

DEC 16 2002

Before the
Federal Communications Commission
Washington, D.C. 20554

10/16/02 10:46:09 AM
Title: Enforcement

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: Chief Administrative Law Judge
Richard L. Sippel

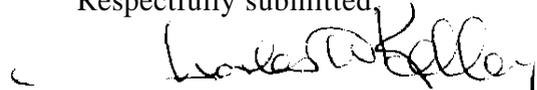
**ENFORCEMENT BUREAU'S MOTION TO REOPEN RECORD TO RECEIVE
STIPULATION CONCERNING ENFORCEMENT BUREAU EXHIBIT 23**

On October 18, 2002, the presiding administrative law judge ("ALJ") closed the record in this proceeding. *See* 02M-97, released October 18, 2002. During an Admissions Session held October 16, 2002, the AW decided not to receive Enforcement Bureau Exhibit ("EB Ex.") 23 into evidence as it contained information deemed confidential by Peninsula Communications, Inc. ("PCI"). Tr. 654-56. However, the ALJ left open the possibility of receiving a modified EB Ex. 23 should the parties resolve that confidentiality issue. *Id.* The parties have reached an agreement, and a stipulation

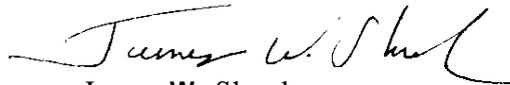
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regarding EB Ex. 23, signed by both parties. is attached hereto. The Bureau, however, reserves the right to request use of additional information from EB Ex. 23, if necessary, to rebut submissions or arguments by PCI. Accordingly, the Enforcement Bureau moves that the ALJ reopen the record in this proceeding and receive into evidence the facts described in the attached stipulation as EB Ex. **23A**

Respectfully submitted,



Charles W. Kelley
Chief, Investigations and Hearings Division



James W. Shook
Attorney



Judy Lancaster
Attorney

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

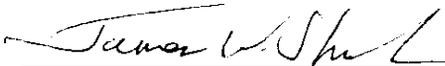
December 18, 2002

Certificate of Service

James W. Shook, an attorney in the Enforcement Bureau's Investigations and Hearings Division, certifies that he has on this 18th day of December, 2002, sent by facsimile, by first class United States mail, or delivered by hand, one copy of the foregoing "Enforcement Bureau's Motion to Reopen Record to Receive Stipulation Concerning Enforcement Bureau Exhibit 23" to each of the following:

Jeffrey D. Southmayd, Esquire (by facsimile and by first class mail)
Southmayd & Miller
1220 19th Street, N.W., Suite 400
Washington, D.C. 20036

Administrative Law Judge Richard L. Sippel (by hand)
Federal Communications Commission
44.512th Street, S.W., Room 1-C749
Washington, D.C. 20554



James W. Shook

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

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

To: Chief Administrative Law Judge
Richard L Sippel

STIPULATION RE ENFORCEMENT BUREAU EXHIBIT 23

The Enforcement Bureau and Peninsula Communications, Inc (“PCI”) agree that the following stipulated facts shall replace that which the Bureau had proffered as EB Ex. 23 and shall serve as such in its stead as EB Ex. 23A.

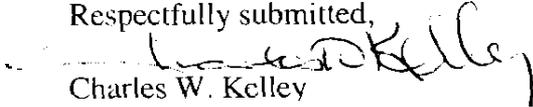
Stipulated facts:

1. PCI’s Income Statement for the years 1999, 2000 and 2001 reflect that approximately 40 percent of its total income from sales came from sales in

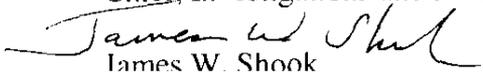
Anchorage

2. Much of the equipment PCI attempted to sell Coastal Communications, Inc. had been completely depreciated for tax purposes
3. While PCI's Kodiak translators were silent or rebroadcasting programming other than KWVV-FM and KPEN-FM, PCI potentially lost advertising revenues it could have otherwise received from sales of commercial time to businesses located in Kodiak

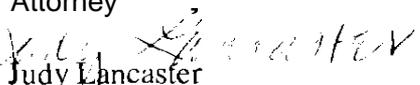
Respectfully submitted,


Charles W. Kelley

Chief, Investigations and Hearings Division


James W. Shook

Attorney


Judy Lancaster

Attorney

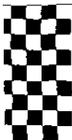
Federal Communications Commission
445 12th Street, S.W., Room 3-B443
Washington, D.C. 20554
(202) 418-1420

Peninsula Communications, Inc.

By: Jeffrey D. Southmayd

Southmayd & Miller
1220 19th Street, N.W., Suite 400
Washington, D.C. 20036
(202) 331-4100

December 17, 2002



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To: Chief Administrative Law Judge
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STIPULATION RE ENFORCEMENT BUREAU EXHIBIT 23

The Enforcement Bureau and Peninsula Communications, Inc. ("PCI") agree that
the following stipulated facts shall replace that which the Bureau had proffered as EB Ex.
23 and shall serve as such in its stead as EB Ex. 23A.

Stipulated facts:

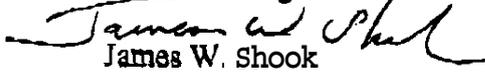
- 1. PCI's Income Statement for the years 1999, 2000 and 2001 reflect that
approximately 40 percent of its total income from sales came from sales in

Anchorage.

2. Much of the equipment PCI attempted to sell Coastal Communications, Inc. had been **completely** depreciated for tax purposes.
- 3 While PCI's Kodiak translators were silent or rebroadcasting programming other than KWVV-FM and KPEN-FM, PCI potentially lost advertising revenues it could have otherwise received from sales of commercial time to businesses located in Kodiak.

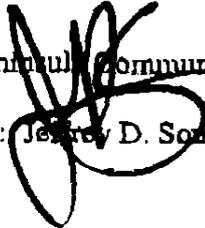
Respectfully submitted,

Charles W. Kelley
Chief, Investigations and Hearings Division


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