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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

ORIGINAL FILE

In the Matter of:	)	
	)	
Policies and Rules for Licensing	)	
Fallow 800 MHz Specialized Mobile	)	RM-7985
Radio (SMR) Spectrum Through A	)	
Competitive Bidding Process	)	

To: The Commission

COMMENTS OF THE FLORIDA SMR COALITION

Respectfully submitted,

The Florida SMR Coalition

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SUMMARY

The Florida SMR Coalition ("Coalition"), comprised of operators of SMR facilities in Florida, hereby opposes, in part, the Petition for Rule Making filed by Fleet Call, Inc. ("FCI" or "Fleet Call"). While the Coalition supports many of the concepts envisioned in FCI's Petition, it does not believe that the plan to create and then auction innovator blocks of SMR channels is in the public interest.

First, contrary to Fleet Call's assertions, the Coalition does not believe that adoption of FCI's proposal is necessary to promote the implementation of digital technology. Rather, the Coalition believes that the market place will mandate conversion to digital technology and that such a market place conversion will allow for a more efficient use of the spectrum than an artificially enforced conversion pursuant to FCI's proposal. The Coalition also believes that market place forces will promote the seamless coverage that FCI envisions and that is unnecessary to adopt the regulations proposed by Fleet Call in order to achieve seamless SMR coverage. Finally, the Coalition believes that it is the market place and not regulations which should govern the licensing of currently unused spectrum. To this end, the Coalition supports FCI's proposal to remove existing regulatory impediments to the growth of the SMR industry.

Second, the Coalition believes that FCI's innovator block concept is unworkable at 800 MHz. In many instances, the FCC will not be able to implement FCI's designated innovator blocks for 800 MHz spectrum because of the company's erroneous evaluation of the current licensing environment. Contrary to FCI's assertions, the use of an innovator block in an MSA or RSA will not be compatible with the existing

employment of these channels. Rather, the Coalition suggests that the use of innovator blocks would be more appropriate in spectrum where there are currently no users. Furthermore, the imposition of a freeze in order to implement innovator blocks will unfairly limit the ability of existing operators to expand their operations and, thus, is contrary to the public interest.

Finally, the Coalition is opposed to the use of auctions in general to license communications facilities. Auctions can only be legitimately employed where no licenses have been issued for a particular service and the use of auctions at this late stage in the development of the 800 MHz SMR industry would fundamentally alter the nature of the industry.

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To: The Commission

COMMENTS OF THE FLORIDA SMR COALITION

The Florida SMR Coalition ("Coalition"), pursuant to § 1.405 of the Rules and Regulations of the Federal Communications Commission ("FCC" or "Commission")[1/] by its attorneys, hereby submits Comments responsive to the above referenced Petition for Rule Making of Fleet Call, Inc. ("FCI" or "Fleet Call").[2/]

FCI's Petition asks that the Commission assemble unlicensed 800 MHz Specialized Mobile Radio (SMR) channels in "innovator blocks". Under the Fleet Call plan, the Commission would identify innovator blocks in discrete markets throughout the country. The market definitions would follow the metropolitan statistical areas (MSAs) and rural service areas (RSAs) employed in the context of awarding authorizations for

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1/ 47 C.F.R. § 1.405.

2/ RM-7985, Public Notice Report No. 1889. By Order released June 9, 1992 (DA-711), the Private Radio Bureau extended the Comment period until July 17, 1992; Reply Comments are due on August 3, 1992.

cellular radio systems. Once identified, the spectrum blocks would be auctioned to the highest bidder. Licensees would be required to construct the facilities using high capacity digital equipment.

FCI's proposal represents a dramatic departure from the manner by which the FCC currently authorizes 800 MHz spectrum for use by SMR facilities. While the Coalition supports many of the concepts envisioned in the FCI proposal, it does not believe that the plan to create and then auction innovator blocks of SMR channels is in the public interest. Moreover, the Coalition's members would be harmed in their efforts to serve the public if FCI's proposal were adopted. Accordingly, the Coalition is pleased to have this opportunity to submit the following Comments.

I. Statement of Interest

The Coalition's members are all operators of SMR facilities in Florida.[3/] With the exception of the Florida panhandle, the members of the Coalition provide service throughout Florida, serving an approximate aggregate population of 5 million people. The Coalition's members have expanded their SMR operations over time, adding channels incrementally when justified by their systems' loading levels. These facilities have grown primarily through the authorization of additional channels directly by the Commission, and occasionally through acquisition of frequency assignments from other existing SMR operators. This program of planned growth, by securing channel assignments principally from the FCC, has allowed members to offer a valuable service

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[3/] A listing of the Coalition's members appears at Attachment 1.

to customers at a competitive cost. Collectively, the Coalition's members provide service to more end users than any other single SMR entity serving the state of Florida.

The Coalition's members are also founders of the Mobile Communications Network ("Mobile Comnet"). The organization is a network of Florida SMR operators who have pooled their marketing, technical and operational resources to provide a competitive wide-area service offering for both dispatch and SMR subscribers. The network is comprised of Motorola equipment including Digital Voice Privacy (DVP) and data handling capabilities. The central controllers are networked together with a combination of both microwave and phone lines utilizing a custom designed network hub switch.

The Coalition's members, like other SMR operators throughout the country, will be negatively affected by Fleet Call's proposal. The FCI plan will inhibit Coalition members from expanding into adjacent MSAs and RSAs where innovator blocks are planned. Three MSAs in Florida, where Coalition members have systems or where Coalition members have systems adjacent to the MSAs, are targets for the use of innovator blocks. Similarly, the identification and auction of innovator blocks throughout the country will have a negative impact on existing SMR providers with facilities in or adjacent to those areas. Fleet Call selected the Ocala, Gainesville and Melbourne markets for innovator block treatment. While the Coalition shares much of the vision expressed by FCI in its Petition, the following points out the inadequacies with the mechanisms by which that vision would be achieved.

II. Comments

A. Market Forces Will Produce The Result That FCI Wishes To Impose Upon The SMR Industry.

FCI argues that the FCC must promote digital technology through a change in its rules and licensing policies.[4/] While the Coalition believes that the promotion of digital technology is in the public interest, it does not concur with Fleet Call's assessment that a new method of licensing 800 MHz SMR channels is required to achieve that goal. Indeed, Fleet Call points out that leading members of the SMR industry, including FCI itself, have already committed to installing digital technology in many of the top markets throughout the country. Fleet Call stated that its first Digital Mobile Network will be operational in Los Angeles by 1993. Other SMRs are members of roaming coalitions which propose to implement digital technology on SMR facilities.[5/] Moreover, as FCI notes, the Coalition's own members have proposed, and received authorization to implement advanced digital SMR systems.[6/] These members, which already provide service throughout most of Florida, expect to implement digital technology over time, a market place decision made without the assistance of innovator block assignments.

Accordingly, no additional rule changes are necessary to promote the implementation of digital technology. The Commission's regulations already allow the

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[4/] Petition at p. 5.

[5/] Several SMR operators have formed the Digital Mobile Network Roaming Coalition ("DMNRC"), of which FCI is a member.

[6/] Application of Advanced Radio Communication Services of Florida, Inc. ("Advanced") for Authority to Integrate Four Trunked Stations Into One System, filed July 15, 1991. Advanced subsequently submitted a request to further expand its digital SMR system.

use of digital technology over SMR systems and it is evident from the actions of leading SMRs that digital technology will be implemented within the next several years. This movement toward the implementation of digital technology will proceed without further Commission regulation.

The conversion to digital technology has, to date, been fostered by a need to create additional capacity on SMR systems in urban areas. As the requirement to serve additional customers has increased, SMRs have had more than adequate incentive to convert to technology that will support these customers. It is well documented that the SMR industry is expanding rapidly.[7/] The Coalition anticipates that there will be additional capacity requirements in virtually all areas targeted by Fleet Call for innovator block channels. Operators in these markets, therefore, will have sufficient incentive to implement digital technology in order to provide service to the greatest number of customers possible. Conversely, while the market place conversion to digital technology will result in efficient use of the spectrum, licensing channels in innovator blocks will not. Authorization of a large block of channels to an entity without any demonstration that the frequencies are required to serve a documented need, or even a requirement that the channels be put to use, is not in the public interest.

Even in instances where additional capacity will not be immediately required, SMRs will still have sufficient marketplace incentives to implement digital technology. It is widely anticipated that digital transmissions will improve the quality of customers'

7/ See, generally, The State of SMR: A Look at SMR and The Private Radio Industry, Third Edition, Economic and Management Consultants, International, Inc. (November 1991).

reception, particularly in fringe coverage areas. Moreover, digital technology is expected to enable the more successful transmission of data and facsimile as well as other non-voice communications. In order to provide these services, SMR entrepreneurs will be enticed to implement digital technology, regardless of where their systems are located.

FCI also argues that the Commission's rules should be changed to encourage development of seamless nationwide SMR service.[8/] The Coalition believes that marketplace forces will also promote the seamless coverage that FCI envisions and that it is unnecessary to adopt specific regulations to promote seamless SMR coverage.[9/] There are currently no technical or regulatory impediments to the development of nationwide systems. Even today's analog 800 MHz radios are capable of operating on any channel that may be used by an 800 MHz SMR provider throughout the country. With the improvements expected in the next generation of digital radios, it will likely be even easier for an SMR subscriber to communicate with any 800 MHz SMR base station throughout the country.[10/]

8/ FCI Petition at p. 9.

9/ As discussed below, the Coalition believes that the elimination of burdensome regulations may be necessary in order to reduce barriers to the formation of seamless SMR networks. However, the promulgation of regulations designed to promote networks is unnecessary.

10/ The Coalition recognizes that today, there is limited ability for SMR entrepreneurs who employ the equipment of different manufacturers to cooperate in the implementation of regional or nationwide networks. However, FCI's proposal does not attempt to address this legitimate marketplace impediment. The soon to be implemented digital technology may offer opportunities for networking among entrepreneurs using the radio systems of different manufacturers.

Evidence of the inevitability of seamless SMR service is offered by FCI itself. As noted above, FCI is a member of the DMNRC which may evolve into a nationwide SMR network. Indeed the Coalition's members have, on a regional basis, already accomplished what Fleet Call alleges the Commission must encourage by the promulgation of new licensing methods.

Marketplace forces will also ensure that spectrum is used in connection with seamless SMR networks throughout the country, not only in urban areas. If the DMNRC and/or other cooperative arrangements prove successful in offering roaming capabilities in major urban areas, entrepreneurs will be quick to secure authorizations to provide service in unserved areas. As the Commission is aware, where service is offered in urban areas, there is a significant degree of enthusiasm for providing "fill in" capabilities to unserved areas. For example, in those areas where there is no cellular service today, the Commission is expected to receive many applications to provide service. There is no reason to believe that, should digital SMR live up to its capabilities in urban locations, similar enthusiasm will not be expressed for providing service in unserved rural areas unserved by digital SMR systems.

FCI also alleges that the Commission should adopt its proposal because the spectrum under consideration has remained unlicensed. The Coalition believes, however, that this fallow spectrum will ultimately be employed. In the relatively short time that SMRs have been authorized, a significant demand has been created for service in many urban areas. As the demand for SMR capabilities in particular, and wireless communication services in general, increases, the need for spectrum in less populated

areas will similarly increase. It is not, as FCI suggests, a lack of financing which has impeded the growth of SMR service in these rural locations. Rather, it is a lack of demand for SMR service. The additional demand created by FCI and others will ultimately result in the full employment of SMR channels in all locations throughout the country, in much the same fashion as the demand for SMR service produced full employment of these channels in urban locations. SMR channels became fully used in major markets without a need to create innovator blocks. As the demand develops for wireless communications, similar full employment of channels will occur in rural areas as well. The needs will be created by nationwide and regional systems, mobile data requirements and other innovative services that will be provided by SMRs and other wireless communications entrepreneurs.

B. There Are Less Disruptive Means To Accomplish FCI's Goals.

FCI complains that existing "regulatory dinosaurs"[11/] inhibit the implementation of digital SMR systems. The Coalition does not completely disagree with FCI's assessment of current regulatory restrictions. The rule barring the authorization of more than one unloaded SMR facility within 40 miles of another ("the 40-mile rule") and the limitation on the authorization of more than five channels at a time may serve as impediments to the growth of digital technology and to the implementation of SMR networks. However, the elimination of these "regulatory dinosaurs" does not necessarily mean that the Commission must also implement FCI's innovator block concept. The Commission can address the restrictions that the current regulations impose without

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[11/] FCI Petition at p. 18.

modifying the essential framework of the present SMR licensing scheme which both ensures orderly growth of systems and discourages the "warehousing" of spectrum.

The Commission has already acted to eliminate some of the restrictions of which Fleet Call complains. Other members of the SMR industry have suggested to the Commission methods by which these burdensome regulations can be modified or eliminated. The Commission should seriously examine these recommendations before it adopts Fleet Call's proposals.

The Commission will, within the next year, eliminate its regulations which mandate the "recapture" of unused SMR channels for failure of the licensee to meet loading standards.[12/] The American Mobile Telecommunications Association (AMTA) submitted a Petition for Rule Making which addresses some aspects of the 40-mile rule, particularly as it relates to rural areas.[13/] More recently, A & B Electronics, Inc. submitted a Petition for Rule Making to the FCC recommending substantial modifications to the 40-mile rule.[14/] These are all means by which the Commission can ameliorate some of the negative affects that the "regulatory dinosaurs" of which FCI complains have upon the SMR industry.

[12/] 47 C.F.R. § 90.631(b).

[13/] RM-6724, filed March 27, 1989.

[14/] Modification of Section 90.267(b) and other Provisions of the FCC's Regulations Affecting the Ownership of Specialized Mobile Radio (SMR) Systems within 40 miles of each other, submitted May 26, 1992.

C. The Innovator Block Concept Is Unworkable At 800 MHz.

One of the essential elements of FCI's proposal is the licensing of 800 MHz SMR channels in "innovator blocks". However, the use of an innovator block in an MSA or RSA will not be compatible with the existing employment of these channels. FCI's proposal is unrealistic, therefore, particularly with respect to areas where there is heavy SMR usage in adjacent locations.

In many instances the FCC will not be able to implement FCI's designated innovator blocks for 800 MHz spectrum because of the company's erroneous evaluation of the current licensing environment. Some of the channels Fleet Call claims are available cannot truly be authorized at the sites selected. For example, Fleet Call contends that there are 56 vacant channels in Melbourne, Florida. However, Melbourne is within the Orlando waiting list area where all 800 MHz SMR frequency assignments are licensed and have been authorized for many years. Fleet Call is simply incorrect in its presumption that the channels it specifies as available can actually be licensed in the Melbourne MSA. Similarly, Poughkeepsie, New York which is identified as having 61 available channels, according to FCI, is located within 70 miles of New York City, where SMR channels are intensively used. Fleet Call is simply incorrect in its presumption that there are any SMR channels available for employment in the Poughkeepsie area.

One of the reasons why Fleet Call has apparently arrived at the erroneous conclusion that channels are available where they truly are not is its presumption that co-channel frequency assignments may be located 55 miles apart. The Coalition expects it is on this basis, for example, that FCI identified channels available in Poughkeepsie. It

is possible that there are 61 channels, licensed in southern Manhattan and on Long Island which are greater than 55, but less than 70 miles away from Poughkeepsie.

The presumption that channels are available if they are not licensed within 55 miles is, however, a poor basis for determining whether frequencies are actually usable in a specific area. FCI's selection of the 55 mile separation standard is apparently based either upon: (1) the employment of all channels in the area in an enhanced SMR (ESMR), cellular-like configuration or; (2) the use of the channels on a short spaced basis. Either of these presumptions is inaccurate. First, only in some markets will ESMR systems be implemented. In fact, in the markets where innovator blocks have been targeted, spectrum utilization has not been intense, making it particularly unlikely that the implementation of an ESMR-frequency reuse configuration would be necessary. Moreover, even in the locations where ESMR will be constructed, not all operators in the market will employ low power operations. Accordingly, it is erroneous to expect that a particular number of frequencies will be available on a 55 mile separation basis because of ESMR operations.

Second, it is equally unrealistic to believe that specific channels may be used on a short spaced basis. The Commission's regulations recently were amended to allow short spacing when it comports with the FCC's regulations on a non-waiver basis.[15/] However, this decision is currently under reconsideration. The widely supported Petitions for Reconsideration contend that these newly adopted regulations are

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[15/] Report and Order, (FCC 91-229), PR Docket No. 90-34, 6 FCC Rcd 4929 (1991).

inadequate and must be revised to provide further protection for full power SMR systems.

Another indication that the innovator blocks are not appropriately conceived, given the current 800 MHz licensing structure, is the proximity of some of the blocks to one another. According to FCI, innovator blocks are available for licensing in both Canton and Youngstown, Ohio. However, those cities are only 43 miles apart. Even presuming that there are sufficient channels available in one of those two markets to support an innovator block, it is unlikely that the channels are available in both.

The Coalition is not necessarily opposed to the use of innovator blocks. However, as noted above, the 800 MHz band is not the most appropriate place to impose innovator blocks today. The Coalition believes that the optimal location for innovator blocks would be in spectrum where there are currently no users. However, failing that option, the innovator block concept might be appropriate in lightly used spectrum, where the Commission is attempting to promote greater employment of the channels.

For example, the Commission may wish to consider the implementation of the innovator block concept in the 900 MHz channels designated for SMR use. The Commission is currently considering how to license the 900 MHz SMR channels in locations outside the top 50 metropolitan areas.[16/] This proceeding is also designed to address among other issues, the mechanism for relicensing those channels which have been recaptured because of the licensees' failure to either load or construct the facilities.

[16/] Amendment of Parts 2 and 90 of the Commission's Rules to Provide for The Use of 200 Channels Outside the Designated Filing Areas in the 896-901 and 935-940 MHz Bands Allotted to the Specialized Mobile Radio Pool, 4 FCC Rcd 8673 (1989).

Because of the relatively light utilization of 900 MHz SMR channels and the significant number of frequencies which have been returned to the Commission, the FCC may wish to consider using the innovator block concept with 900 MHz SMR channels.

The differences between the 800 MHz and 900 MHz SMR spectrum highlight why the 800 MHz channels are inappropriate for imposing innovator blocks. The Commission currently "recaptures" 900 MHz channels form licensees who fail to construct or place their stations in operation. There is no mechanism in place for relicensing this spectrum. At 800 MHz, SMR channels that are "recaptured" are immediately available for reassignment. Accordingly, while a freeze on the authorization of 800 MHz channels would be necessary to implement the innovator block concept for these frequencies, no such freeze would be necessary at 900 MHz. Similarly, in order to adopt FCI's proposal, the Commission must delay or freeze the licensing of 800 MHz channels, until it is authorized to assign frequencies by comparative bidding. These channels would otherwise be available for licensing today. At 900 MHz, there would be no requirement to cease processing applications while congressional auction authority is obtained, because the FCC is not currently licensing additional 900 MHz SMR systems.

The innovator block concept is also unworkable at 800 because of the dual regulatory structure it would create for 800 MHz SMRs. For innovator block licensees, there would be no 40-mile rule concerns of limitation on the number of channels that could be authorized to a single entity at one time. However, the remainder of the SMR industry, whose substantial investment is based on the present FCC rules, would be required to comply with these regulatory restrictions. There may be entities which try to

consolidate frequency assignments in order to construct and operate a digital SMR system. Those entities would be at a competitive disadvantage with the innovator block licensee. There is no reason to provide the innovator with a competitive advantage over other SMRs who may attempt to offer the type of service that the innovator would provide.

Fleet Call states that remaining 800 MHz SMR, General Category 800 MHz and 900 MHz channels will be available even after the innovator blocks are authorized. However, the Coalition believes that these alternatives are not adequate substitutes for 800 MHz SMR spectrum and will limit SMR entrepreneurs' ability to expand their systems. First, 900 MHz spectrum is technically incompatible with 800 MHz spectrum. An SMR operator with 800 MHz channels cannot add 900 MHz frequencies to its existing system. Second, FCI's plan to make available General Category channels to existing licensees may not actually create any additional capacity for these operators. The General Category channels are currently available to SMRs wishing to expand their systems only up to the existing loading of an SMR station. SMR category channels are available in blocks of five to accommodate future loading. The Commission would be required to change its regulations, therefore, in order to make the General Category channels available in blocks of five to SMRs. In so doing, the Commission would reduce the number of channels available for non-SMR operations, which may have a negative affect on other categories of radio users. Similar restrictions apply to channels available to SMR operators on an intercategory sharing basis. Because these frequencies also may

not be licensed to SMRs in the same fashion as SMR channels, they are not truly adequate substitutes.

D. The Proposed Application Freeze Will Limit Growth For Legitimate Operators.

Fleet Call suggests that the Commission "not grant any additional licenses on the innovator block channels ... to prevent speculators from undercutting the purpose of the innovator block concept".[17] Instead, Fleet Call suggests that existing licensees with fully loaded systems could be granted five available non-innovator block 800 MHz trunked channels or 800 MHz General Category channels. However, as noted above, there are significant shortcomings to Fleet Call's plan to license and employ the other 800 MHz channels. Moreover, the Coalition is not as confident as Fleet Call that these additional channels are actually available. Because Fleet Call has identified channels in MSAs and RSAs, where there are truly no channels available, the Coalition is not sanguine about FCI's representations that additional 800 MHz spectrum remains for SMR expansion, apart from the innovator block channels.

FCI's proposal, therefore, specifically inhibits growth by existing operators in favor of new innovator block licensees. This creates an inequitable situation for existing licensees and places them at a competitive disadvantage with entities that will receive channels that current SMRs might otherwise have employed to expand. In connection

[17] Petition at p. 21. Fleet Call has also requested that the Commission investigate many 800 MHz applicants, in another apparent attempt to block the authorization of 800 MHz channels.

with its Rule Making Petition, Fleet Call submitted a Petition to Initiate Inquiry.[18] It apparently is convinced that there have been applications submitted designed to "sabotage" the innovator block proposal. The Coalition questions whether Fleet Call is truly more concerned about promoting digital, nationwide SMR systems, or its ability to secure authorizations for innovator blocks. If the Commission does not freeze the acceptance and processing of 800 MHz SMR applications in innovator block locations and applications are granted for these frequencies, licensees will have the opportunity to participate, on a marketplace basis, in a nationwide, seamless SMR system. The Commission's regulations are designed to recapture any channels that are not constructed within one year of the system's authorization date. Accordingly, FCI's Petition may have served as a catalyst for the rapid development of the SMR industry. Should that be the case, FCI should be pleased with the result, if it is interested in the further maturation of the industry. Just as consolidation occurred in the past, if all of the channels throughout the country are now licensed, it is not unreasonable to expect that there will be future consolidation, allowing the type of network arrangements to occur that Fleet Call envisions.

E. Auctions Are An Unacceptable Method of Licensing.

Fleet Call's proposal envisions the use of auctions, or competitive bidding, to authorize the innovator block channels. Fleet Call correctly points out that there has been a "lengthy spirited public debate about the appropriateness of using auctions to

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[18] Inquiry Pursuant to § 403 of the Act Concerning Applications for 800 MHz Specialized Mobile Radio Facilities, submitted by Fleet Call, Inc., June 30, 1992.

license communications systems."[19] It is only in this contention regarding auctions, however, that FCI is correct. The Coalition is opposed to the use of auctions in general to license communications facilities. It will not burden the record in this proceeding with the many substantial and valid arguments that have been raised against auctions in the context of communications authorizations.

Nevertheless, the use of competitive bidding in the 800 MHz SMR context is particularly inappropriate. Auctions can only be legitimately employed where no licenses have been issued for a particular service. The Coalition's members, and most SMRs have secured their frequency assignments from the FCC at a minimal cost, allowing them to provide service to customers at a reasonable cost. By now imposing a substantial cost on the acquisition of remaining channels, the Commission would seriously disrupt the current economic structure of the SMR industry. This disruption is made worse for current 800 MHz licensees because the innovator block spectrum is the natural target for expansion of existing SMR systems. Even if a local SMR with a substantial presence in a market chose to participate in a competitive bidding process, it is unlikely that it would secure channels bidding against well funded "outside" interests. Once that outside interest secured the innovator block it would likely drive the local SMR out of the market because the existing licensee will no longer be able to secure the frequencies needed for growth.

The use of auctions at this stage in the development of the 800 MHz SMR industry would fundamentally affect its nature by limiting entry to those entities with

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[19] Petition at p. 24.

significant financial resources. For many years, SMR service was provided by local mobile communication sales and service organizations. It has only been in the relatively recent past that there has been significant consolidation in the SMR industry in the top markets. However, in many locations throughout the country, SMR systems have not been consolidated, and service is still offered by small entrepreneurs. As noted above, these entrepreneurs would be driven out of business by the competitive bidding process. The Coalition is cognizant that, ultimately, consolidation may drive these small entrepreneurs out of business. However, that result should be the product of marketplace forces, not the introduction, by the government, of an unequal playing field between existing service providers and those who enter the industry with different regulatory constrictions.

Finally, FCI argues that competitive bidding is desirable because it will reduce the number of "speculators" who will obtain SMR authorizations. The Coalition agrees that open entry has produced interest in FCC authorizations by those with no legitimate connection with, or ability to provide, communications services. By aggregating SMR spectrum, FCI's proposal might actively increase the number of speculators participating in the licensing process. As the Commission is acutely aware through its experience with licensing multi-channel multipoint distribution (MMDS), multiple address service (MAS) and 220 MHz land mobile assignments, the creation of a new or different licensing procedure automatically increases the number of insincere entrants to a marketplace. Moreover, by limiting the opportunity for speculators to secure SMR authorizations, FCI

would also reduce the potential for legitimate communications providers to continue to service their customers.

III. Conclusion

In many respects, the Coalition shares FCI's vision of the SMR industry of tomorrow. However, in critical elements, it does not agree with FCI's proposed method by which the SMR industry should reach that state. The Coalition has confidence that market forces will produce the result that FCI wishes to impose upon the industry. Those market forces will promote digital technology and nationwide seamless SMR service and ensure that channels in all MSAs and RSAs are licensed. The Coalition agrees that there may be regulatory impediments to achieving the type of SMR industry that both it and FCI believes will ultimately exist. The Commission should, therefore, consider the removal of these regulatory impediments. However, there is a dramatic difference between the elimination of regulatory impediments, which the Coalition endorses, and the imposition of a new licensing scheme which would otherwise upset the orderly evolution of the industry and interfere with marketplace forces.

The imposition of this regulatory scheme through the licensing of innovator block channels, is unacceptable in the current 800 MHz SMR environment. Fleet Call has not given adequate consideration to the locations where channels are actually available. Its presumptions concerning spectrum availability are, in many cases, inaccurate. The superimposition of the innovator block concept on the existing licensing landscape does not provide sufficient availability for growth by existing SMR entrepreneurs. While the innovator block concept may be attractive in lightly used, or virgin spectrum, it would

create an uneven playing field in the existing 800 MHz industry. Should the Commission wish to experiment with innovator block channels, it may wish to look to other services, or even to the 900 MHz SMR channels.

The Coalition opposes the suggested freeze on the acceptance and processing of 800 MHz SMR applications in the innovator blocks. This action unfairly limits the ability of existing entrepreneurs to expand their operations. Similarly, the Coalition is opposed to the use of auctions to authorize the innovator block channels. It too will create an uneven playing field between those who have secured their frequencies by the competitive bidding process and those who have received authorizations directly from the Commission.

WHEREFORE, THE PREMISES CONSIDERED, The Florida SMR Coalition hereby submits the foregoing Comments and requests that the Commission act in accordance with the views expressed herein.

Respectfully submitted,

The Florida SMR Coalition

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EXHIBIT A

FLORIDA SMR COALITION MEMBERS

Advanced Radio Communications Services of Florida, Inc.

Central Florida Mobile Communications, Inc.

Tower Space Company

Smoak Groves, Inc.

The Jarol Company

United States Sugar Corporation

Radiophone Systems of Southwest Florida

PN&B Partnership