

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

In the Matter of
220 MHz Non-Nationwide Licensees
Applications for Modification
Filed Electronically After May 1, 1996
and
Requests for Waiver of Section 90.755(a)
of the Commission's Rules
File Nos. B000671-685; B000687-744;
B000746-756; B000758-770;
B000777-796

ORDER

Adopted: February 29, 2000

Released: March 1, 2000

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order, we address requests for waiver of Section 90.755(a) of the Commission's rules filed by certain 220 MHz non-nationwide licensees in connection with their late-filed modification applications to relocate their authorized base stations. On April 9, 1997, the Land Mobile Branch (Branch) denied the waiver requests and dismissed the associated modification applications. On May 9, 1997, Roamer One, Inc. (Roamer One), joined by the holders of the licenses listed on Exhibit 2 (Exhibit 2 Licensees), and Pagers Plus Cellular (Pagers Plus), on behalf of the holders of the licenses listed on Exhibit 3 (Exhibit 3 Licensees), petitioned for reconsideration of the Denial Order. For the reasons

1 Since the petitions and waiver requests were filed, the Land Mobile Branch of the Licensing Division of the Wireless Telecommunications Bureau was reorganized as the Licensing and Technical Analysis Branch of the Commercial Wireless Division of the Wireless Telecommunications Bureau.

2 See Letter of Terry L. Fishel, Chief, Land Mobile Branch, to William J. Franklin, attorney for Roamer One, Inc., dated April 9, 1997 (Denial Order). As discussed more fully below, the Denial Order by its terms addressed 111 waiver requests and modification applications identified by Roamer One in a letter filed in support of those waiver requests. See Letter of William J. Franklin to Kelly S. Lawver, Chief, Special Facilities Section, Land Mobile Branch, dated August 21, 1996 (Roamer One Waiver Request), Attachment A. See Exhibit 1 for a list of the 111 applications.

3 Petition for Reconsideration, filed by Roamer One on May 9, 1997 (Roamer One Petition); Petition for

discussed below, we dismiss both petitions for reconsideration with regard to Roamer One and Pagers Plus, deny the Roamer One Petition with regard to the Exhibit 2 Licensees, and uphold the dismissal of the applications for modification.

## II. BACKGROUND

2. In January 1996, the Commission adopted a modification procedure in the *220 MHz Second Report and Order* whereby non-nationwide licensees in the 220 MHz service were able to relocate their authorized base stations within certain parameters.<sup>4</sup> Under this procedure, a licensee that submitted a letter by March 11, 1996, stating its intent to relocate, was required to file its modification application by May 1, 1996.<sup>5</sup> Modification applicants had the option of filing electronically or manually.

3. Roamer One, a manager of 220 MHz systems, contracted with an independent company, Pagers Plus, to prepare and file certain 220 MHz modification applications on behalf of Roamer One's clients. On March 22, 1996, Pagers Plus began filing these applications electronically for Roamer One's licensees. Pagers Plus also electronically filed modification applications for licensees that were not managed by Roamer One.<sup>6</sup> Pagers Plus claims that in late March 1996, it began to encounter problems with filing the modification applications electronically, including delays in transmitting the applications and applications being dropped during transmission.<sup>7</sup> In particular, Roamer One and Pagers Plus claim that the time to submit applications increased from a few minutes per application when Pagers Plus began filing on March 22, 1996, to over two hours per application on May 1, 1996.<sup>8</sup> Roamer One and Pagers Plus also maintain that several applications were "dropped off" when the Commission's computer disconnected before the application was fully submitted.<sup>9</sup> Roamer One and Pagers Plus assert this drop-

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Reconsideration, filed by Pagers Plus on May 9, 1997 (Pagers Plus Petition). Exhibits 2 and 3 cover 107 licenses. There are five licenses listed on Exhibit 1 that are not included on Exhibit 2 or 3. These are WPCC388, WPCJ747, WPCM888, WPCQ624, and WPCX744. In addition, WPDM573 (Feldman) is listed on Exhibit 3 but was not included as one of the 111 modification applications listed in Attachment A to the Roamer One Waiver Request.

<sup>4</sup> Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, PR Docket No. 89-552, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, GN Docket No. 93-252, *Second Report and Order*, 11 FCC Rcd. 3668 (1996) (*220 MHz Second Report and Order*).

<sup>5</sup> *Id.* at 3674, ¶ 22. A licensee seeking modification of its authorization to relocate its base station was required to file either a modification application or a letter certifying to the Commission its intent to file a modification application. See 47 C.F.R. § 90.755(b). If the licensee filed a letter of intent, it was then required to file the modification application by May 1, 1996. See 47 C.F.R. § 90.755(a).

<sup>6</sup> In the *Denial Order*, the Land Mobile Branch indicated that Roamer One also filed modification applications independently of Pagers Plus. *Denial Order* at 2, 3 nn.2, 3 & 5. Roamer One states, however, that it filed no applications directly. Roamer One surmises that this error occurred because Pagers Plus identified Roamer One as the contact representative on some of its submissions. See Roamer One Petition at 4 n.3.

<sup>7</sup> Roamer One Petition at 2. See also Attachments to Roamer One Waiver Request.

<sup>8</sup> Roamer One Petition at 2-3 (citing Roamer One Waiver Request at 3 and Attachments B and D).

<sup>9</sup> See Letter of N.J. Lima, Vice President for Engineering, Pagers Plus, to Terry L. Fishel, Chief, Land Mobile Branch, dated May 2, 1996 (Attachment D to Roamer One Waiver Request).

off required Pagers Plus to resubmit each dropped application in its entirety.<sup>10</sup> Roamer One and Pagers Plus also state that during the period preceding the May 1 application deadline, Pagers Plus was in constant contact with the Commission's Data Processing Center, and that the Commission staff recommended that, in the event Pagers Plus was unable to complete filing its applications by the deadline, it should continue filing applications accompanied by requests for waiver.<sup>11</sup>

4. Pagers Plus alleges that it failed to complete several filings prior to the midnight deadline on May 1, 1996, imposed by section 90.755(a) of the Commission's rules, due to the alleged problems of delay and drop-off in submitting the applications.<sup>12</sup> After the May 1 deadline had passed, Pagers Plus continued to file applications electronically during the next two days. Each of these submissions was accompanied by a request for waiver of the filing deadline, which cited the computer transmission problems. Later in May, Pagers Plus filed several additional applications.<sup>13</sup>

5. On August 21, 1996, Roamer One filed a letter in support of the waiver requests.<sup>14</sup> Roamer One stated that it was filing its letter on behalf of the licensees who had filed 111 modification applications,<sup>15</sup> and that it had management agreements with each of these licensees.<sup>16</sup> Roamer One asserted that problems with the Commission's electronic filing system had prevented Pagers Plus from filing all the applications by the deadline and that these problems were beyond the control of Pagers Plus.<sup>17</sup> Roamer One characterized the difficulties that Pagers Plus encountered with the electronic filing system as unforeseen, widespread, and equally experienced by all persons who filed electronically.<sup>18</sup>

6. On April 9, 1997, the Branch issued its *Denial Order*.<sup>19</sup> The Branch found that the problems Pagers Plus encountered in filing applications were not unforeseeable, widespread, or beyond its control.<sup>20</sup>

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<sup>10</sup> *Id.*

<sup>11</sup> *Id.* See also Letter of N.J. Lima, Pagers Plus, to Terry L. Fishel, Chief, Land Mobile Branch, dated May 1, 1996.

<sup>12</sup> 47 C.F.R. § 90.755(a).

<sup>13</sup> Exhibit 4 lists 18 applications, which were included on Exhibit 3, and which were filed late in May 1996. The waiver requests for these applications stated that while they had initially been submitted electronically on a timely basis, the applications had been omitted from the Commission database. See Roamer One Waiver Request at 2. We note, however, that these applications are not specifically addressed in either of the Petitions. Nevertheless, in an effort to fully dispose of all issues connected with these applications, we will address this issue in this Order.

<sup>14</sup> Roamer One Waiver Request.

<sup>15</sup> *Id.* at 1. See also *id.*, Attachment A (listing applications).

<sup>16</sup> *Id.* at 1.

<sup>17</sup> *Id.* at 4.

<sup>18</sup> *Id.*

<sup>19</sup> *Denial Order* at 1. The Branch noted that although Roamer One identified 111 applications in its letter, the Commission's records indicate that 120 applications were filed after May 1 by Pagers Plus and Roamer One. *Id.* at 3 n.5. See Exhibit 6 for the Branch's list of late-filed applications.

<sup>20</sup> *Denial Order* at 2-3.

In particular, the Branch noted that because Pagers Plus had experienced problems as early as March 26, 1996, more than thirty days prior to the deadline, Pagers Plus could have foreseen that it might incur additional problems filing electronically as the deadline approached. The Branch also concluded that the problems were not widespread because Pagers Plus was the only one of the four entities filing electronic applications that reported problems. In addition, based on the number of applications Pagers Plus filed in the weeks before the deadline, the Branch concluded that Pagers Plus had the capability, through "concerted efforts and judicious use of resources," to timely file all of the applications.<sup>21</sup> Moreover, the Branch indicated that both Pagers Plus and Roamer One had the option to file applications manually.<sup>22</sup> Concluding that each party had failed to act with due diligence, the Branch found no reason to grant any waivers, and dismissed the modification applications filed after May 1, 1996, as untimely.<sup>23</sup>

7. Roamer One and Pagers Plus filed petitions for reconsideration of the *Denial Order* on May 9, 1997. In its petition, Roamer One states that, although it previously indicated that it had management relationships with the holders of each of the 111 licenses identified in its original waiver request, it actually had such agreements with only a fraction of the applicants.<sup>24</sup> Accordingly, Roamer One's Petition is joined by the holders of the twenty-seven licenses listed on Exhibit 2, with which Roamer One states that it had management agreements. Pagers Plus, by contrast, simply attached to its Petition a list of the 81 licenses identified on Exhibit 3.<sup>25</sup> Pagers Plus does not indicate that the holders of those licenses join its Petition, nor that they have reviewed the Petition or endorse its contents.<sup>26</sup>

### III. DISCUSSION

#### A. Standing

8. Before we consider the merits of the issues raised by Pagers Plus and Roamer One, we must determine whether either party has standing to raise these issues. Section 405 of the Communications Act of 1934, as amended, allows any party in interest, or any person aggrieved or whose interests are adversely affected, to petition for reconsideration of an action by a designated authority.<sup>27</sup> Pursuant to Section 1.106 of the Commission's rules, if the petition is filed by a person who is not a party to the proceeding, the petition shall state with particularity the manner in which the person's interests are

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<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> Roamer One Petition at 2 n.2.

<sup>25</sup> *See* Pagers Plus Petition, Exhibit 1.

<sup>26</sup> We note that one license (WPCA523, Nicmar, Nevada, MO) is listed on both Exhibit 2 and Exhibit 3. In addition, one of the licenses on Exhibit 3 (WPDM573, Hail Mary Partners, Indianapolis, IN) was not included on Attachment A to the Roamer One Waiver Request. Five of the licenses identified in the Roamer One Waiver Request were not listed on either Roamer One's or Pagers Plus's Petition for Reconsideration.

<sup>27</sup> 47 U.S.C. § 405; *see* Eagle Radio, Inc., *Memorandum Opinion and Order*, 12 FCC Rcd. 5105, 5106, ¶ 5 (1997); Ray M. Stanfield, Receiver and Robeson/Suttles Broadcasting, Inc., *Memorandum Opinion and Order*, 12 FCC Rcd. 3345, 3347, ¶ 5 (1997); San Luis Obispo L.P., *Memorandum Opinion and Order and Forfeiture Order*, 11 FCC Rcd. 9616, 9617, ¶¶ 3-4 (1996) (*San Luis Obispo*).

adversely affected by the action taken, and shall show good reason why it was not possible for the non-party to participate in the earlier stages of the proceeding.<sup>28</sup> Therefore, to establish standing, Pagers Plus and Roamer One must plead facts to establish that each is (1) a party in interest or (2) a person aggrieved or whose interests are adversely affected by the *Denial Order*.<sup>29</sup>

9. In order to qualify as a party in interest, a petitioner for reconsideration of a denial of a waiver generally must allege facts sufficient to demonstrate that denial of the waiver would cause the petitioner to suffer a direct injury.<sup>30</sup> Claims amounting to a "remote" or "speculative" injury are insufficient to confer standing.<sup>31</sup> In addition, the petitioner must demonstrate a causal link "between the claimed injury and the challenged action."<sup>32</sup> To demonstrate a causal link, a petitioner must establish that: (a) "these injuries fairly can be traced to the challenged action"; and (b) "the injury would be prevented or redressed by the relief requested."<sup>33</sup>

10. We find that neither Pagers Plus nor Roamer One qualifies as a party in interest. The action for which Pagers Plus and Roamer One seek reconsideration is the Branch's denial of waiver requests by Commission applicants and licensees. Although Pagers Plus is the application preparation company that filed the applications and Roamer One is the manager of some of the affected licensees' 220 MHz systems, neither petitioner is a Commission applicant or licensee, and neither was a party to any of the modification applications or waiver requests that were denied by the Branch. Thus, petitioners have failed to demonstrate that either would suffer a direct injury by the denial of the waiver requests. However, the 27 licensees who joined Roamer One's petition do qualify as parties in interest because their injuries stem from the dismissal of their modification applications. Therefore, we grant standing as to these petitioners only. Nevertheless, the remaining discussion equally applies to all licensees listed on Exhibit 6 without regard to our finding on standing.

## B. Requests for Waivers

11. Roamer One argues that the waivers requested in this case are warranted because of problems with the Commission's electronic filing system that were unforeseeable, widespread, and beyond the control of Pagers Plus, and because Roamer One and Pagers Plus took reasonable steps as an alternative

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<sup>28</sup> 47 C.F.R. § 1.106(b)(1).

<sup>29</sup> *San Luis Obispo*, 11 FCC Rcd. at 9616; *Rainbow Broadcasting Co.*, *Memorandum Opinion and Order*, 9 FCC Rcd. 2839, 2844 n.24 (1994).

<sup>30</sup> *Application of Wireless Co., L.P.*, *Order*, 10 FCC Rcd. 13,233, 13,235, ¶ 7 (1995) (*Wireless Co.*), *citing* *Sierra Club v. Morton*, 405 U.S. 727, 733 (1972); *see also* *Lawrence N. Brandt*, 3 FCC Rcd. 4082 (1988); *National Broadcasting Co.*, 37 FCC 2d 897, 898 (1972).

<sup>31</sup> *Wireless Co.*, 10 FCC Rcd. at 13,235-36, ¶ 7-8, *citing* *KIRV Radio*, 50 FCC 2d 1010 (1975) (stating that "the claim of potential economic injury by a mere applicant for a broadcast facility is too remote and speculative to show standing as a party in interest").

<sup>32</sup> *Wireless Co.*, 10 FCC Rcd. at 13,236, ¶ 8, *citing* *Duke Power Co. v. Carolina Environmental Study Group, Inc.*, 438 U.S. 59, 72, 78 (1978) (*Duke*).

<sup>33</sup> *Duke*, 438 U.S. at 74, 81.

to requesting waivers.<sup>34</sup> Roamer One asserts that the electronic filing system problems that Pagers Plus experienced in the days immediately prior to the May 1 filing deadline were unforeseeable.<sup>35</sup> Roamer One also asserts that these problems were "widespread," because a large percentage of the applications that Pagers Plus filed electronically were affected.<sup>36</sup>

12. We are unpersuaded by these arguments. The evidence submitted by the petitioners shows that Pagers Plus first experienced difficulties with electronic filing as early as March 27, more than a month before the filing deadline, and that these problems persisted and worsened between then and May 1.<sup>37</sup> Based on this history, Pagers Plus could have reasonably anticipated the possibility that it would have difficulty with electronic filing immediately prior to the deadline, and that it would be necessary to plan alternative measures, such as filing applications manually, to ensure compliance with the deadline.<sup>38</sup>

13. We also reject the contention that the electronic filing problems experienced by Pagers Plus were widespread or beyond Pagers Plus' control.<sup>39</sup> First, there is no indication that these problems resulted from a technical failure of the Commission's electronic filing system.<sup>40</sup> If such a failure had rendered the electronic filing system completely unavailable, or if it repeatedly and systematically caused errors and interruptions in transmissions, it is reasonable to assume that multiple entities who filed electronically would also have complained to Commission staff or sought waivers of the Commission's rules. Yet Pagers Plus was the *only* entity filing 220 MHz applications that complained of difficulties with the electronic filing system, while other applicants were able to file electronic applications successfully.

14. The record also indicates that the problems experienced by Pagers Plus were within its control to solve. The procedures for filing modification applications were published in January 1996. Thus, licensees had ample time to prepare for electronic filing prior to the May 1 deadline. Moreover, even if electronic filing did not work, Roamer One or Pagers Plus had the option of manual filing available to them. We conclude that it is reasonable to expect that Roamer One and Pagers Plus should have had alternative applications prepared and ready for filing, given that their "sole business function is

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<sup>34</sup> Roamer One Petition at 8-11.

<sup>35</sup> *Id.* at 8.

<sup>36</sup> Roamer One Petition at 8-9.

<sup>37</sup> See FCC Modification Record proposed by N.J. Lima, Pagers Plus (Attachment B to Roamer One Waiver Request) (noting, *e.g.*, data transmission problems on March 27, April 2, and April 10; "higher than normal frequency of problems" on April 22; and "more and more pronounced" problems on April 29).

<sup>38</sup> For example, we note that two late electronically filed applications for call signs WPCM411 and WPCQ452 were also filed manually in a timely manner.

<sup>39</sup> *Id.* at 9-10.

<sup>40</sup> In its original waiver request, Roamer One asserted that certain applications were successfully submitted through electronic filing prior to May 1, 1999, but later did not appear in the Commission database, requiring Pagers Plus to refile the applications after the May 1 deadline. Roamer One Waiver Request at 2. Roamer One asserted that these applications should be considered timely because the electronic filing system caused the applications to be omitted from the database. *Id.* Yet Roamer One has failed to provide any confirmation of electronic filing to substantiate its claim that these modification applications were timely filed. Roamer One has also failed to renew this argument in its reconsideration petition. Therefore, we uphold the dismissal of those applications and the denial of the requests for waiver.

to construct and manage 220 MHz SMR systems across the country."<sup>41</sup> The fact that they did not do so leads us to conclude that neither Roamer One nor Pagers Plus acted with the kind of diligence that would warrant a waiver. The Commission has stated that "applicants who wait until the eleventh hour to meet Commission deadlines will be held to assume the risk for almost all events which may occur to prevent timely filing."<sup>42</sup>

15. Roamer One asserts that manual filing should not have been necessary because the burden was on the Commission to officially suspend electronic filing or extend the filing deadline under these circumstances.<sup>43</sup> Roamer One likens the situation to instances in which the Commission has delayed auction filing deadlines due to problems with electronic bidding systems or telephone transmission lines during an auction.<sup>44</sup> We find the instant case is distinguishable from those situations because (1) the Commission has not suspended electronic filing or extended filing deadlines except where the technical problems were with the Commission's own system, which was not the case here, and (2) the licensees in this case had other options available for submitting their modification applications, as opposed to being required to file electronically. As mentioned earlier, waiver is granted only if the petitioner demonstrates that "there is no reasonable alternative solution within existing rules."<sup>45</sup> This is not the case here because filing could have been accomplished manually.

16. Roamer One also argues that waivers should be granted as a matter of equity based on alleged statements by Commission staff recommending that Pagers Plus continue to file applications after the deadline and indicating that the Commission would consider any waiver requests.<sup>46</sup> Whether or not Commission staff gave this advice as alleged, it does not support grant of relief to petitioners. First, there is no indication that the staff suggested that Pagers Plus had no need to consider alternatives such as manual filing. Moreover, the evidence submitted by the petitioners shows that the Commission staff made clear that the success of any waiver petition was not assured.<sup>47</sup> We do not believe that statements by staff suggesting that applicants file waiver requests in order to preserve their rights compel a favorable decision as to such requests.<sup>48</sup>

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<sup>41</sup> Roamer One Waiver Request at 1.

<sup>42</sup> *1985 Public Notice*, 58 Rad. Reg. 2d (P&F) at 1707. The Commission listed several situations (problems with copying machines, delivery services, weather, or illness) that, although they may be unexpected, are reasonably foreseeable, and warned that applicants should allow enough time to meet cutoff deadlines to account for such unanticipated delays. *Id.*

<sup>43</sup> Roamer One Petition at 10-11.

<sup>44</sup> *Id.* at n.13, 13-14 (citing Auction Notice and Filing Requirements for Multipoint Service, 10 FCC Rcd. 10729 (1995)).

<sup>45</sup> 47 C.F.R. § 90.151.

<sup>46</sup> *See* Roamer One Petition at 3.

<sup>47</sup> *See* Letter from N.J. Lima to Terry L. Fishel, Chief, Land Mobile Branch, dated May 1, 1996 ("You did say that there would be no guarantee, but in view of the problems caused by the FCC that such waivers would be considered.").

<sup>48</sup> In any event, statements by individual members of the Commission staff are not binding on the Commission, and the Commission has specifically held that parties who rely on staff advice or interpretations do so at their own risk. *See* In the Matter of the Applications of Hinton Telephone Company, 10 FCC Rcd. 11625, 11637;

17. Roamer One concludes with a policy argument that denying waivers in this case would result in applicants avoiding electronic filing in the future for fear of technical difficulties, thus thwarting the Commission's goal of encouraging electronic filing.<sup>49</sup> While the Commission does in fact encourage electronic filings, parties availing themselves of this method of filing are not excused from the requirements of due diligence. As the Commission has stated, the purpose of its strict cutoff policy is:<sup>50</sup>

to assure that all applicants are treated fairly and reasonably in their dealings with Commission processes and to guarantee that there is an identifiable point in time when the Commission can close the door to new applicants, thus assuring that the Commission can effectively and efficiently fulfill its public interest mandate.

This policy is equally applicable to electronic as to manual filings.

#### IV. CONCLUSION

18. We find, based on the record before us, that unique and compelling circumstances do not exist in this case, and that petitioners did not take all reasonable steps to avoid the circumstances that led to these waiver requests. Therefore, the waivers were properly denied, and the applications for modification associated with these waivers were properly dismissed. To the extent that any of the waiver requests may not have been denied and any applications may not have been dismissed by the Branch's earlier *Denial Order*, we deny any such waiver requests and dismiss any such applications in this order.

#### V. ORDERING CLAUSES

19. Accordingly, IT IS ORDERED, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), sections 1.2 and 90.151 of the Commission's rules, 47 C.F.R. §§ 1.2, 90.151, and authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, that the requests for waiver of section 90.755(a) of the Commission's rules filed by the licensees listed on Exhibit 6 ARE DENIED.

20. IT IS FURTHER ORDERED, pursuant to sections 4(i), 308(a) and 309(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 308(a), 309(a), section 90.755(a) of the Commission's rules, 47 C.F.R. § 90.755(a), and authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, that the applications for modification of licenses filed by the licensees listed on Exhibit 6 ARE DISMISSED.

21. IT IS FURTHER ORDERED, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, and authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, that the

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*see also* AAT Electronics Corp., 53 RR2d 1241, 1225-26 (1983), *aff'd*, P & R Temmer v. FCC, 743 F.2d 918, 931 (D.C.Cir.1984).

<sup>49</sup> Roamer One Petition at 16-18.

<sup>50</sup> 1985 *Public Notice*, 58 Rad. Reg. 2d (P&F) at 1707.



petition for reconsideration filed on May 9, 1996, by Roamer One, Inc., and the licensees listed on Exhibit 2 IS DENIED.

22. IT IS FURTHER ORDERED, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, and authority delegated by section 0.331 of the Commission's rules, 47 C.F.R. § 0.331, that the petition for reconsideration filed on May 9, 1996, by Pagers Plus Cellular, Inc., on behalf of the licensees listed on Exhibit 3 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

William W. Kunze  
Deputy Chief, Commercial Wireless Division  
Wireless Telecommunications Bureau