

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Assessment and Collection of Regulatory Fees for Fiscal Year 2008)	MD Docket No. 08-65
)	RM No.-11312
)	
Amendment of Parts 1, 21, 73, 74, and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands)	WT Docket No. 03-66

To: The Commission

COMMENTS OF PCIA—THE WIRELESS INFRASTRUCTURE ASSOCIATION

PCIA—The Wireless Infrastructure Association¹ (“PCIA”) respectfully submits its comments on the Federal Communications Commission’s (“FCC” or “Commission”) *Notice of Proposed Rulemaking and Order*² in the above-captioned docket. Because PCIA’s frequency coordination customers are directly affected by the assessed regulatory fees, PCIA has a direct interest in the instant proceeding. As described in more detail below, PCIA believes that the continued diminishment in the Commission’s Private Land Mobile Radio Service (“PLMRS”) staff indicates that the Commission’s costs, and therefore the proposed regulatory fees, should decrease, rather than increase.

¹ PCIA is an FCC-certified frequency coordinator. Since the inception of coordination committees in 1986, PCIA has processed hundreds of thousands of applications for licenses.

² In re: *Assessment and Collection of Regulatory Fees for Fiscal Year 2008; Amendment of Parts 1, 21, 73, 74, and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*, MD Dkt. No. 08-65; RM No. 11312; WT Dkt. No. 03-66; Notice of Proposed Rulemaking and Order, FCC 08-126 (May 8, 2008) (“*Notice*”).

As a PLMRS frequency coordinator, PCIA is particularly concerned about the increase in per-license fees for PLMRS licensees that operate under Part 90 of the Commission's rules.³ The proposed 2008 Fiscal Year ("FY2008") fees for a PLMRS applicant are \$40 per year of the license for exclusive use PLMRS and \$20 per year of the license for shared use PLMRS.⁴ An applicant must pay the total regulatory fee for 10 years at the time of the application, which increases the total fees paid in FY2008 to \$400 and \$200 respectively.⁵ In FY2005, the registration fees were \$10 per year for exclusive use PLMRS and \$5 per year for shared use PLMRS, which lead to total fees of \$100 and \$50 respectively. As such, the regulatory fees for both categories have *quadrupled* over only three years. The total cost is further increased by the Commission's \$60 application fee, which is standard for both exclusive and shared PLMRS applicants.⁶ These fees represent a significant increase to the Part 90 licensees.

The Commission is required by Section 9 of the Communications Act, as amended, ("the Act")⁷ to "assess and collect regulatory fees to recover the costs of the following regulatory activities of the Commission: enforcement activities, policy and rulemaking activities, user information services, and international activities."⁸ The actual assessment on the specified categories is then based on the number of employees dedicated to that category, taking into account the "factors that are reasonably related to the benefits provided to the payor of the fee by the Commission's activities, including such factors as service area coverage, shared use versus

³ See 47 C.F.R. § 90.1 et seq. (2007) ("This part states the conditions under which radio communications systems may be licensed and used in the Public Safety, Industrial/Business Radio Pool, and Radiolocation Radio Services. These rules do not govern the licensing of radio systems belonging to and operated by the United States.")

⁴ Notice at Attachment C.

⁵ *Id.*

⁶ 47 C.F.R. § 1.1102.

⁷ 47 U.S.C. § 159.

⁸ *Id.* at § 159(a).

exclusive use, and other factors that the Commission determines are necessary in the public interest.”⁹

While PCIA recognizes the Commission’s need to meet the increasing congressional mandate, the burden on the individual PLMRS licensee has increased too substantially. According to Commission data there are approximately 74 percent fewer licensees in 2008 than there were in 2005,¹⁰ yet the percentage of the Commission’s budget charged to these licensees has declined only 0.06 percent.¹¹ The burden on PLMRS licensees has become too large in proportion to their size.

As an FCC-certified frequency coordinator, PCIA interacts extensively with the FCC. PCIA perceives a decline in the overall staffing level devoted to PLMRS at the FCC, which would naturally correlate with the described reduction in the number of PLMRS licensees. As the Act calls for the regulatory fee to be based, in part, through “determining the full-time equivalent number of employees performing the activities described . . . within the Private Radio Bureau,”¹² PCIA urges the Commission to recalculate the PLMRS staffing levels and related costs. Accordingly, PCIA respectfully requests that the Commission downwardly adjust the associated PLMRS fees.

Further, the Commission has noted that, “PLMR systems serve an essential role in a range of industrial, business, land transportation, and public safety activities.”¹³ Beyond the Commission staffing level, the Act requires the fees to be related to “other factors that the

⁹ *Id.* at § 159(b)(1)(A).

¹⁰ *Compare Notice at Attachment C with In re: Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, MD Dkt. No. 05-59, *Notice of Proposed Rulemaking*, 20 FCC Rcd. 9575, Attachment C (2005)(“FY2005”). There were 49,400 combined exclusive and shared use unit in 2005 and 12,650 in 2008.

¹¹ *Compare Notice at Attachment C with FY2005 at Attachment C.* The total expected revenue for FY2005 from PLMRS was 2,640,000 and 2,760,000 in FY2008. The total regulatory fees in FY2005 were 280,098,000 compared with 312,000,000. Therefore, in FY2005, PLMRS accounted for 0.94 percent of the FCC’s overall revenue, and 0.88 percent of the FY2008.

¹² 47 U.S.C. § 159(b)(1)(A).

¹³ *Notice at para. 92.*

Commission determines are necessary in the public interest.”¹⁴ Given the “essential role” that PLMR systems (both exclusive use and shared use) serve, PCIA believes that it would be in the public interest to reduce PLMRS regulatory fees.

PCIA believes that the FCC should consider the decrease in the PLMRS base, which should reduce the “common” charges associated PLRMS, as well as the “essential role” that PLMRS licensees play, and either reduce, or at least not increase the Part 90 licensee fees. For the foregoing reasons, PCIA respectfully requests the Commission to reconsider the FY2008 increase in fees on PLMRS licensees.

Respectfully submitted,

PCIA—THE WIRELESS INFRASTRUCTURE ASSOCIATION

By: _____/s/_____
Michael Fitch
President and CEO
Don Andrew
Director, Frequency Coordination Services
Michael D. Saperstein, Jr.
Public Policy Analyst
901 N. Washington St., Suite 600
Alexandria, VA 22314

May 30, 2008

¹⁴ 47 U.S.C. § 159(b)(1)(A).