM, Homer, Alaska; and	)	52145
KPEN-FM, Soldotna, Alaska.	)	52149
)	
Licensee of FM translator stations)	
K292ED, Kachemak City, Alaska;	)	52150
K285DU, Homer, Alaska;	)	52157
K285EG and K272DG, Seward, Alaska	)	52158 and 52160
)	
Licensee of FM translator stations)	
K285EF, Kenai, Alaska;	)	52161
K283AB, Kenai/Soldotna, Alaska;	)	52155
K257DB, Anchor Point, Alaska;	)	52162
K265CK, Kachemak City, Alaska;	)	52154
K272CN, Homer, Alaska; and	)	52148
K274AB and K285AA, Kodiak, Alaska	)	52151 and 52164

To: The Enforcement Bureau

The Response of Peninsula Communications, Inc. to the Enforcement Bureau's First Interrogatories.

Peninsula Communications, Inc. ("PCI"), by its undersigned President, hereby submits these responses to the "Enforcement Bureau's First Interrogatories To Peninsula Communications, Inc." The response numbers correspond to the interrogatory numbers.

I. PRELIMINARY MATTERS.

As a preliminary matter, PCI objects to the "time frame" referenced in "Definitions and Instructions", paragraph "O." That paragraph proposes the time frame from January 2, 2000 to the present pursuant to which the interrogatories should be answered by PCI. However, the designated issue in this proceeding limits the time frame upon which PCI will be judged to the a discrete, specific period of time "... subsequent to August 29, 2001..." See, Order To Show Cause, FCC 02-32, released February 6, 2002, at paragraph 6 (a). Therefore, the Bureau's request for information concerning PCI and its operations before the commencement date of the inquiry in this proceeding is irrelevant to the matters at issue herein, and is merely an attempt to unduly expand the scope of the inquiry in its discovery to matters and a time period that are not relevant in the instant proceeding.

II. ANSWERS TO INTERROGATORIES.

1. Unknown at the present time, and subject to the completion of discovery and the submission of the witness list pursuant to the prehearing order of the Presiding Judge.
2. Unknown at the present time, and subject to the completion of discovery and the submission of the written direct case pursuant to the prehearing order of the Presiding Judge.
3. No.
4. PCI objects to this inquiry since the matters requested are a matter of public record, are within the actual knowledge of the Commission, and are available from the Commission's own records and files. However, other than the licenses at issue in this proceeding, PCI holds a license for a satellite uplink facility, E970280 at Homer, Alaska.

Mr. David Becker holds an amateur radio license KL7HSB and a general radiotelephone license PG-23-1349. PCI also holds auxiliary licenses for KR-7626, Homer, Alaska; WPQA-389, Homer, Alaska; WPQA-392, Homer, Alaska; and WNWW-629, Homer, Alaska.

5. No.

6. No.

7. Shareholders: (1) David F. Becker
(2) Eileen L. Becker
Directors: David F. Becker, President & Eileen L. Becker, Secretary/Treasurer
Employees: (3) Timothy White Operations Manager/Account Executive
(4) David Webb Production Manager
(5) Kelly Leavitt Announcer/Account Executive
(6) Heather Lewis Traffic/Accounts Receivables
(7) Tiaman Coval Sales Manager/Account Executive
(8) Gary Hondel Account Executive
(9) Karl Pulliam Sports Announcer/Basketball Contract Salesman
Agents: none
Officers: see Shareholders and Directors above

Duties and authority:

- (1) General Manager- Responsible for all aspects of station operation.
- (1) Chief Engineer- Responsible for all aspects of electronics and technical operations.
- (2) Sec./Treasurer- Responsible for various corporate duties.
- (3) Operations Mgr.- Responsible for all day to day station operations, including newscasts, public service announcements, guest interviews for public affairs programming, for KWVV-FM and KGTL(AM).
- (4) Production Mgr.- Responsible for all commercial spot copy and production for all clients.
- (1)(3)(4)(5)(7)(8) Announcer- Responsible for commercial production, news, PSA's weather, remote broadcasts, etc.
- (3)(5)(7)(8) Account Exec.- Responsible for selling commercial air time.
- (7) Sales Manager- Responsible for management of sales account executives. Additional duties include Operations Manager of KPEN-FM and KXBA(FM).
- (3)(4)(9) Sports Announcer.- Basketball play by play announcer (contract basis)
- (9) Contract Sales- Responsible for selling basketball games (contract)

8. PCI objects on the grounds of relevance since "...competition in each of the markets

to which PCI serves with the FM translators..." is not relevant to the designated issues in this proceeding. Moreover, PCI objects since the Bureau fails to define "broadcasting competitors" in its interrogatory definitions and PCI has no basis upon which to formulate an accurate answer.

9. See the answer to interrogatory #4.

10. PCI's reasons for continuing its operation of the FM translators, whose licenses the FCC has illegally ordered terminated by its May 2001 MO&O, are a matter of record with the Commission and the Bureau. They can be found in the Communications Act of 1934, as amended; the rules, regulations, policies, and decisions of the Commission; PCI's "Motion To Enlarge Issues" in this proceeding; PCI's September 28, 2001 "Petition For Reconsideration"; PCI's Petition For Reconsideration" filed on March 8, 2002 in response to the Commission's Forfeiture Order, FCC 02-31 (released February 6, 2002); PCI's "Notice of Appeal" filed June 15, 2001, in the United States Court of Appeals for the District of Columbia Circuit; PCI's "Motion To Govern Further Proceedings", filed on October 22, 2001, in the United States Court of Appeals for the District of Columbia Circuit; all submissions by PCI in Docket No. 01-1273 in the United States Court of Appeals for the District of Columbia Circuit; all licenses issued by the Commission for the operation of the subject FM translators and all underlying applications filed by PCI with the Commission in connection with those licenses; PCI's "Motion For Stay of Proceedings" and all pleadings filed in the United States District Court for the District of Alaska at Anchorage in Case No. A-01-207 CCI (JWS); the "Emergency Motion For Stay" filed by PCI in the United States Court of Appeals for the Ninth Circuit, Docket No. 01-35965, and all associated pleadings filed by PCI in connection with that proceeding. All of these documents are currently in the possession of the Commission.

11. None

12. PCI objects to this interrogatory. The designated issues in this proceeding

are:

- (a) To determine the facts and circumstances surrounding Peninsula Communications, Inc.'s operation of former FM translator stations 285EF, Kenai; K283AB, Kenai/Soldotna; K257DB, Anchor Point; K265CK, Kachemak City; K272CN, Homer; and K274AB and K285AA, Kodiak, all in Alaska, subsequent to August 29, 2001, contrary to the Commission's order in *Peninsula Communications, Inc.*, 16 FCC Rcd 11364 (2001), and related violation of Section 416(c) of the Act;
- (b) To determine, in light of the evidence adduced pursuant to issue (a), whether Peninsula Communications, Inc. has the requisite character qualifications to be a Commission licensee and thus whether its captioned broadcast and FM translator licenses, including any former licenses reinstated, should be revoked.

PCI's sources of income, annual gross income, and other financial records on its operations are irrelevant to the designated issues, are highly confidential and private business matters of PCI, and are matters beyond the scope of the issues and the areas of inquiry in this hearing proceeding. The Bureau is unduly attempting to widen the scope of this proceeding without good cause and is attempting to engage in a "fishing expedition" for highly confidential and private business information that is irrelevant to the matters at issue herein. Moreover, the requested information is not likely to adduce evidence that is relevant to the designated issues in this proceeding, or which is likely to be admissible as evidence in the proceeding.

13. See the answer to #12 above.

14. See the answer to #12 above.

15. See the answer to #12 above.

16. See the answer to #12 above.
17. See the answer to #12 above.
18. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
19. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
20. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
21. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
22. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
23. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
24. See the station licenses issued by the FCC and the underlying applications and amendments thereto filed by PCI.
25. Objection. PCI's advertising practices are beyond the scope of the issues designated in this proceeding and are confidential business matters between PCI and its advertisers. See also the response to #12 above.
26. Tower Locations:
 1. 66060 Diamond Ridge Road, Homer, Alaska 99603
 2. 37840 Kalifornsky Beach Road, Kenai, Alaska 99611
 3. Skyline Drive, ¼ mile west from intersection of East Hill Road & Skyline Drive, Homer, Alaska 99603

4. 4755 Homer Spit Road, Homer, Alaska 99603
5. Mile 3 ½ , Kenai Spur Road, Alascom Radio Relay Site #469, Soldotna, Alaska 99669
6. End of State Road, Pillar Mountain, Kodiak, Alaska 99615

Tower Owners, other than PCI:

- A. Aksala Electronics
1623 Mill Bay Road
Kodiak, Alaska 99615
- B. ATT Alascom
210 East Bluff Drive
Anchorage, Alaska 99501-1100

Station K285EF: Tower owner.....PCI
Address..... 2

Station K283AB: Tower owner..... B
Address..... 5
Terms: Lease ... 245.82/ month

Station K257DB: Tower owner.....PCI
Address..... 1

Station K265CK: Tower owner.....PCI
Address..... 4

Station K272CN: Tower owner.....PCI
Address..... 3

Station K274AB: Tower owner..... A
Address..... 6

Station K285AA: Tower owner..... A
Address..... 6
Terms for both above: Lease...\$339.20/ month

Station KWVV-FM: Tower owner...PCI
Address..... 1

Station KPHN-FM: Tower owner...PCI

Address..... 2

27. K283AB power usage is paid to Homer Electric Association, Homer, Alaska.

28. Mr. Dave Becker, President of PCI.

29. Objection. PCI's advertising practices are beyond the scope of the issues designated in this proceeding and are confidential business matters between PCI and its advertisers. See also the response to #12 above.

I, Dave Becker, President of Peninsula Communications, Inc. do hereby swear and affirm, under penalty of perjury, that the responses contained herein, except those of which official notice may be taken, are true and correct to the best of my personal knowledge and belief.

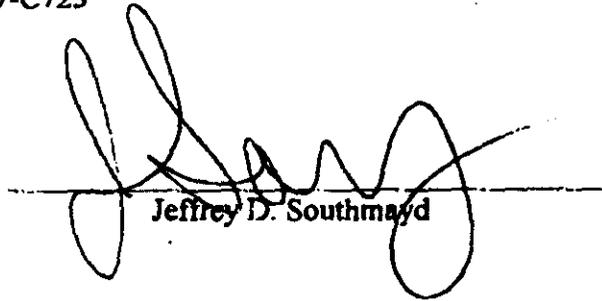
Date: May 15, 2002

CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing were sent by first class United States mail, postage pre-paid, and telecopier on this 15th day of May 2002, to the following:

Administrative Law Judge Richard L. Sippel
Federal Communications Commission
445 12th Street, S.W., Room 1-C749
Washington, D.C. 20554

Mr. James Shook
Investigations & Hearings Division
Enforcement Bureau
Federal Communications Commission
445 12th Street, S.W. Room 7-C723
Washington, D.C. 20554



Jeffrey D. Southmayd