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Federal Communications Commission
Office of the Secretary

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

In the Matter of

Amendment of Section 90.631)	
of the Commission's Rules and)	
Regulations Concerning Loading)	PR Docket No. 92-17
Requirements for 900 MHz)	
Trunked SMR Stations)	

**COMMENTS TO NOTICE
OF PROPOSED RULEMAKING**

Millicom Radio Telephone Company, Inc. ("MRTC"), by its attorneys, hereby submits its comments in the above-referenced Notice of Proposed Rulemaking ("NPRM"). The NPRM, which was initiated by The National Association of Business and Educational Radio ("NABER"), specifically seeks to relax the loading requirements for 900 MHz trunked SMR Systems as stated in Section 90.631 of the Commission's Rules, by extending the loading deadline two additional years for such systems licensed on or before June 30, 1989. The FCC believes that this two year extension will assist these licensees in obtaining the appropriate levels of mobile loading for a 900 MHz trunked SMR system. MRTC, unequivocally, supports this extension proposal for the following reasons:

I. BACKGROUND

Millicom Radio Telephone Company, Inc. is a wholly-owned subsidiary of Millicom Incorporated ("Millicom"). Millicom is a publicly-traded Delaware corporation which was founded in 1979 and is based in New York. It is a diversified company that focuses on

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establishing and enhancing asset values in telecommunication businesses domestically and internationally. Millicom's domestic interests include Radio Common Carrier ("RCC") licenses, Private Carrier Paging ("PCP") licenses, an experimental license for a Personal Communications Network ("PCN"), and SMR trunked two-way radio systems. MRTC, founded in 1982, manages the 900 MHz trunked operations for Millicom throughout the United States.

II. DESPITE GOOD FAITH EFFORTS, MRTC AND OTHER 900 MHZ SMR-TRUNKED OPERATORS HAVE BEEN UNABLE TO MEET THE PRESENT LOADING STANDARDS.

MRTC has performed an extensive loading analysis of its 900 MHz SMR trunked systems located in the following Designated Filing Areas ("DFA's"): Tampa, Orlando, Atlanta, Phoenix, and Dallas. As is apparent from this loading analysis, MRTC and other existing licensees in these markets are well below the loading requirements as set forth in Section 90.631 of the Commission's Rules. MRTC, moreover, believes that reaching these loading levels is simply unrealistic.

For example, in the Tampa DFA, the total mobile loading required for all channels is 14,000 units. MRTC's study, however, shows only 1,627 mobile units were actually licensed as of December 4, 1991. At this rate, projections reflect that there is no realistic likelihood that the loading standards will be met. MRTC is not the only licensee incapable of meeting the loading requirement. Many other 900 MHz SMR-trunked licensees throughout the country are in the same predicament.

The inability to meet the current loading requirements is due to a combination of factors. When the 900 MHz SMR trunked service was established there was still significant 800 MHz trunked SMR capacity in most regions of the country. At that time it was unclear how quickly the 800 MHz spectrum would become saturated with users. Now, the benefit of real world experience has shown that the 800 MHz SMR systems have loaded mobiles slower than anticipated. This in turn, resulted in a slower loading of 900 MHz SMR facilities because the 800 MHz SMR service is typically less expensive and more familiar to customers, and therefore their first choice.

Additionally, the unpredicted downturn in general economic conditions has hampered the 900 MHz SMR service. Traditional land mobile radio users, like other businesses, are cutting back on expenses. Operators too are hampered by current financial conditions which make borrowing difficult, if not impossible. All of these factors have contributed to the inability to meet loading standards despite good faith efforts to do so.

III. THERE IS NO IMMEDIATE DEMAND FOR THE SPECTRUM WHICH WOULD BE RECLAIMED FROM EXISTING LICENSEES AND NO PLAN TO RELICENSE IT.

Currently, the Commission has no plan to reassign frequencies it reclaims in the 900 MHz SMR trunked radio service. The Commission does not simply relicense reclaimed 900 MHz trunked channels (such as those taken back due to non-construction), because it has not yet developed a reassignment policy for the 900

MHz band. In fact, unlike 800 MHz where an applicant can apply for frequencies in attractive markets by having his name placed on the Private Radio 800 MHz Radio Systems Application Waiting List, such an option is not available in the 900 MHz trunked SMR service. Since reclaimed frequencies would not be immediately reassigned to other operators, such reclamation would simply delay access by the public to these channels.

Moreover, this lack of demand for spectrum is further evidenced by the absence of any "waiting list" for 800 MHz trunked spectrum in many DFAs where 900 MHz SMR trunked spectrum was allocated. Additionally, in all but a handful of DFAs where 900 MHz trunked licenses have been issued, all such systems have not been constructed and licenses have automatically cancelled due to lack of demand for such services. In all but eight to ten markets, channels will be recovered by the FCC due to non-construction. In fact, in some cities, 800 MHz SMR capacity is so plentiful that it is unlikely that a single 900 MHz SMR will be constructed.

IV. MRTC AND OTHER SMR SYSTEM OPERATORS HAVE MADE A SUBSTANTIAL INVESTMENT IN SMR FACILITIES AND HAVE NO INCENTIVE TO WAREHOUSE SPECTRUM.

Like other SMR operators nationwide, MRTC has made a large financial commitment to its 900 MHz trunked SMR operations. In order to comply with the FCC's construction requirements, it has made a substantial capital investment in plant facilities. Ongoing capital investment is necessary to manage, maintain and market the facilities. MRTC and other SMR operators have a substantial vested

interest in the successful operation and marketing of these systems. The only method for recouping their capital investment is through revenues from customers utilizing the facilities. This provides the Commission with the necessary safeguards to ensure that current operators are not "warehousing" frequencies and will continue aggressively marketing services to the public.

V. FAILURE TO EXTEND LOADING DEADLINES WILL ONLY PENALIZE THE OPERATORS THAT HAVE MADE A SUBSTANTIAL COMMITMENT TO OFFER 900 MHZ TRUNKED SMR SERVICES.

As indicated above, the operators that have constructed 900 MHz trunked SMR facilities have made a substantial investment in the industry. And they continue to support that investment through management and maintenance of the facilities and aggressive on-going marketing campaigns. These operators have acted in good faith to provide 900 MHz trunked SMR services to the public. Failure to extend loading deadlines will cause unnecessary harm to the very segment of the land mobile industry that has taken the risk to provide 900 MHz trunked SMR services to consumers. Surely, the Commission cannot intend this result.

VI. FAILURE TO EXTEND THE LOADING DEADLINE WILL RESULT IN AN UNNECESSARY BURDEN ON COMMISSION RESOURCES.

As a practical matter, if the FCC decided to reclaim unloaded 900 MHz trunked channels, sooner or later it would be inundated with large numbers of applications for these channels. No doubt, "application mills" would promote the filing of such applications, regardless of the spectrum's value. Eventually, under current

Commission procedures, the reclaimed spectrum would be relicensed using a random lottery. This would further overburden the Commission's limited resources. By extending the current loading deadline, the Commission would not have to use its valuable and limited resources to process tens of thousands of "lottery" applications, but could devote its time and energy to more urgent matters.

Additionally, if the Commission does not adopt a blanket extension of loading deadlines at 900 MHz, it is conceivable that the majority of 900 MHz trunked SMR licensees would file the appropriate loading deadline extension requests. The Commission would be required to process each request separately and issue a decision. Such a procedure would be enormously inefficient and again place unnecessary stress on the Commission's limited resources. Clearly, the FCC's adoption of this blanket extension proposal appears to be the most efficient and effective procedure for resolving this issue in a manner that serves the public interest.

CONCLUSION

Millicom Radio Telephone Company strongly supports the adoption of the "blanket loading extension" for 900 MHz trunked SMR systems licensed on or before June 30, 1989. MRTC has made a substantial capital investment in order to comply with Commission construction deadlines, but like many operators will be unable to meet loading standards due to market conditions. If channels are reclaimed due to failure to load, they will not be reassigned

immediately and therefore will not be in operation to offer service to the public. Furthermore, there does not appear to be any pent-up demand for establishment of new facilities on reclaimed channels. The adoption of this NPRM will also relieve the administrative burden which would be placed on the FCC if it were to maintain present loading standards. Therefore, MRTC urges the FCC to extend the loading deadline, as it will best serve the public interest.

Respectfully submitted,

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Dated: March 11, 1992

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