

entire 10,000 block of numbers or the expense required to assign NXX codes to the additional local calling area. The same was also true where the additional area was consolidated into the existing market.

The Proposed Rule should be amended to make it clear that such consolidations and extensions, without a specific assignment of NXX codes, will not result in a carrier being held to have failed to meet the commencement of service requirements, and that such consolidation and extensions will still be permitted. In the alternative, if the intent is to require all MSAs/RSAs to have their own local customers with market specific NXX's, as opposed to using an NXX from the adjoining MSA or RSA, then a grace period should be incorporated into the Rule so that carriers can comply.

H. CELLULAR SERVICE REQUIREMENTS AND LIMITATIONS (PROPOSED RULE 22.901).

Proposed Rule 22.901 could be interpreted as requiring cellular system licensees to provide service to any and all roamers. The Commission should clarify that the Rule is not intended to change the existing carriers' policies and arrangements with roamers, and that the Rule does not mandate the existence of automatic roaming arrangements. Due to roaming rate considerations, fraud, billing difficulties, etc., cellular carriers will continue to need the flexibility to determine which roamers with whom they will maintain automatic roaming agreements. Such

flexibility is necessary so that cellular carriers can minimize their exposure to fraud and other administrative problems (e.g., carriers need the flexibility to determine the maximum number of automatic agreements with roamers and which roamers will be most likely be used by their customers). The Commission should either amend or modify its Proposed Rule to preserve this flexibility.

I. MISCELLANEOUS.

1. WRITTEN APPLICATIONS, STANDARD FORMS, MICROFICHE, MAGNETIC (PROPOSED RULE 22.105).

The Commission proposes to require microfiche copies of all FCC Form filings. Presently, an exception exists for filings up to 5 pages including FCC Form 489 filings. SBC is opposed to the new microfiche requirement because it imposes unnecessary costs and restricts filing flexibility without material countervailing benefits. Significantly, a similar requirement was previously rejected and the current 5 page exception was adopted by the Office of Management and Budget after hearing arguments concerning the burdens which the microfiche requirement for all filings would impose. Nothing has changed since that time which justifies any change in the existing rule or in the 5 page exception to it.

SBC also is against the proposal to make the use of magnetic disks mandatory. SBC believes that the added expense of such a requirement, and the compatibility issues

it will present in terms of graphic files and pre-existing databases, advises against such a policy.

2. PUBLIC NOTICES (PROPOSED RULE 22.127).

The Commission proposes to change the requirement for regular Public Notices of applications from once a week to an ambiguous "periodic" schedule. SBC is opposed to this change. The current system has long been relied upon by the SBC companies and has allowed the timely tracking of application filings. It is not at all clear - especially in view of the ambiguity associated with a so-called "periodic" schedule - whether the Proposed Rule would similarly meet that requirement.

3. SELECTION AND ASSIGNMENT OF 931-932 MHz CHANNELS (PROPOSED RULE 22.533).

The Commission has "clarified" the Rule on the assignment of 900 MHz channels to state that it will assign channels (and possibly any available 900 MHz channel) without regard to the channel(s) requested by the applicant. SBC believes that this provision should be eliminated and that the Commission should permit the applicants to select the 900 MHz channel(s) they desire, especially where they are also licensed on the same channel(s) elsewhere.

4. NUMBER OF TRANSMITTERS PER STATION (PROPOSED RULE 22.507, APPENDIX A, P. 12, AND PROPOSED SECTION 22.375).

The Commission proposes in this Rule to ban multi-frequency transmitters. The Commission states that requiring at least one transmitter for each channel at each

location would discourage warehousing. However, such a requirement may also unduly limit flexibility and efficiency in those situations where the use of a multi-frequency transmitter is economic, efficient, and in all other respects appropriate. Multiple frequency transmitters presently result in cost savings, permit multiple service offerings, allow flexibility in designing wide-area systems, and permit carriers to offer additional services when initial demand does not justify the costs of operating a second transmitter.<sup>19</sup> Thus, their use should not be prohibited.

As a potential compromise, SBC suggests that the proposal be modified to permit the use of dual-frequency transmitters. Dual-frequency transmitters are already providing effective and reliable service and the Commission should not prohibit their continued use.

SBC also proposes that the Commission delete Proposed Section 22.375 which apparently would forbid the use of multiple frequency transmitters for both Part 90 private radio and Part 22 common carrier services. As long as multiple frequency transmitters can be used to render separate, discrete services to the public, there is no

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<sup>19</sup>For example, one channel can be used for numeric paging exclusively and another for alphanumeric and new alpha services. Dual channel operations also ensures that loading will not result in long delays for customers as growth occurs. In addition, dual channel systems can be designed to permit contiguous overlapping wide-area systems without interference zones.

public interest reason to prevent the use of such technology. Moreover, neither Title II nor Title III of the Communications Act requires such a restriction.

5. ADDITIONAL TRANSMITTERS FOR EXISTING SYSTEMS (PROPOSED RULE 22.165; APPENDIX A, P. 10).

The Commission proposes to eliminate the requirement of filing (Form 489) modifications if the existing service and interference contours are not changed. SBC generally supports this Proposed Rule.

Unfortunately, the Proposed Rule would also appear to eliminate the filing requirement for additional intra-system sites. This change could be troublesome because it makes no provision for protecting new intra-system sites from interference, especially in those cases where the original perimeter site has been removed from service. SBC suggests that the Proposed Rule should be modified to add clarifying language which will ensure interference protection to all sites, including new intra-system sites.

6. POSTING STATION AUTHORIZATIONS (PROPOSED RULE 22.303).

The Commission proposes that the station call signs be clearly and legibly marked on every transmitter, other than mobile transmitters of the station. SBC opposes this requirement as unreasonable, unnecessary, and unduly burdensome. SBC notes that no substantive reason is given for the change. Therefore, this requirement should be eliminated.

7. OPERATION DURING EMERGENCY (PROPOSED  
RULE 22.307).

The Proposed Rule gives licensees discretion to use their services, in a manner or configuration not normally allowed, during a period of an emergency. The Proposed Rule defines an emergency as one during which normal communications facilities are disrupted "as a result of hurricane, flood, earthquake, or disaster." As such, the Rule appears to contemplate only "natural disasters" as constituting an emergency that would permit extraordinary use of such services.

SBC submits that the apparent limitation of the Rule to cover only natural disasters is too limiting. It leaves out other emergencies such as civil unrest, vandalism national emergencies, and emergencies declared by executive order. The Rule can and should be modified to include such other emergencies.

In addition, the Proposed Rule provides little or no guidance on notification requirements. In the case of an emergency, should the carrier notify the FCC Mobile Service Division prior to beginning emergency operations? Furthermore, it would be both helpful and desirable if a specific provision were written into this Rule providing that carriers are not liable for non-compliance with either the Communications Act or the Commission's rules during the period of an emergency operation. SBC suggests that the Proposed Rule be so modified.

8. CHANNELS FOR BASIC EXCHANGE TELEPHONE RADIO SYSTEMS (APPENDIX A, PARA. 22.757, P. 14).

The Commission seeks comment on the removal of the channel groups in the 816-865 MHz band for Basic Exchange Telephone Radio Systems ("BETRS"). SBC is opposed to such removal.

The Commission notes that no applications have been filed for these channels and inquires whether any demand exists for BETRS in these locations. Demand for these channels exists because it is becoming increasingly hard to find interference-free frequencies for BETRS applications in the 454 MHz band due to congestion from other BETRS systems, paging systems, etc. Indeed, requests for BETRS systems in the 454 MHz band have been turned down due to the inability to clear interference with existing 454 MHz systems. Thus, demand is sufficient to warrant preserving the 816-865 MHz spectrum currently allocated for BETRS' use.

The problem to date in using the 816-865 MHz range for BETRS has not been lack of demand, but the unavailability from vendors of equipment in the 816-865 MHz frequency band for BETRS' use. Once vendors start manufacturing such equipment, it in all likelihood will be incorporated and deployed with BETRS as a facility growth or replacement alternative where economically and technically feasible. Consequently, the 816-865 frequency band should

be maintained for the use of future BETRS systems and should not be removed from that allocation.

9. CHANNELS FOR CELLULAR SERVICE (PROPOSED RULE 22.905).

Proposed Rule 22.905(b) specifies that licensees may use any channel pair from the assigned channel block at any of their authorized transmitter locations subject to the prior coordination requirements of 22.907. For technical and various other reasons, the Proposed Rule needs to be modified to make it clear that "any channel pair" means a channel pair where voice and control channels are "co-mingled." Otherwise, the language of the rule will be too limiting and will not cover existing uses.

10. ELECTRONIC SERIAL NUMBERS (PROPOSED RULE 22.919).

The Proposed Rule on electronic serial number ("ESN") requirements could be misinterpreted to impose those requirements on cellular carriers. Insofar as equipment requirements are normally included in Part 15 of the Commission rules, and cellular carriers have not been required to monitor manufacturers' compliance with those requirements, these facts need to be clarified in this rule. In other words, the rule should be modified to state that equipment manufacturers are the parties who must assure compliance with the Commission's ESN requirements.

In addition, the Commission should also state that existing equipment which has already been manufactured, and

does not need to be retrofitted, satisfies and is exempt from the requirements of Section 22.919. Finally, the Rule should be amended to make it clear that its provisions also apply to mobile equipment associated with a wireless PBX.

11. LIMITATIONS ON ASSIGNMENT OF CELLULAR AUTHORIZATIONS (PROPOSED RULE 22.943).

Proposed Rule 22.943(a)(1) indicates that licensees cannot enter into any agreement, including management contracts, to transfer control of the licensee of the system until the system has provided service to the public for one year. The rule could be interpreted to limit the flexibility of an existing licensee to enter into an agreement to manage an unserved area system, even though such flexibility is in the public interest and is necessary in order to provide timely service to such areas. The Proposed Rule should be modified to make it clear that such flexibility is not prohibited by the Proposed Rule.

12. MEXICAN CONDITION (PROPOSED RULE 22.957).

Proposed Rule 22.957 states as a "condition" that the operator of the system shall not contract with customers in Mexico. This rule should be clarified to indicate that it is permissible to have roaming agreements between carriers which will enable their respective customers to receive service when traveling abroad. By prohibiting contracts with customers in Mexico, the current language could be interpreted to prohibit such roaming agreements,

and such a ban is neither necessary nor in the public interest.

J. RULES WHICH SBC SUPPORTS.

Although SBC believes that a large number of the Proposed Rules require modification and/or clarification, and in some instances elimination, a number of the other Proposed Rules or portions thereof SBC can support. For example, SBC supports the following:

1. The proposal to grant a limited amnesty period for turning-in unused licenses without being exposed to fines for non-use. (NPRM, para. 14.)
2. The proposal to change the call sign identification rules to permit one call sign to be used to identify all call signs that have been assigned to a paging system in a particular area. (Proposed Rule 22.313(c)(3).)
3. The Proposed Rules on developmental authorizations. (Proposed Rules 22.401 and 22.409.)
4. The Proposed Rule eliminating the requirement to file a Form 489 to operate additional transmitters. (Proposed Rule 22.165.)
5. The proposal to no longer require the submission of a drawing with an application when the overall antenna height does not change. (Proposed Rule 22.115.)

V. CONCLUSION.

As indicated, SBC believes that many of the Proposed Rules require modification and change. Some should be eliminated, and others can and should be supplemented. Most importantly, whatever changes are made to Part 22, the Commission should not through such changes create any

additional regulatory burdens and requirements or add unnecessary complexity beyond that which already exists.

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