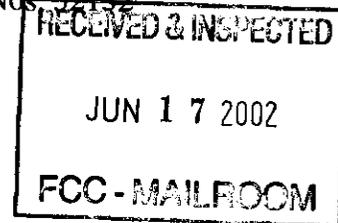


Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

FCC 02M-47  
 001193

In the Matter of	)	EB Docket No. 02-21
	)	
PENINSULA COMMUNICATIONS, INC.	)	File No. EB 01-IH-0609
	)	FRN: 0001-5712-15
Licensee of stations	)	
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	)	



**ORDER**

Issued: June 6, 2002

Released: June 10, 2002

On May 22, 2002, the Enforcement Bureau (“Bureau”) filed and served Enforcement Bureau’s Notice of Deposition pursuant to §1.315 of the Commission’s rules [47 C.F.R. §1.315] for the deposition in Homer, Alaska of David F. Becker. Mr. Becker is president of licensee Peninsula Communications, Inc. (“PCI”). The Bureau’s Notice set a date of the deposition for August 14, 2002, and indicated in the Notice that an exact location in Homer for the taking of the deposition would be designated later.

On June 3, 2002, PCI filed and served a Partial Opposition to the Enforcement Bureau’s Notice of Deposition Upon Oral Examination. PCI responds that it is willing to produce Mr. Becker for deposition but preferably in Washington, D.C. at either the Bureau’s office or at PCI counsel’s office. PCI asserts that Washington, D.C. would be more convenient to counsel for both parties who have their offices in Washington, D.C., and that there will be savings to the Government and to PCI in not having their counsel travel to Alaska.

On June 5, 2002, the Bureau filed Enforcement Bureau's Response to Partial Opposition of Peninsula Communications, Inc. to Enforcement Bureau's Notice of Deposition Upon Oral examination. The Bureau objects to PCI's Opposition because it was filed late under the rules. See 47 C.F.R. §1.315(b)(1) and (4) (opposition to notice to depose to be filed within 7 days of service). The Bureau argues that the due date for an opposition was May 29 and not June 3. While the Bureau may be technically correct, the rule also provides ample discretion for a presiding judge to consider and, if deemed necessary, initiate the terms of a protective order. See 47 C.F.R. §1.315(c).

Finally, the Bureau represents that it selected Homer, Alaska for Mr. Becker's deposition because the Bureau currently intends to depose several other persons who reside in Alaska. The Bureau states that it is preparing notices to depose such persons. Therefore, it would be premature to decide at this time where the Becker deposition should be taken.

Accordingly, IT IS ORDERED that a ruling on Partial Opposition to the Enforcement Bureau's Notice of Deposition Upon Oral Examination IS DEFERRED.<sup>1</sup>

IT IS FURTHER ORDERED that the Enforcement Bureau SHALL SERVE its proposed Notices to Depose Upon Oral Examination by **June 14, 2002**, and shall state reasons in an accompanying pleading why it is in the best interest of this case and the parties to take the noticed depositions in Alaska.

IT IS FURTHER ORDERED that PCI shall respond to the Bureau's arguments by **June 20, 2002**.

FEDERAL COMMUNICATIONS COMMISSION<sup>2</sup>



Richard L. Sippel  
Chief Administrative Law Judge

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<sup>1</sup> It appears from the pleadings that there was ongoing discussion about dates and places of depositions just prior to PCI filing an opposition. Counsel are encouraged to attempt to resolve these question of depositions before the next round of pleadings.

<sup>2</sup> Courtesy copies of this Order were faxed or e-mailed to Bureau counsel and to counsel for PCI on the date of issuance.