

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

In the Matter of)
)
Promoting Efficient Use of Spectrum) **WT Docket No. 00-230**
Through Elimination of Barriers to the)
Development of Secondary Markets)
)

To: The Commission

**REPLY COMMENTS
OF
PAGING SYSTEMS, INC.**

Paging Systems, Inc. ("PSI"), by its attorneys and pursuant to *Report and Further Notice of Proposed Rulemaking*,¹ hereby submits its Reply Comments in the above-referenced proceeding. The Federal Communications Commission ("Commission" or "FCC") invited Reply Comments to be filed on January 5, 2004.

While PSI agrees with the Commission's efforts to promote efficient use of the spectrum by the use of secondary markets in this proceeding, it will reply only to those Comments that discussed the Commission's proposal to include Automated Maritime Telecommunications Systems ("AMTS") in its spectrum leasing rules.² PSI commends the Commission for proposing to give this additional flexibility for AMTS and supports those Commenters who responded favorably to the proposal.

¹ In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets, FCC 03-113 (released October 6, 2003) ("Report and Order" and "FNPR").

² FNPR at ¶299, n. 495.

BACKGROUND

PSI is a Commercial Mobile Radio Service ("CMRS") provider offering service to the maritime community by AMTS licenses under Part 80 of the Commission's Rules, on the west coast of the United States from Mexico to Canada and in Hawaii; and on the east coast from Maine to Puerto Rico, as well as in the Great Lakes region. Accordingly, PSI has significant interest in the Commission's proposals concerning the licensing and operation of AMTS.

DISCUSSION

There was no opposition to the Commission's proposal to include AMTS in the spectrum leasing regime and many Commenters agreed generally that the Commission's leasing policies should include additional spectrum-based services.³

In connection with AMTS, the Comments of Mobex Communications, Inc. ("Mobex") and of the American Mobile Telecommunications Association ("AMTA") pointed out that the Commission extended its new leasing policy to a great many radio services, including Part 80 VHF Public Coast, which hold the same exclusive rights to use licensed spectrum as AMTS does.⁴ This lack of parity should be rationale enough to include AMTS, also a Part 80 service, under the secondary market rules.

Significantly, in the *Report and Order* and the *FNPR*, Commission described two sets of requirements that appear to be necessary for inclusion in this regulatory scheme. First, it stated "these VHF Public Coast Station licenses were awarded pursuant to auction and involve a geographic area, flexible, and exclusive use licensing scheme similar to that of many of

³ See, for example, Comments of Cellular Telecommunications and Internet Association at 4; Comments of Winstar Communications, LLC at 2;

⁴ Mobex at 2; AMTA at 2.

the other services affected by this proceeding." ⁵ Secondly, it gave several reasons for its exclusion of certain services in the secondary market plan:

Indeed, in some cases, the operations in these services are not governed by the issuance of a Commission license...We also note that in many of these services, stations do not have a fixed transmitting location....We point out that, for many of the services authorized and regulated under these parts, a user does not have authority to transfer or assign an authorization or license...Finally, spectrum throughout these rule parts is subject to shared, not exclusive, use. ⁶

As Mobex stated, the Commission has adopted new AMTS auction licensing rules for geographic area licenses; AMTS has evolved into a radio service that is adapting to the competitive marketplace and serving a variety of users; and AMTS licenses are exclusive. In fact, the Commission has supported this increased flexibility for AMTS providers in several past proceedings. ⁷

Further, AMTS has none of the described characteristics of the excluded services: AMTS providers are issued Commission licenses; AMTS service has fixed transmission locations and incumbent providers are licensed on a site-by-site basis; AMTS licenses can be transferred or assigned; and AMTS spectrum is not subject to sharing and is therefore exclusive.

Additionally, AMTS is classified as CMRS, which is the status of most, if not all, of those licenses that the Commission included under the spectrum leasing procedures. Based on the nature of AMTS licensing and operation, it is clear that AMTS should be included with those services that were granted the new leasing rights.

⁵ Report and Order at ¶84. n. 182.

⁶ FNPR at ¶ 302.

⁷ Mobex at 3, citing Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, 17 FCC Rcd 6685 (2002); Amendment of the Commission's Rules Concerning Maritime Communications, *Third Memorandum Opinion and Order*, FCC 03-270 (released November 18, 2003); Amendment of the Commission's Rules Concerning Maritime Communications, *Fourth Report and Order and Third Further Notice of Proposed Rulemaking*, 15 FCC Rcd 22585 (2000).

Both Mobex and AMTA assert that the Commission should extend these spectrum leasing rights to AMTS under the FCC obligation to promote regulatory symmetry.⁸ PSI agrees. It is necessary for AMTS providers to have the same flexibility as other similarly situated carriers in order to achieve an equal level of competitiveness in the marketplace.⁹

Finally, as emphasized by Mobex and AMTA, granting this flexibility to AMTS is in the public interest.¹⁰ The Commission itself stated in its FNPR, "...additional actions by the Commission are needed to further promote more flexible and, ultimately, more efficient use of the spectrum, with significant public interest benefits."¹¹ Including AMTS under the secondary markets rules will promote flexible and efficient use of its spectrum. PSI agrees that the public will benefit from the increased service possibilities in the AMTS service that the development of secondary markets will offer.

CONCLUSION

WHEREFORE, the above premises considered, PSI respectfully requests that the Commission consider its Reply Comments and permit spectrum leasing rights proposed in the above-referenced proceeding to the AMTS service.

⁸ AMTA at 3; Mobex at 4.

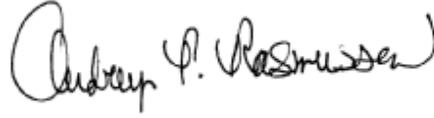
⁹ Mobex at 1, note 1 citing Amendment of the Commission's Rules Concerning Maritime Communications, Second Report and Order and Further Notice of Proposed Rulemaking, 12 FCC Rcd 16949, 17011 (1997); Mobex at 2, note 2; Mobex at 3, note 8.

¹⁰ Mobex at 4; AMTA at 4.

¹¹ FNPR at ¶214

Respectfully submitted,

PAGING SYSTEMS, INC.

A handwritten signature in black ink that reads "Audrey P. Rasmussen". The signature is written in a cursive style with a large initial 'A'.

Audrey P. Rasmussen

ITS ATTORNEY

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.
1120 20th Street, N.W.
Suite 700, North Building
Washington, D.C. 20036-3406
Telephone (202) 973-1200
Facsimile (202) 973-1212

Dated: January 5, 2004

47823.1:710113:00600