

ORIGINAL

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

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FILE

In the Matter of )  
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Revision of Part 22 of the )  
Commission's Rules Governing )  
the Public Mobile Services )  
 )

CC Docket No. 92-115

TO: The Commission

COMMENTS

Claircom Communications Group, L.P. ("Claircom"), by its attorneys, hereby submits its comments in response to the Notice of Proposed Rule Making issued by the Federal Communications Commission (the "Commission" or "FCC") in the above-captioned proceeding.<sup>1/</sup>

I. INTRODUCTION

In its Notice, the Commission proposes to revise and update Part 22 of its rules, including those affecting the air-to-ground ("ATG" or "Air-Ground") service. Specifically, the FCC seeks to make the rules easier to understand, eliminate outdated rules and unnecessary information collection requirements, streamline licensing procedures, and allow licensees greater flexibility in providing service to the public. As one of six permittees authorized to provide commercial Air-Ground radio telephone service on a nationwide basis, Claircom has a keen interest in the new rules that will govern its provision of this

<sup>1/</sup> See Notice of Proposed Rule Making, 7 FCC Rcd 3658 (FCC 92-205) (released June 12, 1992) ("Notice").

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service. Claircom strongly supports the Commission's efforts to update, simplify and streamline the Part 22 Rules. These Comments set forth Claircom's suggested modifications to those proposed rules affecting the Air-Ground service. Claircom believes that adoption of its proposed modifications will better achieve the Commission's stated goals in this proceeding.

## **II. CLAIRCOM'S PROPOSALS**

Claircom submits the following specific comments on the proposed Part 22 rules.

### **A. §22.99: Definitions.**

Proposed §22.99 ("Definition") does not include a definition for "station," which term is used in several of the provisions of new Part 22. To clarify the interpretation of the new proposed Part 22 rules containing this term, Claircom suggests that the Commission add the following new definition to proposed §22.99:

Station. One or more fixed or mobile transmitter locations and associated equipment assigned a single call sign by the Commission.

### **B. §22.123: Classification of Filings as Major or Minor.**

Unlike other services governed by Part 22, there are a limited number of licensees in the Air-Ground service. Moreover, because sharing of the ATG frequencies is required, there necessarily will be a fairly high degree of coordination and cooperation among the ATG service providers. This unique aspect of the Air-Ground service affords the Commission an opportunity

to streamline further the requirements applicable to filings in the Air-Ground service.

In situations where the filing party has obtained the concurrence of the other parties affected by the filing, i.e., other Air-Ground licensees, such filings should be classified as "minor." Applying this principle, Claircom submits that the following filings in the Air-Ground service should be classified as "minor," as long as industry concurrence has been demonstrated:

1. Modification of ground station channel block assignments, provided that any change would continue to meet the established co-channel separation requirements.
2. Relocation of an existing ground station's coordinates beyond the one mile requirement set forth in §22.859 of the rules, provided that all ground stations remain within one mile of the new coordinates.
3. Establishment of a new full power ground station, provided that the co-channel separation requirements are met and other licensees are notified prior to operation; and
4. Establishment of a low power ground station provided that co-channel separation of both full power and low power ground stations are maintained and the other licensees are notified prior to operation.

An applicant would demonstrate industry concurrence by providing (1) evidence of prior written approval of the proposed change from all active licensees in 800 MHz Air-Ground service and (2) evidence that the applicant has notified non-active licensees of the proposed change at least 30 days prior to the filing of FCC Form 489 and a certification of concurrence or no

evidence of objection. If industry concurrence is required and not obtained, a filing would be classified as "major" and would require public notice and the opportunity for public comment.<sup>2/</sup>

**C. §22.135: Settlement Conferences.**

Claircom strongly supports the proposed rule authorizing the Commission to require participation by adversaries in settlement conferences. This important tool will aid the Commission in achieving the expeditious and efficient introduction of new or expanded communications services to the public. Claircom particularly supports the proposal to allow participation by telephone conference, which will reduce unnecessary expenditures of time and money associated with traveling to a common location for settlement discussions.

**D. §22.143: Construction Prior to Grant of Application.**

Claircom believes that the proposed rule authorizing the construction (but not operation) of facilities (constituting major changes in facilities) prior to the grant of applications, subject to the conditions set forth in proposed §22.143(g), can be clarified to establish the exact time frame in which such pre-grant construction may commence. Specifically, Claircom submits that as long as the conditions for pre-grant construction set forth in §22.143(g) are met, applicants should be authorized to commence construction 40 days after the date of public notice of

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<sup>2/</sup> Licensees would notify all other licensees when they are actively pursuing system changes that are likely to require industry concurrence, such as leasing ground station locations. Where applicable, filings that are subject to international coordination will remain so.

the filing of the relevant application. This time period takes into account the period during which petitions to deny may be filed plus an additional period for petitions that are served on affected applicants by mail.

Claircom also suggests that the Commission modify §22.143(g)(6) to refer to the agreement with Canada's Department of Communications regarding the location of Air-Ground facilities in the 800 MHz frequencies.

**E. §22.163: Minor Modifications to Existing Stations.**

Claircom submits that proposed §22.163(b) is unnecessarily broad in its categorical exclusion of certain Canadian border facilities from the pre-grant construction authority otherwise provided therein. Specifically, in the case of cellular and 800 MHz Air-Ground facilities, modification to facilities between Line A or Line C in the U.S.-Canada border should not be considered a "major" filing unless the location of the facility has not been coordinated with Canada prior to construction.

**F. §22.303: Posting Station Authorizations.**

Proposed §22.303 would require that the station call sign be marked on every transmitter of the station except mobile transmitters. Such a marking requirement would be very burdensome and in many cases unnecessary. Claircom submits that when transmitters are grouped in an equipment box or are maintained in a separate location from another system operator's equipment, it is not necessary to mark the station call sign on

every transmitter, as long as the call sign is clearly marked on each separate equipment cabinet or prominently displayed in a physically separate equipment room.

**G. §22.313: Station Identification.**

Proposed §22.313(a)(2) would exclude transmissions by general aviation ground stations in the Air-Ground service from the station identification requirements. Claircom believes that transmissions from airborne units in this service should also be excepted from the station identification requirement.

Transmission of station identifications in the air-ground radiotelephone communications environment would not meet the underlying purpose of requiring station identification, i.e., informing the public as to the identity of the transmitting source in the event of interference.<sup>3/</sup> The Commission has purposely declined to impose a particular modulation scheme on Air-Ground service providers. In the case of some of the modulation schemes that are likely to be employed by ATG providers, the conversation and call sign will not be identifiable. Accordingly, Claircom urges the Commission to broaden the scope of the station identification exclusion to encompass airborne units.

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<sup>3/</sup> Moreover, transmission of station identification in the 800 MHz Air-Ground Radiotelephone Service for either ground stations or airborne units would be both impractical and costly.

**H. §22.365: Antenna Structures; Air Navigation Safety.**

Proposed §22.365 imposes on licensees the obligation to ensure that antenna structures do not present a hazard to air navigation. It often is not possible for FCC licensees to gain control over matters relating to tower maintenance. This is especially true when there are multiple users of a tower. Claircom submits that individual licensees located on leased towers should not bear the responsibility to ensure compliance with lighting and marking requirements. If a licensee is the owner or operator of a tower, then the licensee should be responsible to the FCC and FAA for compliance with applicable lighting and marking requirements. Otherwise, the owner of the tower should be responsible to the FAA for proper maintenance of the tower.

**I. §22.803: Canadian Agreement.**

Certain matters in the 800 MHz Air-Ground service are governed by the provisions of an agreement with Canada's Department of Communications. Claircom suggests that a new §22.803 be added to Subpart G of proposed Part 22 that incorporates the provisions of that agreement by cross-reference in the rules governing Air-Ground service. Claircom recommends that the Commission clarify that to the extent there may be a conflict between provisions of Part 22 and the agreement, the provisions of the agreement will be controlling. This clarification should reduce potential confusion among the ATG providers and avoid any conflicting interpretation.

J. **§22.857: Channel Plan for Commercial Aviation Air-Ground Systems.**

Proposed Section 22.857 provides that the Air-Ground frequencies are allocated for nationwide Air-Ground systems providing radiotelephone service to "passengers aboard commercial aircraft." The proposed rule appears to unintentionally limit the use of the 800 MHz Air-Ground frequencies to commercial aircraft. Such a limitation would be contrary to the FCC's decisions allocating the use of the 800 MHz frequencies for Air-Ground service. There, the Commission has stated:

While our proposal primarily discussed the needs for commercial users for air-ground communications, we never intended to limit the use of the service only to commercial aircraft. To the extent non-commercial aircraft wish to use this service, they may do so.

See Amendment of the Commission's Rules Relative to the 849-851/894-896 MHz Bands, Report and Order, 5 FCC Rcd 3861, n.18 (1990).

K. **§22.861: Emission Limitations.**

Claircom generally agrees with the wording of proposed §22.861(a). In order to more closely reflect the intent of the former emission mask requirements, however, Claircom proposes that the value for the ratio of total emission power to each second and higher adjacent channels be at least 46 decibels below the power of total emission, rather than 50 decibels as proposed.

L. **§22.863: Transmitter Frequency Tolerance.**

Proposed §22.863 specifies a 10 parts per million (ppm) frequency tolerance for ground station transmitter and received

airborne mobile station frequencies. This corresponds to 8500 kHz and 8950 kHz frequency tolerances for ground to air and air to ground transmissions respectively. With channel spacings of 3.2 and 6 kHz in the Air-Ground service, the proposed tolerances are clearly unacceptable. Previously, transmitter frequency tolerances were 0.1 ppm for ground stations and 0.2 ppm for received airborne mobile stations. Claircom believes that these transmitter frequency tolerances are achievable with conventional technologies and are sufficiently narrow to assure non-interference to adjacent channels caused by frequency instabilities.

**M. §22.875: Commercial Aviation Air-Ground System Application Requirements.**

Proposed §22.875(c)(4) requires that applicants for commercial aviation air-ground systems include "a projection of the system capacity, in terms of maximum number of calls per hour in each area." Since frequencies in the 800 MHz Air-Ground service are utilized on a shared basis, projected system capacity has no relevance to this service. Accordingly, ATG applicants should be exempt from this requirement.

**III. CONCLUSION**

For the foregoing reasons, Claircom respectfully requests that the Commission modify those portions of its proposed revisions to Part 22 of its Rules governing the commercial Air-Ground service as set forth in these comments. Incorporation of Claircom's suggested modifications to the new

Part 22 rules governing ATG service will further the Commission's stated goals in this proceeding of updating, simplifying, and streamlining the Part 22 rules.

Respectfully submitted,

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October 5, 1992

CERTIFICATE OF SERVICE

I, Dana S. Gregory, hereby certify that a copy of the foregoing "Comments" of Claircom Communications Group, L.P. has been sent by hand delivery to the following on this 5th day of October, 1992:

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