

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

ORIGINAL *ET*
FILE
RECEIVED
NOV 2 1992

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Part 13 of the Rules)
to Privatize the Administration)
of Examinations for Commercial)
Radio Operator Licenses and)
to Clarify Certain Rules)

FO Docket No. 92-206

To: The Commission

COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS

Thomas J. Keller
Jacqueline R. Kinney

VERNER, LIIPFERT, BERNHARD,
McPHERSON AND HAND, CHARTERED
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
(202) 371-6060

Hollis G. Duensing
General Solicitor
Association of American Railroads
50 F Street, N.W.
Washington, D.C. 20001
(202) 639-2100

Attorneys for Association of
American Railroads

November 2, 1992

ofs
No. of Copies rec'd _____
List ABCDE _____

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

In the Matter of)
)
Amendment of Part 13 of the Rules) FO Docket No. 92-206
to Privatize the Administration)
of Examinations for Commercial)
Radio Operator Licenses and)
to Clarify Certain Rules)

To: The Commission

COMMENTS OF THE ASSOCIATION OF AMERICAN RAILROADS

The **ASSOCIATION OF AMERICAN RAILROADS** ("AAR"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, hereby submits its Comments in response to the Notice of Proposed Rule Making ("NPRM") in the above-captioned proceeding.^{1/} AAR supports the proposed privatization of commercial radio operator license exams but requests that the Commission require private organizations authorized to administer exams to test the competency of technicians for the private radio and private fixed microwave services.

I. Preliminary Statement

AAR is a voluntary, non-profit organization composed of member railroad companies operating in the United States, Canada and Mexico. These railroad companies generate 97 percent of the total operating revenues of all railroads in the United States.

^{1/} Notice of Proposed Rule Making, FO Docket No. 92-206 (released September 8, 1992).

The AAR is the joint representative and agent of these railroads in connection with federal regulatory matters of common concern to the industry as a whole, including matters pertaining to regulation of communications. In addition, AAR functions as the frequency coordinator with respect to operation of land mobile and other radio-based services.

II. Eliminating the Private Radio and Microwave License Requirement Did Not Alleviate the Need to Determine Competency of Technicians.

AAR and its member railroad companies operate extensive communications systems with facilities licensed under the Private Land Mobile Radio ("PLMR") and Private Operational-Fixed Microwave services. As discussed in the NPRM, in 1984 the Commission eliminated the requirement that persons performing transmitter maintenance, adjustments and servicing in these services hold a commercial radio operator license.^{2/} AAR, and many other private radio users, filed comments vigorously objecting to the Commission's proposal to eliminate the licensing requirement. These users claimed that eliminating the requirement would result in

greatly increased interference and reduction of signal quality in these services; . . . that users rely heavily upon the Commission's operator requirements since they lack the technical expertise to properly maintain or service their equipment; that users encounter difficulty, even with the present requirements, in obtaining qualified trained technicians; that elimination of the requirements would impose financial burdens on users in developing replacement standards; that licensed technicians in

^{2/} Report and Order, 96 FCC 2d 1123 (1984); NPRM at para. 4.

these services substantially assist the Commission in 'policing' the services and in preventing interference and substantive rule violations; that deletion of the requirement would impose a greater burden on Commission resources in resolving the proliferation of interference problems that would occur . . .

Report and Order, 96 FCC 2d at 1129.

Despite these concerns, the Commission eliminated the exam and license requirement. It concluded that the FCC did not have adequate resources to administer an effective exam and encouraged private industry groups to establish one or several national certification programs as an alternative to the FCC exam. Id. at 1143. The Commission specifically stated in its Report and Order, however, that it would reconsider the issue and increase its involvement in certifying technicians if private industry programs were inadequate.

[I]f difficulties do arise as a result of the action we are taking, we can, if necessary, revisit this matter to determine whether a more structured Commission supervision of certification programs is necessary.

96 FCC 2d at 1143.

AAR is now asking the Commission to "revisit" this matter. The experience of the last eight years demonstrates a strong desire by private radio licensees for some type of Commission endorsement or approval of technicians they hire to maintain their communications facilities. As the Commission observed in the NPRM, despite elimination of the license requirement for private radio services, "many employers impose a license requirement as a condition of employment because it represents to them an indicator of job competency." NPRM at para. 4. In the absence of a specific private radio exam, licensees are requiring

potential employees to take an exam to obtain any commercial radio license, causing the overall demand for commercial radio operator licenses to continue. Id.^{3/}

The Commission's expectations in the 1984 proceeding have not been realized. First, eliminating the license requirement has not reduced the burden on Commission resources of administering license exams. Second, licensees have not found industry certification programs to be satisfactory for determining competency of technicians.^{4/} In addition, private radio operators, including engineers and technical personnel who actually work with communications systems on a daily basis, continue to believe that requiring technicians to hold an operator license would assist the Commission's enforcement efforts to reduce interference and unlicensed activity. See "Spectrum Efficiency in the Private Land Mobile Radio Bands In Use Prior to 1968," PR Docket No. 91-170, Reply Comments of AAR at 11-12 (filed March 16, 1992) and Comments of the State of California at 12 (filed January 15, 1992).

^{3/} Many railroads operate various kinds of apparatus that are equipped with marine radio facilities, including draw bridges, ships and barges. The radio technicians servicing this equipment are required to hold an FCC operator's license. In the absence of a PLMR or private microwave operator license, many railroads use the marine radio license as a prerequisite to employment for all technicians, even if such technicians have no expectation of operating marine radio equipment.

^{4/} Railroads sometimes requires private radio technicians to be certified under the program administered by the National Association of Business and Educational Radio ("NABER"). Although the NABER exam is considered a high-quality exam for private radio technicians, it does not meet all of the railroads' needs. See, supra, note 3.

It is significant to note that many of the reasons the Commission now cites to support privatization of license exams are the same reasons the Commission cited in 1984 to support elimination of license exams: inadequate resources to revise exams frequently enough to ensure their integrity or to administer the exam at convenient locations. NPRM at paras. 4, 11. In this proceeding, the Commission is privatizing the administration of the exam but retaining the license requirements. In 1984, the Commission eliminated the license requirements on the premise that private industry groups would administer exams and offer a private certification rather than an FCC license. It is time for the Commission to ensure that the private sector administer competency exams that meet the needs of all licensees.

III. The Commission Should Require Private Organizations Administering License Exams To Test the Competency of PLMR and Microwave Technicians.

AAR supports the Commission's proposal to privatize the administration of exams for required commercial radio operator licenses. Given the established need for testing of PLMR and private microwave technicians not required to hold a license, AAR strongly encourages the Commission to authorize and/or require the private organizations authorized to administer license exams to include questions designated to test these technicians. It would pose no additional burden on private testing organizations to require questions relevant to PLMR and private microwave technicians. For example, such questions could be included in

the exam required for a marine radio license, which many railroads require technicians to hold.^{5/} In the alternative, private organizations might find it more practical to administer a separate test for private radio and private microwave technicians. Railroads and other licensees could use such a test to screen technicians even though the Commission does not require them to hold a license.

^{5/} See, supra, note 4.

IV. Conclusion

AAR agrees that private organizations can administer more updated and relevant operator license exams than the Commission has been able to provide with its limited resources. To ensure that private testing organizations meet the needs of all FCC licensees seeking to determine the competency of technicians, the Commission should require private organizations to include questions or a separate test for PLMR and private radio technicians.

ASSOCIATION OF AMERICAN RAILROADS

By: 
Thomas J. Keller
Jacqueline R. Kinney

VERNER, LIIPFERT, BERNHARD,
McPHERSON AND HAND, CHARTERED
901 15th Street, N.W.
Suite 700
Washington, D.C. 20005
(202) 371-6060

Hollis G. Duensing
General Solicitor
Association of American
Railroads
50 F Street, N.W.
Washington, D.C. 20001
(202) 639-2100

Attorneys for Association
of American Railroads

November 2, 1992

CERTIFICATE OF SERVICE

I, Lynn M. Sabin, a secretary for the law firm Verner, Liipfert, Bernhard, McPherson and Hand, Chartered, do hereby certify that a true and correct copy of the foregoing "Comments" of the Association of American Railroads was delivered by hand, this 2nd day of November, 1992, to the following:

Chairman Alfred C. Sikes
Federal Communications Commission
1919 M Street, N.W., Room 814
Washington, D.C. 20554

Commissioner James H. Quello
Federal Communications Commission
1919 M Street, N.W., Room 802
Washington, D.C. 20554

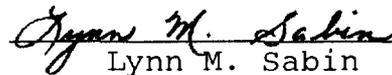
Commissioner Sherrie P. Marshall
Federal Communications Commission
1919 M Street, N.W., Room 826
Washington, D.C. 20554

Commissioner Andrew D. Barrett
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Commissioner Ervin S. Duggan
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Richard M. Smith, Chief
Field Operations Bureau
Federal Communications Commission
1919 M Street, N.W., Room 734
Washington, D.C. 20554

Ralph A. Haller, Chief
Private Radio Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554


Lynn M. Sabin