

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

FILED/ACCEPTED
FEB 19 2008
Federal Communications Commission
Office of the Secretary

In the Matter of)	EB Docket No. 07-147
)	
PENDLETON C. WAUGH, CHARLES M. AUSTIN, and JAY R. BISHOP)	File No. EB-06-IH-2112
)	NAL/Acct. No. 200732080025
)	
PREFERRED COMMUNICATION SYSTEMS, INC.)	FRN No. 0003769049
)	
Licensee of Various Site-by-Site Licenses in the Specialized Mobile Radio Service.)	
)	
PREFERRED ACQUISITIONS, INC.)	FRN No. 0003786183
)	
Licensee of Various Economic Area Licenses in the 800 MHz Specialized Mobile Radio Service)	
)	

To: The Honorable Judge Arthur I. Steinberg

ENFORCEMENT BUREAU'S
MOTION TO COMPEL DOCUMENT PRODUCTION
AND INTERROGATORY ANSWERS
FROM PREFERRED COMMUNICATION SYSTEMS, INC.

The Enforcement Bureau ("Bureau") moves, pursuant to 47 C.F.R. § 1.325, for an order compelling Preferred Communication Systems, Inc. ("PCSI"), to produce responsive documents which PCSI has withheld from production as well as answers to interrogatories which PCSI has failed to provide. Despite the Bureau's good faith efforts, it has been unable to informally resolve this discovery dispute. In support hereof, the Bureau states as follows:

1. On or about November 5, 2007, the Bureau served its First Request for Production of Documents to PCSI (the "Document Requests") and its first interrogatories

No. of Copies Produced 043
List A B C D E

to PCSI (“Interrogatories”) (collectively, the “Discovery Requests”), appended hereto as Attachments A and B, respectively. PCSI’s response to the Document Requests was due on November 15, 2007, and its answers to the Interrogatories were due on November 19, 2007.

2. On November 21, 2007, PCSI requested extensions of time to respond to both the Bureau’s Document Requests and the Bureau’s Interrogatories.. The Bureau granted extensions to December 7, 2007. On or about November 26, 2007, PCSI filed broad objections to the Bureau’s Document Requests, but failed to produce or otherwise make available the responsive documents to which it had no objection.¹

3. On December 7, 13, and 17, 2007, PCSI sought additional extensions of time to respond to the Bureau’s Interrogatories, none of which the Bureau acquiesced to. PCSI apparently assumed that the Bureau would grant its seriatim requests, and PCSI unilaterally availed itself of whatever additional time it thought it might need without regard to rules of procedure governing this case.

4. On or about November 30, 2007, PCSI finally allowed the Bureau to inspect and copy responsive documents, to the extent PCSI provided them. This amounted to approximately 6,600 pages of purportedly responsive documents; no index was provided to identify which documents were responsive to which request.

5. Although PCSI committed numerous times to answering the Bureau’s Interrogatories, the Bureau did not receive any answers until December 18, 2007.² The

¹ PCSI’s objections are appended hereto as Attachment C.

² Appended as Attachment D.

answers provided on that date were incomplete, at best. To date, the Bureau has not received complete answers to its Interrogatories from PCSI.³

6. The responses to the Document Requests raised numerous meritless, vague, and overbroad objections which should be rejected. Moreover, objections as to privilege were raised, but no privilege log was been produced to substantiate such objections and the corresponding withholding of otherwise responsive information. These objections should be stricken, and PCSI should be ordered to respond to the Bureau's Document Requests. PCSI should also be ordered to immediately produce a privilege log so that its claims of privilege can be evaluated.

7. The Bureau served separate document requests in this proceeding on PCSI, its subsidiary Preferred Acquisitions, Inc ("PAI"), and on the purported majority shareholder of these two companies, Charles Austin, all of which are named parties in this case. In response to the Bureau's Document Requests served on PCSI, PCSI commingled its responsive documents with those from PAI and Austin. Moreover, none of the responsive documents were organized in a manner which would permit the Bureau to distinguish from which party the documents were provided or which itemized request the documents were responsive. In essence, PCSI (as well as PAI and Austin) did a "document dump" on the Bureau. Such practice is prejudicial to the Bureau's efforts to prosecute this case, smacks of bad faith, and should not be tolerated.⁴

8. Despite the Bureau's good faith efforts to resolve these matters informally, many issues remain unresolved. Section 1.323 of the Commission's Rules provides that

³ In light of the foregoing, upon receipt and examination of PCSI's "complete" answers,, the Bureau may need to file another motion to compel if those answers contain objections or are otherwise deficient.

⁴ As such, the Bureau may need to file another Motion to Compel at a later date if certain materials that PAI purports to provide are not actually present in the document production from PAI, PCSI, and Austin.

the Bureau must file any motion to compel answers to Interrogatories within 7 days of any objection or otherwise incomplete answer.⁵ Section 1.325 of the Commission's Rules provides that the Bureau must file any motion to compel "within five business days of the objection or claim of privilege" regarding Document Requests.⁶ The Bureau has not yet had the opportunity to review fully the Respondents' document production or privilege log(s). In addition, certain Interrogatory answers remain outstanding, as mentioned above. The Bureau attempted to resolve these discovery issues with PCSI, through its counsel on November 27 and December 5 17, 2007. PCSI agreed to extend the Bureau's deadline to file any necessary Motion to Compel as to PCSI's discovery responses. PCSI also agreed to supplement its Interrogatories Answers.⁷ Accordingly, the Bureau states that the instant motion is timely and respectfully requests that the Presiding Judge accept, and rule on, the instant pleading.

A. Document Requests and Responses – Attachments A and B

1. The Document Requests Are Not Vague, Overbroad, Burdensome, Or Irrelevant.

a. Objections Regarding Breadth, Burden, and Relevance: Document Requests 1-23.

10. PCSI objects generally to Document Requests 1-23, on the basis that the documents were previously provided to the Bureau prior to designation, the documents sought would duplicate records already in the Bureau's possession, and producing them

⁵ See 47 C.F.R. § 1.323

⁶ See 47 C.F.R. § 1.325.

⁷ The Bureau also, out of an abundance of caution, filed its Unopposed Motion for Extension of Filing Deadline, on November 30, 2007, which is still pending with the Presiding Judge.

now would be overly burdensome.⁸ PCSI claims producing the requested materials is overly burdensome.

11. PCSI's objections are meritless. Documents sought are clearly relevant to the designated issues. The Commission specifically designated for hearing whether Pendleton Waugh's ("Waugh") role relating to PCSI's and PAI's personnel and operations amounted to *de facto* control, whether PCSI misrepresented his involvement in its responses to the Bureau's letters of inquiry, and whether PAI misrepresented his involvement in its auction applications.⁹ As the Commission discussed in its *OSC*, elements of *de facto* control include control of policy decisions and the authority to hire, fire, and supervise personnel.¹⁰ PCSI and PAI had incentive to misrepresent Waugh's involvement in these areas due to his felony convictions.

12. The record evidence indicates that Waugh is enmeshed in virtually every aspect of PCSI's, and by extension, PAI's affairs, even though PCSI and PAI claim otherwise. The record evidence also indicates that Jay R. Bishop ("Bishop"), another convicted felon, may have received PCSI stock shares. By seeking documents relating to who is responsible for these areas with respect to PCSI and PAI, the Bureau seeks to verify which of PCSI's and PAI's claims are supportable, *i.e.*, whether these companies allowed Waugh to assume responsibilities that should have remained Austin's responsibility and lied to the Commission about it.

13. The Document Requests seek documents regarding PCSI's corporate formation, ownership, finances, and overall operation, as well as what roles individuals

⁸ See Attachment C at 1-2 (generally objecting to all Document Requests).

⁹ See *Pendleton C. Waugh, et al.*, Order to Show Cause and Notice of Opportunity for Hearing, 22 FCC Rcd 13363, 13370-13374 (2007) ("*OSC*").

¹⁰ See *id.*

who are captioned parties, (*i.e.*, Waugh and Bishop), have in crucial operative areas including but not limited to *e.g.*,: drafting PCSI's policy and financial documents, preparing the company's business plan, and hiring and firing employees. Thus, the Document Requests at issue, are not overly broad, vague, or unduly burdensome, but rather, relate directly to the specific issues set for hearing and are "reasonably calculated to lead to the discovery of admissible evidence."¹¹.

14. Every question about Waugh's involvement or the company's overall business and finances will need to be comprehensive. The Bureau submits that the scope of discovery should not be limited by the Respondents' vague, self-serving and unsubstantiated protestations of burden. Without documents bearing on these areas, it would be extremely difficult, if not impossible, for the Bureau to know whom to depose, whom to cross-examine, what issues such examination should concern, and who may possess information otherwise relevant to the hearing issues. Accordingly, it is insufficient to object on the stated basis, and the Bureau respectfully requests the Presiding Judge overrule these objections and order PCSI to produce responsive documents to the extent it has not already done so.

b. Document Requests 2-3, 18.

9. In addition to making general objections, PCSI recites the same objection with respect to certain enumerated Requests seeking documents relating to any participation by Pendleton Waugh in the formation and/or daily operations of PCSI, his signing or executing documents on behalf of PCSI, and any documents relating to preparation and filing of various PCSI applications. For the reasons outlined above, the Bureau respectfully submits that these objections that certain specific Requests are vague,

¹¹ See 47 C.F.R. §1.311 (announcing general rules applicable to specific discovery rules).

overbroad, unduly burdensome, and/or irrelevant, are without.¹² The documents sought by the Bureau are necessary to corroborate when and how Austin, as the president and chief operating officer of PCSI, learned of the convictions and to see how such knowledge influenced Waugh's and Bishop's respective ownership of stock and roles in PCSI's and PAI's affairs. The Document Requests are clearly relevant to the character issues set for hearing as to PCSI and PAI. Whether PCSI already provided such documents prior to hearing designation is irrelevant and does not excuse it from having to provide them on request. Furthermore, the documents sought relate to Austin's involvement in crucial operative areas for PCSI and PAI, as already discussed. Accordingly, the Presiding Judge should order PCSI to produce documents that are responsive to these requests.

c. Document Requests 12, 14.

10. PCSI objects to Document Requests seeking PCSI's federal income tax returns, as well as documents relating to financial accounts with any banks, financial or other institutions, groups, entities, or individuals relating to the receipt, distribution, or allocation of PCSI's funds on the grounds that such requests are irrelevant. These objections lack merit.¹³ PCSI's financial viability to operate its licenses is directly relevant, to the designated issue of whether its subsidiary, PAI, misrepresented its operational readiness to meet construction deadlines applicable to its licenses in a construction waiver request pending before the Commission.¹⁴ As PAI's parent company, and PCSI's financial health bears directly on whether PAI will have the resources to meet construction deadlines applicable to its operation of its licenses. In

¹² See Attachment A at 4, 6; Attachment C at 2-3, 6, Responses to Document Requests 2-3 and 18.

¹³ See Attachment A at 5; Attachment C at 5-6, Responses to Document Requests 12, 14.

addition to the foregoing, issues relating to “who is in charge of the payment of financing obligations, including expenses arising out of operating . . . and . . . who receives monies and profits from the operation of the facilities” are bedrock questions in the determination of whether PCSI and PAI have conducted unauthorized transfer of *de facto* control as alleged.¹⁵

11. The Commission has specifically stated that licensees, such as PAI, seeking waiver of construction deadlines due to the ongoing 800 MHz rebanding proceeding must demonstrate “that it would have constructed but for the fact that band reconfiguration would affect its proposed facilities” and that it has commenced construction. To accomplish this, a license should demonstrate that it “[has] on hand, or [has] placed a firm order for, non-frequency sensitive equipment, [has] erected a tower, obtained a commitment for tower space, etc.”¹⁶

12. In order to meet the threshold standard for grant of a waiver, PCSI and PAI must demonstrate that, but for the 800 MHz proceeding, PAI has the financial wherewithal to meet the deadlines applicable to its licenses. At issue in this proceeding is whether PAI misrepresented its operational capacity.¹⁷ In order to investigate that issue, the Bureau must review financial information regarding PCSI, the parent company of PAI.¹⁸

¹⁴ See OSC, 22 FCC Rcd at 13378.

¹⁵ See OSC, 22 FCC Rcd. at 13374-13375 and n.72 (internal citations omitted).

¹⁶ See *Improving Public Safety Communications in the 800 MHz Band, et al.*, 19 FCC Rcd. at 15079 ¶ 205 (2004).

¹⁷ See OSC, 22 FCC Rcd at 13378-13380.

¹⁸ 47 C.F.R. § 90.685 provides that, PAI, must provide coverage to at least two-thirds of the population of the service areas of each of the SMR stations for the licenses that it won at auction within five years of the grant of the initial licenses. In the alternative, Economic Area (“EA”) licensees like PAI may provide substantial service to their markets within five years of the grant of their license.

13. As discussed briefly in the Bureau's Motion for Ruling, filed November 9, 2007, PCSI has already asserted, contrary to the dictates of 47 C.F.R. § 90.685 and the Commission's announced standard for licensees like PAI seeking to waive the standard, that its financial viability is irrelevant to this proceeding in objecting to the Bureau's Requests for Admission, filed September 5, 2007. Now, PCSI compounds its earlier error by asserting the same defense to the requests contained in Document Requests 12 and 14. For the reasons discussed in the Bureau's November 9 Motion for Ruling, incorporated by reference, and in the instant Motion, the Presiding Judge should overrule PCSI's objections and compel it to produce the relevant documents because PCSI's financial viability is directly relevant to PAI's pending waiver request submission.

2. Claims of Privilege Are Unsupported, And Production Of Responsive Documents Should Be Compelled.

a. Objections Regarding Privilege: Document Requests 1-23.

14. PCSI generally objects to providing documents prepared or otherwise created after the designation of this hearing.¹⁹ At the same time, PCSI asserts that documents generated within this period constitute privileged material or attorney work product. Notwithstanding its claim of privilege, PCSI fails to provide any privilege log for the withheld documents. Without privilege logs detailing which documents PCSI is referring to and which privilege it believes is applicable to each, it is impossible to evaluate the sufficiency of PCSI's unsupported claims.

15. By asserting a claim of privilege, PCSI has the burden of establishing, on the record, which documents it believes the privilege applies to, and the basis for such

¹⁹ See Attachment C at 2 (applying general privilege objections to every Document Request).

privilege.²⁰ Because it has failed or otherwise refused to do so, the Bureau respectfully requests that the Presiding Judge reject PCSI's claims of privilege as unsubstantiated and order it to produce responsive documents.²¹

3. The Bureau's Document Requests Are Not Premature.

a. Objection Regarding Timing: Document Request 23.

16. PCSI objects to Document Request 23 as being premature. That Request seeks all documents on which PCSI intends to rely to support any legal or factual premise at any hearing in this proceeding. The Bureau respectfully submits that, by positing this Request, it is trying to avoid surprise due to some document in PCSI's possession, custody, or control, being unveiled for the first time. at some late stage in this proceeding. The Bureau carries the burden of proof in this case. By refusing to turn over the requested documents, PCSI is hampering the Bureau's ability to prosecute its case. PCSI's attempt to avoid legitimate discovery by refusing to turn over documents that are fundamentally relevant to the designated issues should not be tolerated. Accordingly, the Presiding Judge should overrule such objections and compel PCSI to produce any and all the responsive documents.

4. Incomplete Responses to Document Requests Do Not Comply with Discovery Rule Requirements.

a. Additional, Incomplete Responses: Document Requests 1-7, 9-11, 13, 15-19.

²⁰ See Attachment C, id. at 3-7, Responses to Document Requests 2-4, 10-11, 13, 15, 18-21.

²¹ In the alternative, the Bureau respectfully requests the Presiding Judge's order PCSI to produce a privilege log and give the Bureau the opportunity to review such log and raise objections as necessary and appropriate.

17. PCSI states that certain documents are not in its possession and it will make those documents available once it has received them from its corporate counsel in Texas.²² More generally, PCSI responds that it will continue searching for responsive documents and will produce non-privileged documents upon their recovery.²³ Austin provides no timeline for when he will produce the requested documents.²⁴ Such vague and open-ended responses about when, if at all, PCSI will provide documents functions to unduly delay discovery and will undoubtedly handicap the Bureau's case-in-chief. Such gamesmanship should not be tolerated. PCSI should be compelled to forthwith provide responsive documents that are in its possession, custody and control. If PCSI is not immediately able to do so, it should explain fully why and provide a date certain when it will fully comply.

B. Interrogatories and Responses

18. As mentioned, PCSI has not yet fully answered the Bureau's Interrogatories. In the event that PCSI files its answers before the Presiding Judge rules on the instant Motion, then the Bureau may supplement, or withdraw entirely, this portion of the Motion, depending on whether PCSI answers the Interrogatories fully, and without the arguably frivolous objections which have been raised to date by PAI and Austin in their answers to the Bureau's Interrogatories.²⁵ Accordingly, the Bureau respectfully reserves its right to supplement, or withdraw the relevant portions of, the instant pleading.²⁶

²² See *id.* at 2-3, Responses to Document Requests 1, 4; Attachment A at 4.

²³ See Attachment A at 4-7; Attachment C at 3-8, Responses to Document Requests 1-7, 9-11, 13, 18-21.

²⁴ See *Pendleton C. Waugh, et al.*, Order, FCC07M-33 (ALJ Steinberg, Sept. 14, 2007) (setting deadline at February 15, 2008 for last day for filing or service of discovery requests).

²⁵ PAI's and Austin's answers to the Bureau's Interrogatories to them are subject to separate motions to compel.

²⁶ The Bureau respectfully submits that Section 1.323 of the Commission's Rules allows the Bureau 7 days after any objections to, or incomplete answers of, Interrogatories by PCSI. Further, as discussed, PCSI has agreed to an extension of time for the Bureau to file any Motion to Compel. See 47 C.F.R. § 1.323.

C. Good Faith Certification and Prayer for Relief

19. The Bureau hereby represents it has made a good faith effort to informally resolve the dispute outlined in this pleading and has been unable to do so.²⁷

D. Summary, Conclusion, and Prayer for Relief

20. The Bureau accordingly summarizes, per Document Request and Interrogatory, the relief it seeks. Generally, the Bureau respectfully requests that the Presiding Judge compel PCSI to produce any responsive documents not already produced and to delineate exactly which responsive documents pertain to which Document Requests that the Bureau asked PCSI. The Bureau also respectfully requests that the Presiding Judge order PCSI to produce a privilege log for those documents it asserts are protected by the attorney-client, work product, or other privilege. Specifically as to each Document Request, the Bureau requests the following.

21. Document Request No. 1: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

22. Document Request No. 2: The Bureau requests that the Presiding Judge find that: (1) both generally and specifically, this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

²⁷ See *Pendleton C. Waugh, et al.*, EB Docket No. 07-147, Revised Transcript at 20-21 (Sept. 12, 2007) (instructing the parties to certify that they have made a good faith effort to work out informally any discovery disputes before filing motions before the Presiding Judge).

23. Document Request No. 3: The Bureau requests that the Presiding Judge find that: (1) both generally and specifically, this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

24. Document Request No. 4: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

25. Document Request No. 5: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) Austin's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

26. Document Request No. 6: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

27. Document Request No. 7: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

28. Document Request No. 8: The Bureau requests that the Presiding Judge find that this Document Request is not overly broad, vague, unduly burdensome; and PCSI's claims of privilege are unsupported.

29. Document Request No. 9: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

30. Document Request No. 10: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

31. Document Request No. 11: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

32. Document Request No. 12: The Bureau requests that the Presiding Judge find that: (1) both generally and specifically, this Document Request is not overly broad, vague, unduly burdensome, or irrelevant; (2) PCSI's claims of privilege are unsupported.

33. Document Request No. 13: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome, or irrelevant; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules.

34. Document Request No. 14: The Bureau requests that the Presiding Judge find that, both generally and specifically, this Document Request is not overly broad, vague, unduly burdensome, and PCSI's claims of privilege are unsupported.

35. Document Request No. 15: The Bureau requests that the Presiding Judge find that: (1) both generally and specifically, this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

36. Document Request No. 16: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2), PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

37. Document Request No. 17: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

38. Document Request No. 18: The Bureau requests that the Presiding Judge find that: (1) both generally and specifically, this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

39. Document Request No. 19: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) PCSI's incomplete response fails to comply with the discovery rules. .

40. Document Request No. 20: The Bureau requests that the Presiding Judge find that this Document Request is not overly broad, vague, unduly burdensome, and PCSI's claims of privilege are unsupported.

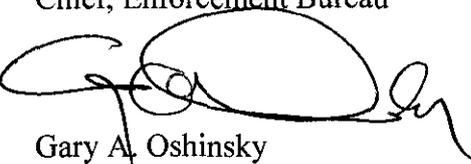
41. Document Request No. 21: The Bureau requests that the Presiding Judge find that this Document Request is not overly broad, vague, unduly burdensome; and PCSI's claims of privilege are unsupported.

42. Document Request No. 22: The Bureau requests that the Presiding Judge find that this Document Request is not overly broad, vague, unduly burdensome, and PCSI's claims of privilege are unsupported.

43. Document Request No. 23: The Bureau requests that the Presiding Judge find that: (1) this Document Request is not overly broad, vague, unduly burdensome; (2) PCSI's claims of privilege are unsupported; and (3) this Document Request is not premature.

44. As to the Interrogatories, as mentioned previously, PCSI has not yet fully provided answers to the Bureau's outstanding Interrogatories, which were due on November 19, 2007. Accordingly, the Bureau respectfully requests that the Presiding Judge compel Austin to produce full and complete answers to the Interrogatories.

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



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February 19, 2008

ATTACHMENT A

Before the
FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of) EB Docket No. 07-147
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PENDLETON C. WAUGH, CHARLES M.) File No. EB-06-IH-2112
AUSTIN, and JAY R. BISHOP) NAL/Acct. No. 200732080025
)
PREFERRED COMMUNICATION) FRN No. 0003769049
SYSTEMS, INC.)
)
Licensee of Various Site-by-Site Licenses in)
the Specialized Mobile Radio Service.)
)
PREFERRED ACQUISITIONS, INC.) FRN No. 0003786183
)
)
Licensee of Various Economic Area Licenses)
in the 800 MHz Specialized Mobile Radio)
Service)

To: Preferred Communication Systems, Inc.

**ENFORCEMENT BUREAU'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS TO
PREFERRED COMMUNICATIONS SYSTEMS, INC.**

The Enforcement Bureau ("Bureau"), pursuant to Section 1.325 of the Commission's Rules, 47 C.F.R. § 1.325, hereby requests that Preferred Communication Systems, Inc. ("PCSI"), produce the documents specified herein for inspection and copying. Production shall be made at the offices of the Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, Suite 4-C330, 445 12th Street, S.W., Washington, DC 20554 (or at some other location that is mutually acceptable to the Bureau and PCSI) within 10 days of the date of this request.

Definitions and Instructions

a. "PCSI" means Preferred Communication Systems, Inc., any affiliate, d/b/a, predecessor-in-interest, parent company, wholly or partially owned subsidiary, successor-in-interest or other affiliated company or business, and all directors, officers, employees, shareholders or agents, including consultants and any other persons working for or on behalf of any of the foregoing during the period January 1, 1998 through the present.

b. "Commission" means Federal Communications Commission.

c. "Document" means the complete original (or in lieu thereof, exact copies of the original) and any non-identical copy (whether different from the original because of notations on the copy or otherwise), regardless of origin or location, of any taped, recorded, transcribed, written, typed, printed, filmed, videotaped, punched, computer-stored, or graphic matter of every type and description, however and by whomever prepared, produced, disseminated, or made, including but not limited to any book, pamphlet, periodical, contract, agreement, correspondence, letter, facsimile, e-mail, file, invoice, memorandum, note, telegram, report, record, handwritten note, working paper, routing slip, chart, graph, photograph, paper, index, map, tabulation, manual, guide, outline, script, abstract, history, calendar, diary, agenda, minutes, marketing plan, research paper, personnel file, personnel folder, preliminary drafts, or versions of all of the above, and computer material (print-outs, cards, magnetic or electronic tapes, disks and such codes or instructions as will transform such computer materials into easily understandable form) in the possession, custody, or control of PCSI.

d. "Relate to" and "relating to" mean constitutes, contains, embodies, reflects, identifies, states, refers to, deals with, concerns or in any way is pertinent to the specified subject, including documents concerning the preparation of the documents.

e. "All" shall be construed to include the word "any."

f. Each Document produced shall be identified by the number of the Document request to which it is responsive, and each Document shall be produced in its entirety, even if only a portion of that Document is responsive to a request herein. This means that the Document shall not be edited, cut, or expunged, and shall include all appendices, tables, or other attachments, and all other Documents referred to in the Document or attachments. All written materials necessary to understand any Document responsive to these inquiries must also be produced.

g. If a Document responsive to any request herein existed but is no longer or not currently available, or if PCSI is unable for any reason to produce a Document responsive to any request, each such Document shall be identified by author, recipient, date, title, and specific subject matter, and a full explanation shall be provided why the Document is no longer available or why PCSI is otherwise unable to produce it.

h. If any Document produced in response to any request herein is not dated, the date on which the Document was prepared shall be provided. If any Document does not identify its author(s) or recipient(s), the name(s) of the author(s) or recipient(s) of the Document shall be provided.

i. This request is continuing in nature, requiring immediate production if a further or different Document responsive to any request herein comes into the possession, custody, or control of PCSI during the pendency of this proceeding.

j. If production of any Document responsive to any request herein called for by this request is refused pursuant to a claim of privilege, the Document shall be identified by reference to its author, recipient(s) (including any person receiving a copy, regardless of whether that recipient is listed on the Document), date, and subject matter. The basis for the privilege claimed for such Document shall be specified with sufficient precision to permit assessment of the applicability of the privilege involved.

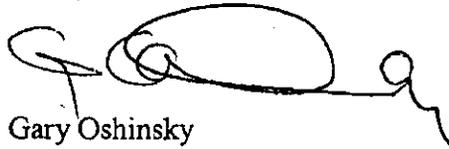
Documents Requested

1. All formation and organizational Documents relating to PCSI, including, but not limited to, articles of incorporation, by laws, minutes of corporate meetings, appointment or dismissal of directors, issuance or reclassification of stock, employee compensation, sale of major assets, dissolution, agreements, voting rights, proxies, and any and all amendments thereto.
2. All Documents relating to the participation, of any kind and to any extent whatsoever, of Pendleton C. Waugh in the formation and/or operation, day-to-day and otherwise, of PCSI.
3. All Documents that Pendleton C. Waugh signed or executed on behalf of PCSI.
4. All Documents relating to voting interests or future voting interests in PCSI.
5. All Documents relating to the issuance or future issuance of shares of stock in PCSI.
6. All Documents relating to trusts for the issuance or future issuance of shares of stock in PCSI.

7. All Documents relating to the issuance or future issuance of financial interests of any kind (other than shares of stock) in PCSI.
8. All books of accounting, including payroll records, for PCSI.
9. All Documents relating to investors and investments in PCSI.
10. All Documents, including but not limited to, agreements, contracts, arrangements or understandings, relating to work performed or work to be performed by Pendleton C. Waugh, of any kind and to any extent whatsoever, on behalf of PCSI.
11. All Documents relating to compensation or consideration, of any kind and to any extent whatsoever, made, paid or promised to, Pendleton C. Waugh for work or services of any kind and to any extent whatsoever performed by him on behalf of PCSI.
12. All Federal income tax returns filed by PCSI, from January 1, 1998, to the present.
13. All Documents relating to the establishment of annual budgets, business plans, operating expenses, debt financing, and financing generally for PCSI for the years 1998 to the present.
14. All Documents related to financial accounts with any banks, financial or other institutions, groups, entities or individuals relating to the receipt, distribution, or allocation of PCSI's funds.
15. All Documents relating to hiring, firing, or supervision of the employees, officers, independent contractor, or consultants of PCSI.
16. All Documents relating to and/or evidencing Charles M. Austin's knowledge of each of the felony convictions of Pendleton C. Waugh.

17. All Documents relating to and/or evidencing Charles M. Austin's knowledge of each of the felony convictions of Jay R. Bishop.
18. All applications filed by or on behalf of PCSI with the Commission and all Documents relating to the planning, preparation, review and filing of such applications.
19. All Documents relating to customers of PCSI and/or customers of services provided by PCSI.
20. All Documents, including but not limited to leases, contracts, arrangements, commitments and/or understandings, relating to antenna towers for stations of which PCSI is or was the licensee.
21. All Documents relating to the purchase, sale and/or lease of equipment of any kind whatsoever for stations of which PCSI is or was the licensee.
22. All Documents supporting PCSI's answers to the Enforcement Bureau's First Set of Interrogatories to Preferred Communication Systems, Inc.
23. All Documents on which PCSI intends to rely to support any legal or factual premise or defense at any hearing in this proceeding.

Respectfully submitted,
Kris Anne Monteith
Chief, Enforcement Bureau



Gary Oshinsky
Attorney, Investigations and Hearings Division



Anjali Singh
Attorney, Investigations and Hearings Division

Federal Communications Commission

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