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Federal Communications Commission
Office of the Secretary

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies	)	ET Docket No. 92-9

COMMENTS OF SOUTHWESTERN BELL CORPORATION

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SUMMARY

Southwestern Bell Corporation ("SBC") appreciates the Commission's desire to encourage innovation in and the development of emerging technologies by reallocating radio spectrum for such uses. However, SBC believes that the Commission's proposal to create a reserve band of 220 MHz of spectrum for emerging technologies is overbroad and premature.

The record simply does not support an allocation of that size - the largest reserve in history - for the proposed new uses. A more realistic limited allocation of approximately 50 to 75 MHz would be more consistent with past practice and would be less costly and disruptive both to the existing and new licensees and their respective customers.

Indeed, a reallocation of spectrum and the resulting massive displacement and eventual relocation of incumbent licensees may not even prove necessary. Several in the industry are experimenting with spectrum sharing techniques which would more efficiently use the spectrum and reduce and/or eliminate the need for the relocation of a large number of existing licensees. The Commission would better serve the public interest by waiting for the results of these experiments before making a final and potentially irreversible spectrum reallocation decision.

In the event that the Commission decides to proceed on its present course, SBC respectfully suggests that it consider certain modifications to its current proposal. The Commission should recognize the important public safety and essential service aspects of common carrier services and should either exempt the common carrier bands from the proposed reallocation or at least allow common carrier usage to exist on a co-primary basis with the new uses indefinitely. SBC also suggests that the Commission consider a more limited initial allocation from either the private radio and/or U.S. government bands.

SBC supports the use of private negotiation and the issuance of tax certificates to facilitate any required relocation. SBC also supports a phased approach to the spectrum reallocation, and a mandatory 15 year or longer transition period for common carriers. SBC is strongly opposed to any cut-off date on new construction or expansion of common carriers' 2 GHz facilities.

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Southwestern Bell Corporation ("SBC"), on behalf of its operating subsidiaries and affiliates, submits these comments in response to the Commission's Notice of Proposed Rulemaking ("NPRM") released February 7, 1992 in the above matter.

I. Introduction.

The NPRM proposes to reserve 220 MHz of radio spectrum from within the 1.85 to 2.20 GHz band for the use of emerging technologies. The spectrum for the reserve is proposed to be reallocated from the 1.85-1.99, 2.11-2.15, and 2.16-2.20 GHz bands currently allocated to private radio and common carrier fixed microwave services.[1]

There are a total of approximately 2800 licensees and 29,000 microwave facilities in the affected bands. As such, the Commission's proposal will involve the displacement and potential relocation of a large number of

[1] NPRM, para. 19.

existing facilities and licensees. The Commission's study estimates that the cost of the potential relocation will be from $750 million to $2.75 billion.[2]

SBC appreciates the Commission's desire to encourage innovation in and the use of emerging technologies. However, SBC believes that the current proposal is overbroad and premature.[3] It has not been sufficiently or factually demonstrated that the emerging technologies will actually need 220 MHz of spectrum, nor has it been shown that the most economical and effective way to facilitate the development of these technologies is by clearing spectrum and relocating existing users.

SBC urges the Commission to take a different and less drastic approach. The Commission should consider alternatives such as spectrum sharing and, if required, the creation of a more limited reserve allocation for the new users. The Commission should also consider other modifications to its current proposal including exempting the common carrier band from the reallocation. These and other suggestions are set forth in more detail below.

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[2]"Creating New Technology Bands For Emerging Telecommunications Technology," FCC/OET TS92-1 (January 1992), p. 8, § 4.42; § 6.4 [OET Study].

[3]As the Utilities Telecommunications Council ("UTC") has pointed out in its separate Petition For Rule Making, there are also numerous issues that need addressing prior to the issues in this Docket being resolved. These include changes in the technical and coordination rules to accommodate displaced users, among other changes. UTC Petition, RM-7981, (March 31, 1992).

II. Need For Emerging Technologies Bands.

The NPRM tentatively concludes that 220 MHz will be needed for the development and use of new and emerging technologies in the provision of radio communications. The primary support for this tentative position is that approximately 376 MHz has been requested by proponents of personal communications services ("PCS"), data-PCS, generic mobile satellite service, digital broadcasting service, and low-earth orbit ("LEO") satellite service.[4]

The mere fact that spectrum has been requested for these services does not necessarily support a conclusion that the amount of spectrum requested actually will be needed to provide the services. Such requests are oftentimes inflated and excessive. For example, PCS and data-PCS can be provided today and, if additional spectrum is needed, as little as 50 to 75 additional MHz could be required.[5] This compares with the inflated requests for 240 MHz of spectrum solely by the proponents of PCS and data-PCS.

Moreover, if spectrum sharing techniques prove successful, the potential need for an exclusive PCS spectrum allocation could be reduced and/or eliminated. Southwestern Bell's Intelligent Multiple Access Spectrum Sharing

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[4] NPRM, para. 4.

[5] SBC Comments, GEN. Docket No. 90-314, October 1, 1990, p. 6.

("IMASS") proposal is a case in point. By utilizing the spectrum "gaps" of existing fixed microwave systems for PCS delivery, IMASS offers the ability of personal communications services to co-exist with current uses thereby potentially avoiding a spectrum reallocation that would displace a large number of existing licensees.[6]

Indeed, a 220 MHz reserve band would be the largest radio reserve ever approved by this Commission. For cellular and land mobile service, the Commission found it sufficient to allocate about half that amount, 115 MHz, with 45 of the 115 MHz placed in reserve for future services.[7] In addition, at the time of the cellular and mobile allocation, many of the proposed uses were known and their need for spectrum had been already demonstrated.[8] In contrast, most of the emerging technologies identified by the Commission in this Docket are in the early development stage. Another difference is that the cellular/mobile reallocation only involved the displacement of a small number of existing facilities and operators, whereas the

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[6] SBC Supplemental Comments, GEN. Docket No. 93-314, January 9, 1992, pp. 10-11. Spectrum sharing, albeit in different forms and scope, is also the subject of various other experiments being conducted by American Personal Communications, Associated PCN, Digital Spread Spectrum Technologies, Pacific Telesis, and PCN America.

[7] NPRM, para. 2.

[8] Inquiry Into The Use of the Bands 825-845 MHz and 870-890 MHz for Cellular Communications Systems, Report and Order, para. 3, released May 4, 1981.

proposal in this Docket would potentially displace an unprecedented number, approximately 2800 licensees.[9]

The NPRM cites international spectrum developments, and the stimulative effects which a reserve band allocation would have upon funding for research and development of equipment as reasons for the proposed reallocation.[10] The proposed reserve band allocation could be viewed as consistent with the recommendations of the recently concluded World Administrative Radio Conference ("WARC '92").[11] However, the WARC situation is not comparable to the situation here in the United States where there is a dramatic scarcity of underutilized spectrum available in the bands adopted at WARC for exclusive allocation and/or reallocation. In addition, the U.S. does not have to designate all 220 MHz to be in sync with WARC. A smaller allocation in the same or a similar band would be sufficient to allow worldwide developmental continuity.

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[9]The cellular/mobile reallocation only required the relocation of two full service TV stations and approximately 600 TV translator stations. OET Study, § 2.1, n.3. Thus, there are profound differences in the cellular and emerging technologies situations and the cellular analogy actually disfavors a decision to reallocate as much spectrum as the NPRM proposes for this case. See also UTC Petition cited, supra.

[10]NPRM, paras. 5-7.

[11]WARC has designated 230 MHz for future public land mobile telecom systems in the 1885-2025 MHz and 2110-2200 MHz bands.

As for the stimulative effects of the spectrum reserve allocation on research and development, again, no showing has been made that a reserve allocation as large as 220 MHz is necessary to create those effects. In fact, considerable research has already taken place in the identified areas, without any reserve allocation, and more can be expected to take place because of the Commission's pioneer preference rules.[12] A reserve allocation of 220 MHz is also not necessary to stimulate manufacturing development and lower equipment costs. This contention is belied by the experience of the cellular industry, which has placed in service 7.6 million cellular telephones with substantially less reserve spectrum than has been requested by certain proponents of PCS.[13]

Given these facts, SBC submits that the current record does not support the Commission's broad proposal. The Commission should require more data, particularly the results of spectrum sharing experiments, before ordering a process that will potentially displace a large number of current licensees with existing and proven uses of the spectrum. Such data should potentially include a greater

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[12]The Commission has authorized dozens of experimental programs, including the Southwestern Bell IMASS experiment, and has received over 100 pioneer preference requests. NPRM, para. 4; OET Study § 2.2.

[13]The Cellular Telecommunications Industry Association reported on March 17, 1992 that the industry had 7.6 million subscribers nationwide as of December 31, 1991.

factual demonstration by new users that they have an actual need for the spectrum; a showing that sharing is not feasible; and an in place set of technical and coordination rules that will facilitate any required relocation.

III. Spectrum Issues.

A. Proposed Reallocations.

1. Technical Feasibility.

In selecting the bands for reallocation, the Commission principally relies on the alleged technical feasibility of relocating existing licensees to higher frequencies or to alternative media. Specifically, the Commission proposes to relocate existing users to frequencies above 3 GHz. In the alternative, the Commission suggests a conversion to other media such as fiber optic circuits or satellite.[14]

The assumption that common carriers with 2 GHz facilities will be able to relocate in the manner suggested is not adequately supported. In many areas, the higher bands above 3 GHz are either highly congested or are technically less desirable for existing uses.[15] As pointed

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[14] NPRM, para. 20, n.17.

[15] For example, because of facility exhaustion and growth, SBC's cellular subsidiary has already had difficulty in obtaining 2 GHz and 6 GHz paths in the Dallas, Texas Metropolitan Statistical Area ("MSA") and has had to resort to the use of less desirable 10 GHz facilities. This difficulty will obviously increase to potentially unmanageable levels if a large number of licensees in the area are all vying for the same higher frequencies.

out by the UTC Petition for Rule Making, the Commission simply does not have enough data at this time to fully evaluate the technical feasibility of such relocation and a more detailed factual investigation is both warranted and required.[16]

Also, SBC estimates that, in many cases, the costs of such relocation could exceed by nearly ten times the amount projected by the Commission's study on this issue.[17] In addition, SBC's cellular subsidiary has found that moving path lengths of over 10 miles to frequencies above 10 GHz is unacceptable for its applications because at those frequencies heavy rains will cause path fade. Since additional equipment would be required, common carrier relocation to frequencies above 3 GHz is not likely to be as economical or as feasible as the NPRM and the Commission's study would appear to claim.

Furthermore, use of alternative media, particularly by cellular and paging, may not always be

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[16] UTC Petition, 7981, pp. 9-12.

[17] The OET Study projects an average relocation cost of $25,000 per facility in moving from 2 GHz to above 3 GHz. OET Study, § 6.3. SBC looked at the costs of moving Southwestern Bell Mobile Systems, Inc. ("SBMS") from 2 GHz to 6 GHz in the Dallas, Texas MSA and determined that the "per hop" cost of a 6 GHz microwave path (including engineering, freight, installation, and tax) is approximately $210,000. The relocation costs in Rural Statistical Areas ("RSAs") are even higher since a microwave repeater, at an estimated cost of $150,000 per repeater, would be required to convert certain paths from 2 GHz to 6 GHz, assuming leased tower space is available.

feasible. Introducing fiber into the cellular and paging networks, assuming it is available, could dramatically increase facility costs because of monthly lease rates which may be perpetual in nature.[18]

Satellite technology has also been found to be cost prohibitive because its leased cost is based upon transponder time. The time delays and transponder times associated with satellite, while suitable for digital data transmission, are simply too long and too expensive to be acceptable for many voice transmissions. SBMS also recently tried the use of data applications on satellite and found it was not reliable. In any event, the use of fiber and satellite as alternative media could in many instances increase current costs, reduce flexibility, and adversely impact the optimal network design for certain existing applications.[19]

2. Public Interest.

The Commission recognizes that many of the affected operators provide "important and essential

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[18]Fiber is not available everywhere and is not particularly suited to areas with a mountainous or rocky terrain. In addition, because cellular and paging do not at this point have sufficient subscriber or usage levels to justify the extensive deployment of fiber in their networks, leasing of those facilities would be required at what may not be economical or realistic rates for their operations.

[19]Among the alternatives, it maybe easier and less expensive for many of these applications to move to another radio spectrum than it would be to use an alternate technology.

services."[20] For that reason, the Commission has partially exempted state and local government licensees from its proposed relocation transition plan.[21] The Commission has also exempted completely from the proposed reallocation: (1) the 1.71-1.85 GHz band allocated for governmental use; (2) the 1.99-2.11 GHz band allocated for broadcast auxiliary services; (3) the 2.15-2.16 GHz band used for multipoint distribution service (primarily wireless cable television); (4) the 2.45-2.50 GHz band allocated to Industrial, Scientific, and Medical equipment; and (5) the 2.50-2.60 GHz band allocated for multipoint distribution service ("MDS") and instructional television fixed service ("ITFS").[22]

SBC submits that equal, if not more compelling, reasons justify completely excluding the 2.11-2.20 GHz common carrier band from the proposed reallocation. The common carrier band should be excluded in recognition of the public safety aspects of common carrier service, the current telephone company carrier of last resort obligations, and also in recognition of the important and essential services which common carriers provide to the public.

SBC has three operating subsidiaries who are heavy users of the affected common carrier band. Each of these subsidiaries uses the 2.11-2.20 GHz band in order to provide

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[20] NPRM, para. 19.

[21] NPRM, para. 25.

[22] NPRM, n.11, paras. 14, 16, 18, 21.

services to the public. Southwestern Bell Telephone Company ("SWBT") uses most of its 2 GHz frequencies to serve customers in remote or rural areas. In this regard, SWBT has replaced most of its old "open wire" facilities with 2 GHz point-to-point microwave systems as the preferred and most economical means of providing reliable, high quality telephone service to customers in those locations. The public safety aspect of SWBT service is undeniable considering that these systems represent the only links that many of these customers have to communicate with the outside world.

Southwestern Bell Mobile Systems, Inc. ("SBMS") uses 2 GHz facilities as its "network backbone," i.e., to interconnect cell sites with its mobile telephone switching offices, and in that manner to provide continuous service to customers with cellular phones. The 2 GHz facilities are an integral and critical part of the SBMS network. SBMS selected the 2 GHz facilities because of their economics and reliability. Their use has allowed SBMS to control costs and to make its services more affordable for customers. SBMS cellular service is also an important public safety mechanism, as it is used by ordinary citizens in reporting traffic accidents, crimes in progress, and in summoning police, fire, and other emergency service providers.

SBC's Metromedia Paging Services ("MPS") subsidiary uses its 2 GHz facilities to provide wide area

paging service to customers in Texas, California, and Virginia. Among the MPS customers are physicians and other emergency service providers who use pagers to be notified regarding the existence of an emergency which requires their immediate attention when away from the office or home.

The public safety attributes of these common carrier services clearly deserve the same consideration that the Commission has given to other exempted uses. The public's ability to reach state and local governmental entities and/or emergency service providers through the common carrier networks is just as important as those entities or persons having their own internal, reliable, and efficient point-to-point microwave systems. In fact, those point-to-point microwave systems would be of little use if the public could not easily and conveniently reach those entities or persons by phone or to notify them of the existence of an emergency through paging.

Common carrier services certainly have greater arguable public importance than many of the proposed exempted uses, such as video, wireless cable television, auxiliary broadcast, and advanced television. Yet, the Commission proposed reallocation decision would exempt and favor those other uses. In no event should the Commission subordinate at this point the common carrier interests of the public to the interests of video service providers and others with little or no public service obligations and less

demonstrated demand for their services. The health and safety aspects of common carrier communications service should currently take precedence over such uses.

3. Government Spectrum.

The Commission acknowledges the existence of Congressional proposals that would potentially release U.S. government allocated spectrum in the 1.71-1.85 GHz band for commercial use.[23] If this spectrum is released, new services could be directly allocated and/or existing services could be relocated into that band.[24] While there is uncertainty concerning whether this spectrum will or even should be released for reallocation, the most powerful argument for Congress doing so is that the spectrum is or will be needed for emerging technologies or as replacement spectrum. The Congressional incentive to release the spectrum could well be eliminated if the Commission were to act prematurely and take the action here suggested - namely, create a reserve allocation band. In that event, the spectrum needs of emerging technologies will have been dealt

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[23] NPRM, para. 21, para. 10, n.11, para. 27.

[24] Another, and possibly more suitable, alternative might be sharing of the government band with emerging technologies and existing microwave services. As stated in UTC's Petition at pp. 15-19, in RM-7981, such sharing would appear feasible.

with and Congressional policy makers may see a reduced need to release any portion of the government band.[25]

It bears noting that the government band is in the general range adopted by WARC '92 for new service use. The government band also appears to be contiguous with the spectrum which the Commission proposes to reallocate from the private radio band.[26] Given these characteristics, an alternative might be for the Commission to begin with a limited reallocation of frequencies for the use of emerging technologies from within the 140 MHz in the 1.85 to 1.99 GHz private radio band,[27] and then to inform Congress that it expects to meet any future emerging technology requirements with spectrum released from the government band.

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[25]This will be particularly true if the Commission orders replacement spectrum from other non-government bands, even though the government band is a more suitable band for the relocated services. It would be easier and cheaper to relocate existing 2 GHz users to the 1.71-1.85 GHz band than to higher frequencies such as 4, 6, or 10 GHz.

[26]The 2.11-2.20 GHz common carrier band, on the other hand, is not contiguous with either the private radio (1.85-1.99 GHz) or the government (1.71-1.85 GHz) band. Under the Commission's proposal, the common carrier band will also be fragmented with the Commission excluding from the reallocation the frequencies in the 1.99-2.11 and 2.15-2.16 GHz bands.

[27]There has been little or no showing that the private radio spectrum has a pubic or a safety purpose which is any way analogous to the public use of common carrier networks. Consequently, if a spectrum reallocation is deemed necessary, the private radio band should be the subject of reallocation before the Commission reaches or considers a reallocation of spectrum from within the common carrier band. This could occur in stages.

This approach could have certain advantages. First, it could encourage Congress to release and/or share spectrum from within the government band. Second, it would represent a phased approach to spectrum allocation and would give proponents of spectrum sharing proposals more time to demonstrate the superiority of their approach before the Commission implements a massive relocation process. Third, if Congress releases the government spectrum or if sharing proves effective and feasible, there may be a reduced need to relocate existing users or a better band available for sharing or replacement. Fourth, the approach could create the potentially desirable possibility that any exclusive spectrum needs of emerging technologies could be met from within a single, contiguous radio band.[28]

SBC suggests that the Commission may want to consider this as a possible alternative to its current reallocation plan, along with preferred alternatives such as spectrum sharing. In either case, the public would be better served if the Commission were to adopt a more cautious and patient approach rather than by moving

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[28]Also, by meting out spectrum, as opposed to allocating it in large blocks, the Commission can best ensure that the spectrum actually will be needed for the proposed use, and that it will be used efficiently once allocated. Otherwise, the Commission could be encouraging new service speculators to horde previously useful spectrum or to use it inefficiently. As the cellular experience shows, limiting the amount of allocated spectrum tends to encourage innovation and spectrum efficiency. The most recent evidence of this is cellular's move towards a digital network that will increase spectral efficiency.

precipitously and reallocating a large block of spectrum for certain speculative and unproven uses.[29]

B. Transition Plan.

1. New Facilities And Secondary Status.

The Commission apparently proposes a "cut-off" date on applications by fixed microwave service operators for new facilities in the 2 GHz spectrum. The "cut-off" date is the date of the NPRM (February 7, 1992), after which many applications will be granted only on a secondary basis.[30]

SBC is adamantly opposed to any "cut-off" date requirement, as it is to any proposal that would make its subsidiaries' facilities subject to secondary status. Secondary status is not an option for the SBC companies.

Secondary status would mean that the SBC companies would be responsible for preventing interference with newly authorized users immediately. More importantly, they would also be responsible for remedying any interference which those users might cause to existing fixed operating systems. In either case, there is a great potential for service disruptions and inconvenience to the existing customers of the SBC companies. The SBC companies cannot provide or meet their tradition of providing reliable, high quality service

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[29]SBC takes no position based on the current record on the issue of whether the government band is effective and efficient, or whether the band is being underutilized.

[30]NPRM, para. 23.

under these circumstances and therefore secondary status is not feasible or acceptable.[31]

Because secondary status is not a real option, the proposed "cut-off" date could be a de facto "freeze" on the SBC companies' 2 GHz facilities. Such a freeze is not in the public interest. It could seriously interfere with and curtail the ability of the SBC companies to meet their customers' existing and future service needs due to the fact that those needs could not be met fully without the expansion or substantial modification of existing 2 GHz facilities.[32] It could harm the economy and 2 GHz manufacturers by halting or delaying a number of purchasing decisions by existing licensees. In fact, it could terminate many future SBC company purchases involving 2 GHz equipment. The cut off could further harm existing and potential customers by reducing current common carrier

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[31]It would be unfair and unreasonable to inconvenience the customers of the SBC companies simply to accommodate services with an unknown number of users. Under such circumstances, the wider public good would be better served by giving priority to the existing, proven services.

[32]For example, full utilization of the SBMS backbone network requires that it make additions to the network to accommodate service growth. In the Dallas, Texas MSA alone, SBMS has 61 microwave paths in service, and in 1992 plans to add 1,100 radio channels. Secondary status, if applicable, could jeopardize many of those additions and could deny SBMS the flexibility needed to serve its customers.

service capabilities and growth requirements that could be met with existing technology and facilities.[33]

The possible cut-off date is also unlawful because it apparently became effective on the issuance date of the Commission's NPRM in this Docket. That is, the cut-off was imposed without a notice and comment period as required by the Administrative Procedure Act, the Communications Act, and the Commission's rules.[34] At no time prior to the issuance of the NPRM was the cut-off date either mentioned or proposed. Thus, the cut-off date is unlawful and invalid.

2. Co-Primary Licensing.

The Commission proposes to allow currently licensed 2 GHz fixed licensees to continue to occupy 2 GHz frequencies on a co-primary basis with new services for a fixed period of time, ten or fifteen years. After that time, the facilities could continue to operate, but only on a secondary basis. The Commission also proposes to allow state and local government 2 GHz facilities to continue to

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[33]SBC recognizes that the Commission has subsequently indicated that it may be proposing to modify its cut-off date. Public Notice No. 23115 (May 14, 1992). But many of the cut-off date requirements, including secondary status for certain facilities licensed after January 16, 1992, would appear to remain in effect. The Commission should either eliminate the cut-off date requirement entirely or address the matter more fully in its decision in this case. At this time, its intention on this issue is less than clear.

[34]45 U.S.C. § 553; 47 U.S.C. § 303; 47 C.F.R. § 1.412, § 1.415, and § 1.427.

operate at 2 GHz on a co-primary basis indefinitely at the discretion of the state and local government licensees. But new 2 GHz facilities for state and local government licensees will be authorized only on a secondary basis.[35]

Co-primary licensing means that the existing licensee would be protected from interference from new applicants and that new service providers would be eligible to file only for unused channels. As indicated earlier, secondary status means that the existing operator would have to accommodate the new user in the event of interference either by eliminating the interference, negotiating an arrangement for continued operation with the new service operator, or by ceasing operations in that frequency band altogether.

SBC agrees that the transition approach is preferable to a plan that would require the immediate relocation and corresponding displacement of all existing licensees. SBC further agrees that existing licensees should be allowed to continue to operate on a co-primary basis for a transition period of at least fifteen years. However, SBC cannot agree with certain elements of the Commission's proposed transition plan.

In fact, SBC believes that the transition period should be even longer if the particular spectrum has not been requested by a new user. Under that circumstance, the

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[35] NPRM, paras. 24 and 25.

incumbent should be allowed to remain co-primary until a valid request is made. If that request is made, the rules should specify that the incumbent will be given a number of (at least 15) co-primary years after the request to relocate. Furthermore, nothing would be gained by prohibiting and/or discouraging new construction or the expansion of existing facilities in those areas for which there has not been a valid spectrum request. Such a requirement would only make it more difficult for existing operators to serve their customers. Therefore, in the absence of a valid spectrum request, new construction and expansion should be permitted and the operator should have co-primary status on the facilities for the period and under the guidelines set forth above.[36]

A second alternative, mentioned earlier, would be simply to exclude the common carrier band entirely from the proposed reallocation just as the Commission has proposed for providers of certain video services, among others.[37] As another alternative, the Commission could recognize that common carriers' services have many of the same public safety attributes as the services provided by state and

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[36]The Commission could develop a less restrictive means for discouraging the unnecessary proliferation of the incumbents' 2 GHz fixed microwave facilities, such as requiring the applicant to show that the facilities are necessary to meet a proven or a reasonably expectant telecommunications service need.

[37]Section III, A.2, supra.

local governments using 2 GHz facilities and, as in that case, allow common carriers also to continue to operate indefinitely at their discretion with new operators on a co-primary basis.

These alternatives are more reasonable than the current plan. Co-primary status will encourage cooperation between incumbents and new users. It will also encourage both to develop spectrum sharing techniques in order to make co-primary usage more feasible. The end result will be a more efficient use of spectrum, and a process that will minimize or eliminate what could be unnecessary relocation costs.

3. Negotiation.

The Commission seeks comment on what restrictions, if any, should be placed on negotiated arrangements.[38] SBC believes that the Commission should place few, if any, restrictions on the negotiations between incumbents and new service operators. Those negotiations should be allowed to take their course and to produce results in accordance with the marketplace.[39]

Granting the incumbent licensee co-primary status will give both parties an incentive to negotiate in good

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[38] NPRM, para. 26.

[39] However, as requested in the UTC Petition, the Commission should amend its rules specifically to allow incumbents to relocate to other spectrum or media with ease, and those rules should be in place prior to or at the same time as any reallocation.