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BEFORE THE

**Federal Communications Commission**

WASHINGTON, D.C. 20554

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FILE ✓

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In the Matter of )  
 )  
Amendment of Section 90.631(g) )  
and (h) of the Commission's Rules )  
and Regulations Concerning Wide )  
Area Specialized Mobile Radio )  
and Business Radio Systems )

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

RM-8029

To: The Commission

**STATEMENT IN PARTIAL SUPPORT  
OF THE  
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute (API), by its attorneys, pursuant to Section 1.405(a) of the Rules and Regulations of the Federal Communications Commission (Commission), hereby respectfully submits this Statement in Partial Support of the Petition for Rule Making of the National Association of Business and Educational Radio, Inc. (NABER) filed with the Commission on March 13, 1992.<sup>1/</sup>

**I. PRELIMINARY STATEMENT**

1. The American Petroleum Institute is a national trade association representing over 200 companies involved in all aspects of the oil and gas industries, including

<sup>1/</sup> Public Notice, Report No. 23944, Petitions for Rule Making Filed, released July 13, 1992.

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exploration, production, refining, marketing and pipeline transportation of petroleum crude oil, petroleum products and natural gas. Among its many activities, API acts on behalf of its members as a spokesperson before federal and state regulatory agencies and legislative bodies. The API Telecommunications Committee is one of the standing committees of the organization's General Committee on Transportation. The committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities employed in the oil and gas industries.

2. The Telecommunications Committee is API's primary committee concerned with telecommunications regulatory matters. It is supported and sustained by licensees that are authorized by the Commission to operate, among other telecommunications facilities, two-way land mobile radio facilities in the Private Land Mobile Radio Services and point-to-point microwave systems in the Private Operational-Fixed Microwave Service. These telecommunications facilities are used to support the search for and production of oil and natural gas. These systems are also utilized to ensure the safe pipeline transmission of natural gas, crude oil and refined petroleum products, and for the processing and refining of these energy sources,

as well as for their ultimate delivery to industrial, commercial, and residential customers. The facilities licensed to API's members are thus essential to the provision of our nation's energy sources.

3. API's member companies use frequency assignments from the 800 MHz and 900 MHz Industrial/Land Transportation, Business and General Category pools to meet these essential two-way mobile radio telecommunications requirements. API is concerned that the proposals propounded in NABER's Petition could adversely affect existing 800/900 MHz systems licensed to its member companies as well as future employment of channel assignments from these bands. However, API supports the thrust of the Petition to expand wide-area system eligibility to include other entities that have legitimate wide-area operating requirements. API is unable to support a blanket eligibility for all SMR and Business pool eligibles to the exclusion of Industrial/Land Transportation eligibles who are not currently permitted under Section 90.631(g) primary status for remote and satellite stations in a wide-area system.

## II. BACKGROUND

4. NABER's Petition seeks amendment of the rules to facilitate implementation of wide-area systems by SMR and Business pool eligibles. It argues that permitting these entities to license additional stations re-using authorized frequencies in an area 41 to 69 miles from an authorized primary station and creating a wide-area system without requiring appropriate loading for each stations would encourage the re-use of frequencies by these entities in the congested metropolitan area and thereby promote efficient use of the spectrum. Accordingly, NABER requests that SMR operators be authorized wide-area systems re-using the same frequency or frequency groups at stations more than 40 miles but less than 69 miles from each other, and that the secondary restriction be eliminated from wide area authorizations granted to Business licensees.

## III. STATEMENT IN PARTIAL SUPPORT

5. API agrees that Section 90.631(g) is too restrictive in the licensing of wide-area systems. In the Industrial/Land Transportation pool, only persons eligible in Power Radio Service and the Telephone Maintenance Radio Service are regularly eligible for wide-area authority.

These users may be authorized remote or satellite stations in a wide area system on a primary basis when the frequency or frequency groups are not authorized to co-channel licensees in the system's area of operation. Similar to Business licensees, persons eligible in the other Industrial/Land Transportation services are authorized the remote or satellite stations of a wide area system on a secondary, non-interference basis to other co-channel licensees.

6. Many of API's member companies employ wide area 800/900 MHz trunked systems to meet their telecommunications requirements -- many of which are imposed by other federal agencies' rules and regulations. These companies are confronted with the regulatory burden of obtaining authorizations for a multitude of different frequencies at the various sites to ensure that each site obtains primary interference protection under the Commission's rules, when in some instances frequency re-use would be more spectrum efficient, more effective, and more economical. Inasmuch as the Commission's goal is to encourage efficient use of the allocated spectrum, rules that discourage or prevent such use should be amended.

7. API suggests that the Commission initiate a rule making to amend Section 90.631(g) to eliminate the secondary status of remote and satellite stations for an applicant that can justify a legitimate requirement for these additional stations equivalent to the public interests served by the systems operated by the persons currently eligible for this treatment under Section 90.631(g). SMR licensees should only be granted such authorizations on a waiver basis similar to the current practice. The commercial nature of the SMR service could give rise to the use of such authorizations for anti-competitive purposes. Amendment of the rule in manner set forth by NABER could potentially result in the depletion of SMR channels available for assignment in a geographic area without increasing the number of mobiles actually accessing this spectrum, and result in increased demand on other frequency pools from intercategory sharing requests. API, therefore, supports only the concept set forth in NABER's Petition, and not the substance.

**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute partially supports the Petition for Rule Making of the National Association of Business and

Educational Radio, Inc. and requests the Federal Communications Commission take action in this proceeding in a manner consistent with the comments herein.

Respectfully submitted,

**AMERICAN PETROLEUM INSTITUTE**

By:   
Wayne V. Black  
Terry J. Romine

Its Attorneys

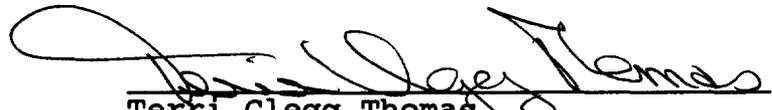
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Dated: August 12, 1992

**CERTIFICATE OF SERVICE**

I, Terri Clegg Thomas, a secretary at the law firm of Keller and Heckman, do hereby certify that on the 12th day of August 1992, I forwarded to the parties listed below a copy of the foregoing Statement in Partial Support of the American Petroleum Institute by first-class mail, postage pre-paid:

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