

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

In the Matter of)
)
Revision of Part 22 and Part 90) WT Docket No. 96-18
of the Commission's Rules to Facilitate)
Future Development of Paging Systems)

ORDER

Adopted: December 14, 1998

Released: December 14, 1998

By the Chief, Commercial Wireless Division:

I. INTRODUCTION

1. By this *Order*, the Commercial Wireless Division (Division) dismisses all pending mutually exclusive paging applications; all pending paging applications (other than applications for nationwide and shared channels) filed after July 31, 1996; and all pending paging applications that request spectrum that was previously assigned to another licensee on an exclusive basis.

II. BACKGROUND

2. In August 1993, the Omnibus Budget Reconciliation Act of 1993 added Section 309(j) to the Communications Act of 1934, as amended.¹ Section 309(j) accorded the Commission authority to use competitive bidding procedures to select among mutually exclusive applications for initial licenses under certain circumstances. More recently, the Balanced Budget Act of 1997 expanded the Commission's authority, and statutory mandate, to use competitive bidding to choose from among mutually exclusive license applicants.²

3. In February 1997, the Commission released the *Second Report and Order* in WT Docket No. 96-18, in which it adopted final rules effecting a transition to geographic area licensing for exclusive, non-nationwide paging channels in the 35-36 MHz, 43-44 MHz, 152-159 MHz, 454-460 MHz, 929-930 MHz, and 931-932 MHz bands and competitive bidding procedures for selecting among mutually exclusive applications for geographic area non-nationwide paging licenses.³ In order to facilitate this transition to geographic area

¹ Omnibus Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI, § 6002(a), 107 Stat. 312, 387 (1993) (codified at 47 U.S.C. § 309(j)).

² Balanced Budget Act of 1997, Pub. L. No. 105-33, § 3002(a)(1)(A)(1)-(2), 111 Stat. 251 (1997) (amending 47 U.S.C. § 309(j)).

³ Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, WT Docket No. 96-18, *Second Report and Order and Further Notice of Proposed Rulemaking*, 12 FCC Rcd. 2732 (1997).

licensing, the Commission also decided that all pending mutually exclusive paging applications and all paging applications filed after July 31, 1996, other than applications for nationwide and shared channels, would be dismissed.⁴ The Commission further decided that, with certain limited exceptions, no additional site-by-site applications other than for shared channels would be accepted.⁵

III. DISCUSSION

4. Pursuant to the *Second Report and Order*, the Division hereby dismisses all pending mutually exclusive paging applications in the 35-36 MHz, 43-44 MHz, 152-159 MHz, 454-460 MHz, 929-930 MHz, and 931-932 MHz bands. These applications are listed in Attachment A. We also dismiss all pending paging applications, other than applications for nationwide or shared channels, filed with the Commission after July 31, 1996. These applications are listed in Attachment B.⁶ Finally, pursuant to section 22.128(e)(2) of the Commission's rules, we dismiss all pending paging applications that request spectrum that was previously assigned to another licensee on an exclusive basis in accordance with the exclusivity rules established in 1993.⁷ These applications are listed in Attachment C.

5. We note that a number of parties have submitted petitions seeking reconsideration of the Commission's decision in the *Second Report and Order* to dismiss mutually exclusive paging applications and paging applications filed after July 31, 1996. These petitions are pending before the Commission. If the Commission determines on reconsideration that these applications should not be dismissed, the applications listed in Appendix A and Appendix B will be reinstated.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that, as of the adopted date of this *Order*, all pending mutually exclusive paging applications for use in the 35-36 MHz, 43-44 MHz, 152-159 MHz, 454-460 MHz, 929-930 MHz, and 931-932 MHz bands, as set out in Attachment A of this *Order*, ARE DISMISSED without prejudice.

7. IT IS FURTHER ORDERED that all paging applications for use in the 35-36 MHz, 43-44 MHz, 152-159 MHz, 454-460 MHz, 929-930 MHz, and 931-932 MHz bands filed after July 31, 1996, as set out in Attachment B of this *Order*, ARE DISMISSED without prejudice.

8. IT IS FURTHER ORDERED that, pursuant to Section 22.128(e)(2) of the Commission's Rules, 47 C.F.R. § 22.128(e)(2), all paging applications requesting spectrum that was previously assigned to another licensee on an exclusive basis, as set out in Attachment C of this *Order*, ARE DISMISSED.

9. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the

⁴ *Id.* at 2739-40, ¶ 6.

⁵ *Id.* The exceptions were applications filed pursuant to 47 C.F.R. §§ 22.369 and 90.177, applications filed for coordination with Mexico and Canada, and applications required under 47 C.F.R. § 1.1301 *et seq.*

⁶ *Second Report and Order*, 12 FCC Rcd. at 2739-40, 2827, ¶¶ 6, 227.

⁷ 47 C.F.R. § 22.128(e)(2); Amendment of the Commission's Rules to Provide Channel Exclusivity to Qualified Private Paging Systems at 929-930 MHz, PR Docket No. 93-35, *Order*, 8 FCC Rcd. 8318 (1993).

Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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