

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

**In the Matter of** )  
 )  
**North Dakota Network Co.** )  
 )  
**Section 68.4(a) of the Commission's Rules** )  
**Governing Hearing Aid Compatible** )  
**Telephones** ) **WT Docket No. 01-309**  
 )  
**Request for Temporary Waiver, or** )  
**Temporary Stay, of** )  
**Section 20.19(d)(2) of the Rules** )

**To: The Commission**

**REPLY COMMENTS**

North Dakota Network Co. ("NDNC"), by its attorneys and pursuant to the Commission's *Public Notice*, entitled "Wireless Telecommunications Bureau Seeks Comment on Petitions for Reconsideration Filed In Hearing Aid Compatibility Docket," Mimeo DA 08-1087, dated May 7, 2008 (the "May 7, 2008 *Public Notice*"), hereby submits its Reply Comments in connection with its pending "Petition for Reconsideration," filed March 27, 2008 ("Petition"). In support hereof, the following is shown:

1. NDNC's pending Petition requests reconsideration of the Commission's *Memorandum Opinion and Order*, WT Docket No. 01-309, FCC 08-67, released February 27, 2008 ("*HAC Waiver Order*") insofar as it denied NDNC's request for a waiver of the Rule Section 20.19(d)(2) and 20.19 (b)(2) requirement that it include within its handset offerings by September 18, 2006 at least two Hearing Aid Compatible ("HAC") digital wireless handsets which meet a U3T (or M3T) rating for inductive

coupling under ANSI Standard C63.19; and of its referral to the Enforcement Bureau for its apparent violation of Rule Sections 20.19(d)(2) and 20.19(b)(2) (which collective set forth one regulatory requirement). The May 7, 2008 Public Notice solicits public comment on the Petition.

2. Two comments were filed in response to the May 7, 2008 Public Notice, neither of which opposes the Petition. In fact, the Comments filed by the National Telecommunications Cooperative Association (“NTCA”) affirmatively urge the Commission to grant the Petition and other similar pending petitions. Notably, no organizations representing the interests of the deaf and hearing impaired filed comments in opposition to the Petition.

3. Like NDNC, NTCA argues that the Commission’s action in the HAC Waiver Order, in adopting an arbitrary January 1, 2007 compliance deadline and denying NDNC’s waiver request under this newly-adopted standard, was arbitrary, capricious, an abuse of discretion, and did not accord with the requirements of reasoned decision-making;<sup>1</sup> and that the Commission otherwise failed to correctly apply the waiver standard when ruling upon the waiver requests.<sup>2</sup> As NTCA further notes, the “Commission is well aware that small companies are last in line for obtaining equipment from manufacturers and justifies the waivers it did grant on that basis;” but “failed to recognize ... there are differences that dictate that some companies will receive equipment before others;” that “Tier III carriers come in different sizes and have different influence and relationships with manufacturers; and that small companies do “not possess the same buying power or

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<sup>1</sup> NTCA Comments, pg. 1.

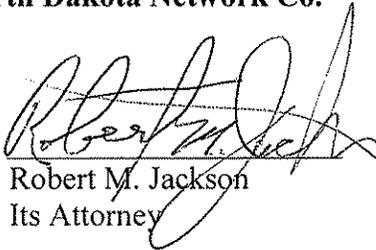
<sup>2</sup> NTCA Comments, pp. 2-4.

influence with manufacturers as one with several hundred thousand.”<sup>3</sup> NTCA concludes that an “arbitrary waiver boundary provides no opportunity for careful and considered examination of the facts;” and that the “Commission must follow the law and its own precedent and examine the facts and circumstances surrounding each individual waiver request before granting or denying it.”<sup>4</sup> Clearly, the Commission did not follow the waiver requirements when it denied NDNC’s waiver petition.

**WHEREFORE**, NDNC again requests that its pending Petition be granted; that its waiver request be granted *nunc pro tunc* to January 15, 2007; and that the referral to the Enforcement Bureau be rescinded.

Respectfully submitted,

**North Dakota Network Co.**

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<sup>3</sup> NTCA Comments, pp. 3-4.

<sup>4</sup> NTCA Comments, pg. 4.

**CERTIFICATE OF SERVICE**

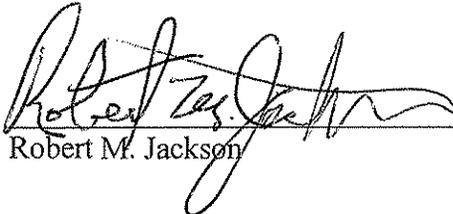
I hereby certify that I am an attorney with the law offices of Blooston, Mordkofsky, Dickens, Duffy & Prendergast and that on June 2, 2008 I caused to be sent either by first-class United States mail, postage prepaid, or by electronic mail (e-mail), a copy of the foregoing "**Reply Comments**" to the following:

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