Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (3-4)

- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (4)

Treatment of General Category Channels and Intercategory Sharing

- Urges the Commission to designate all 230 channels (lower 80 and 150 General Category) for SMR use, arguing that without access to all 230 channels, local licensees will be foreclosed from offering service or expanding. (2, 5)

- These channels would be able to be used by local licensees, existing wide-area systems, or combined to form new wide-area systems, but should be subject to existing rules, with greater co-channel interference protection. They should not be authorized for use throughout an MTA unless actually licensed and constructed at sites in the MTA. (2)

- Urges the Commission not to foreclose local SMRs from the Business and Industrial/Land Transportation channels for expanding their operations. (5-6)

Other Issues

- Urges the Commission to take this opportunity to strengthen its co-channel interference criteria to a strict 40-22 dBu standard and to restrict "short spacing." (3)

- The FCC should presumptively classify all MTA licensees as CMRS. There should be no presumption of CMRS status on the lower 80 or 150 General Category channels. (6)

B & C COMMUNICATIONS

- SMR operator

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)

- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)

- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

MTA Licensee Rights and Obligations

- MTA licensees should be required to observe a 40/22 dBu co-channel separation, as should all licensees. (4)

- MTA licensees should not be able to construct within the 22 dBu contour of incumbent co-channel licensees and local licensees should be prohibited from locating their sites within the 22 dBu contour of other local licensees. (4-5)

Construction Requirements

- Supports strict enforcement of the one year construction deadline for local SMRs, and the requirement that licensees begin serving customers by the end of the construction period. Also supports strict construction for MTA licensees and license forfeiture for failure to comply. (5)

Incumbent Rights and Obligations

- Opposes mandatory relocation. Relocation should occur only on mutually acceptable terms and conditions. (3-4)

- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (4-5)

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BIS-MAN MOBILE PHONE, INC.

- SMR operator

Allocation Issues

- Supports proposal to divide the upper 10 MHz into four 2.5 MHz blocks of 50 channels, but, to allow for two MTA licensees in each market, proposes that no more than 7.5 MHz of the 10 MHz be available to any one entity. (2-3)

- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)

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Other Issues

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BOLIN COMMUNICATION SYSTEMS

- SMR operator

Allocation Issues

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- Under the above proposal, if an MTA licensee required more channels, it could secure them from the lower 80 SMR and 150 General Category channels. (3)

- Supports continuation of site specific licensing for all local channels. If the Commission proceeds with area specific licensing, urges limiting this approach to areas where there is currently no use of the spectrum to be licensed. (3)

Auction Issues

- Opposes auctioning local SMR channels. (6)

MTA Licensee Rights and Obligations

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DOUGLAS L. BRADLEY AND DENNIS HULFORD

- New SMR licensees

Allocation Issues

- The FCC's proposals will have a severe and negative impact on small operators. (2)

- There is no provision in the FCC's proposal that would provide any opportunity for small SMRs to expand capacity once the 80 channels are depleted in a given rural area. (3)

Incumbent Rights and Obligations

- Applicants are unclear as to the intent of the FNPRM to require relocation of conventional SMR systems. (3)

- Retuning would be expensive and the proposed rules do not provide for remuneration to displaced SMR operators. (4)

BRANDON COMMUNICATIONS, INC.

- SMR operator

Incumbent Rights and Obligations

- Opposes mandatory relocation, which will unnecessarily disrupt service. FCC goals can be achieved voluntarily. (2)

- Incumbent licensees should be permitted to relocate their existing systems at least within their 22 dBu coverage contour. Although a 40-22 dBu co-channel interference standard is generally optimal, separation could be reduced in favor of local licensees within the coverage area of an MTA system unless the MTA licensee has already constructed co-channel facilities at a particular site. (2)

CELLCALL, INC.

- SMR operator

Allocation Issues

- Supports licensing wide-area systems on an MTA basis. The record established in the 800 MHz NPRM and the Regulatory Treatment NPRM demonstrate the need to authorize SMR service over a large service area that is market-based. (6-7)

- The Commission should adopt a 200 contiguous channel band plan in order to foster competition with cellular and PCS operators which have access to contiguous spectrum. (8)

- The Commission should limit eligibility for MTA licenses to entities that are currently authorized to operate within the MTA or whose application to serve any area within the MTA was pending as of August 9, 1994. 800 MHz SMR spectrum remains heavily occupied and co-channel incumbent licensees must be protected from interference. Limiting eligibility is particularly appropriate in view of the disruption to existing wide-area SMR operators that has been caused by the long period of time that licensing rules have been in flux. (9-12)

- The Commission should authorize two 100-channel block licensees in each MTA. 50-channel blocks may not offer the opportunity to implement a viable wide-area system, while a single 200-channel MTA license could diminish competition. (12-13)

- The Commission should not limit the number of upper band channels a single entity may hold within a given MTA. Restricting a single entity to less than 10 MHz is inconsistent with creating competition with other CMRS providers who are authorized a minimum of 10 MHz. (13)

- The lower band channels should be licensed in five-channel blocks for use on a BTA basis. Moreover, the Commission should license the 150 General Category channels and the 80 non-contiguous SMR channels on this basis. (14)

Auction Issues

- The proposal to auction SMR spectrum for MTA licenses contradicts statutory requirements and may lead to results contrary to the goals of

the auction legislation. In conjunction with limited eligibility, and given the extent to which the 800 MHz channels already are licensed, the Commission should adopt rules that provide an alternative to mutually exclusive applications and auctions for MTA licenses. (25-26)

- Auctions will not satisfy the express statutory goal of implementing publicly beneficial new technologies. There is no basis for finding that MTA licensees will better serve the public interest than existing licensees. (26-27)

- Instead of auctions, the Commission should devise licensing schemes that avoid mutual exclusivity, such as limited eligibility. (27-28)

- To the extent that auctions are used, CellCall opposes the simultaneous multiple round auction method. Instead, the Commission should auction all block licensees within a single MTA at the same time but auction each MTA individually. (28-29)

- Entrepreneur's Blocks are not feasible given the extent of licensing that already has occurred on SMR spectrum. (29)

- The Commission should adopt special provisions that give incumbent licensees an incentive to seek MTA licenses and that enable them to participate in any auction. Specifically, eligible applicants who qualify as small businesses should be granted reduced down payments and installment payment terms. (29-30)

MTA Licensee Rights and Obligations

- Because cellular and PCS licensees are permitted to self-coordinate and make minor modifications to their systems within their service areas, the Commission should incorporate the same treatment into its 800 MHz SMR rules. (15)

- Supports automatic reversion of unused channels to the MTA licensee and presumptive support for assignments to incumbents. The Commission should similarly support channel swaps between MTA licensees and incumbents that involve relocating incumbents to lower band channels licensed to the MTA licensee. (16)

Construction Requirements

- Supports granting wide-area SMR licensees five years to construct their systems as this benchmark is consistent with existing wide-area SMR rules and cellular rules. Incumbent licensees who have been granted extended implementation periods under existing rules and who obtain an MTA license should be required to comply with their original implementation schedule. (16-17)

- The coverage requirements should be strengthened as many incumbents already have facilities in the core areas of their systems that comply with the proposed coverage benchmarks. Accordingly, the Commission should adopt a geographic coverage requirement in conjunction with or as a replacement for a population coverage requirement. (18)

- An MTA licensee should be required to satisfy its coverage requirements regardless of the extent of the presence of incumbents. The failure to acquire a sufficient number of channels within the MTA will not excuse a licensee's failure to satisfy coverage requirements. (18)

- An MTA licensee that fails to comply with coverage requirements should not forfeit its license. The Commission should adopt provisions based on the unserved area rules and that mirror the proposal to award unconstructed incumbent channels to the MTA licensee. (18-19)

Incumbent Rights and Obligations

- The relocation of incumbent licensees should be voluntary. The marketplace should dictate the circumstances under which a licensee will move to other spectrum to accommodate an MTA licensee. (19-20)

- The Commission's model for relocation adopted for the 2 GHz band is not analogous to this proceeding, nor are other relocation models practical. Unlike prior relocations, the Commission is not proposing to clear spectrum bands, rather it is proposing to permit the implementation of narrow channel bands of advanced technologies as an overlay to already licensed spectrum. Massive relocation of 800 MHz SMR spectrum would be more expensive and disruptive than relocation of fixed microwave links. Moreover, forced relocation would be unfair to incumbents. (20-23)

- The rules should allow incumbents to make minor modifications and to expand their systems in accordance with their extended implementation

authority. Incumbents should be allowed to expand beyond existing service areas with the consent of the MTA licensee. An MTA licensee that withholds consent should be required to construct the requested channel within six months. (23-24)

CELLULAR TELECOMMUNICATIONS INDUSTRY ASSOCIATION

- Trade association of CMRS service providers

Allocation Issues

- To establish comparable service, the unfettered ability to obtain contiguous SMR spectrum should be promoted. (3)

- The adoption of geographic service areas and broadband licenses with contiguous spectrum will contribute to forming an environment that maximizes competition among CMRS providers. (6)

Incumbent Rights and Obligations

- All costs associated with the retuning of SMR incumbent licensees must be paid by the new entrant; incumbent licensees must be afforded an appropriate amount of time to retune; and incumbents' service must not be diminished or harmed by retuning. (6)

CENTENNIAL TELECOMMUNICATIONS, INC.

- SMR service provider

Incumbent Rights and Obligations

- Supports voluntary relocation of incumbents. (2)
- PCS, which will use mandatory relocation, differs in a variety of ways from the situation present at 800 MHz. Ultimately, voluntary relocation will benefit consumers of SMR service. (3,4)

CHADMOORE COMMUNICATIONS, INC.

- SMR operator

Allocation Issues

- The FCC proposals will not meet the identified goal of creating opportunities for SMR providers since the proposals are entirely geared towards the interest of only one entity -- Nextel. The FCC proposals include substantial parts of the Nextel plan, including the plan to relocate existing licensees to the "lower 80" channels and the plan to allocate 10 MHz to each MTA licensee. The plan thus does not allow others to compete with Nextel, and it is likely that Nextel will be the only serious bidder. (5-8)

- The FCC proposals will not meet the identified goal of ensuring productive use of the spectrum since it extends coverage deadlines not only beyond the ordinary 12 month period, but five years from when an MTA license is issued. (9)

- The FCC proposals will not meet the identified goal of encouraging more efficient use of the spectrum since the marketplace is already ensuring the availability of high capacity digital voice and data systems with seamless roaming. Indeed, with Nextel's alliances with Motorola, there is no prospect for development of a competitive equipment market and the most efficient 800 MHz technology may end up left on the shelf. (9-10)

- The FCC proposals will not meet the identified goal of removing unnecessary regulatory burdens since the proposals not only create disparate classes of 800 MHz providers, they place 800 MHz SMRs at a disadvantage relative to cellular carriers. CCI anticipates that customers unwilling to abide the inconvenience of interruptions to make way for MTA licensees will turn to the seemingly more reliable cellular service and exacerbate headstart problems. (11-12)

- The FCC proposals will not meet the Congressional goal of creating a level playing field since it would relegate incumbent SMRs to a less desirable frequency range and create disruptions, which further disadvantages these carriers vis-a-vis cellular licensees. (12-14)

- The FCC proposals will not meet the Congressional goals of establishing an appropriate level of regulation or meet the Congressional goal of

resolving substantial similarity issues since the proposals will effectively upend the entire industry. (14-16)

- The FCC's proposal will not meet enumerated Congressional economic goals since it imposes burdens on legitimate entrepreneurs in the SMR service in favor of sponsoring growth for a single company (which may have exhausted its growth potential in any event) and will raise the service costs for dispatch users. (16-19)

- Instead, CCI recommends adopting the following plan, which would achieve a smooth transition to CMRS, achieve the FCC's and Congress's goals, and offer fair opportunities to all SMR providers: (19-23)

  - All 800 MHz SMRs would be subject to interconnection requirements and Title II obligations;

  - Any applications for new SMR facilities would be placed on public notice and subject to competing mutually exclusive filings and petitions to deny;

  - The FCC would auction all remaining 800 MHz spectrum as mutually exclusive applications are received;

  - The FCC should step up enforcement of the construction schedules granted under Section 90.129; and

  - Existing licensees would be allowed to continue current operations and encouraged to form alliances to implement ESMR-type digital operations.

Incumbent Rights and Obligations

- Opposes mandatory relocation or retuning since the relocation channels are technically inferior and the relocation proposal constitutes an unconstitutional taking under the 5th Amendment. (23 & Declaration of D. Chadwick, P.E.)

DON CLARK RADIO COMMUNICATIONS, INC.

- Radio dealer and service shop

Auction Issues

- Auctioning spectrum to the highest bidder will make it impossible for any small business to compete. (2)

COMMUNICATIONS CENTER INC.

- SMR service provider

Allocation Issues

- Questions whether it was congressional intent to auction spectrum already licensed across the country. (1)

- Auctioning spectrum over MTA and BTA sized areas unfairly impacts rural areas. (1)

Other Issues

- Regulatory parity places small businesses at a disadvantage. (2)

KEVIN LAUSMAN d/b/a COMMUNICATIONS SERVICE CENTER

- SMR operator

Allocation Issues

- Opposes the FCC's proposals in all respects. Frequency swapping is unfair, inequitable, and unworkable. MTA-based licensing would be disruptive and without public benefit. (3)

Auction Issues

- The proposed use of auction authority is incorrect for the distribution of a highly limited amount of spectrum for which there are over 40,000 pending applications. (3)

Other Issues

- Urges the FCC not to proceed with the FNPRM until earlier-filed challenges to Nextel on foreign ownership grounds are resolved. Attached his Opposition to Nextel's CMRS foreign ownership waiver request in which he alleges that Nextel was not candid with the Commission concerning its relationship with Matsushita and that Japan has engaged in unfair trade practices in the field of telecommunications. (1-2)

COMMUNICATIONS UNLIMITED, INC.

- SMR service provider

Allocation Issues

- Opposes the FCC's proposal with respect to the restructuring of the SMR band and the implementation of competitive bidding. (1)

- Large nationwide competitors licensed on blocks of 800 Mhz spectrum could cause an artificial spectrum shortage that would prevent local SMR operators from expanding their coverage. (4)

Incumbent Rights and Obligations

- Relocation to different SMR channels is expensive, and the FCC has not proposed to provide for remuneration to displaced licensees. (6)

COUNCIL OF INDEPENDENT COMMUNICATIONS SUPPLIERS

- Association of SMR operators, radio dealers, equipment suppliers, communications engineers and consultants

Allocation Issues

- There is little possibility for existing SMR systems to expand without some adjustment in the current frequency allocation and assignment patterns. (3)

- Supports designating the upper block for wide area SMRs and the lower block for local systems. (5)

Auction Issues

- Opposes the use of auctions. (6)

Incumbent Rights and Obligations

- There would be serious difficulties arising from any effort to mandate the retuning of smaller SMR systems to frequencies outside the top 200 channels. (3)

- Estimates the cost of retuning at $5,000 - $6,000 per frequency. (4)

- Before mandating retuning, its proponents must demonstrate its technical feasibility and economic efficiency as well as show that it will not seriously disrupt existing operations. (4)

Other Issues

- All pending applicants should be required to post a performance bond as a condition of licensing. The bond should be at a low level; $10,000 for each licensed station. (6)

COURTESY COMMUNICATIONS

- SMR service provider

Auction Issues

- Based on the PCS auctions, small businesses will not have the means to compete against Nextel/Motorola and corporations of similar financial depth. (1)

Incumbent Rights and Obligations

- The Commission's proposal to freeze new 800 MHz SMR applications will prevent Courtesy and other companies from expanding service to the public. A thaw is urgently needed. (1)

- The proposal to auction spectrum in which there are hundreds of existing small business licensees is unprecedented. The large corporations would be permitted to ignore the 40-mile rule, thereby creating serious frequency interference problems for existing licensees. (1)

- Frequency interference problems will lead to a loss of customer base. Eventually, small companies will be forced out of business or will incur expensive modifications to operate in a less suitable band. (1-2)

CUMULOUS COMMUNICATIONS CORP.

- SMR operator in the vicinity of Fresno, California

Allocation Issues

- Opposes the use of MTAs, since the MTAs are too large, especially in California. MTAs do not have any reasonable relationship to the provision of land mobile radio services. Coverage criteria for MTAs would require providing service to areas that are underpopulated at the expense of areas needing service. (1-3)

- Supports the use of BTAs, since the per-user cost of providing service to a percentage of an MTA is likely to exceed the per-user cost of service to the same percentage of a BTA; BTA licensing is likely to produce higher revenues for the Treasury; SMR service is highly local; and MTA licensing would produce reverse synergies. (3-5)

- Supports permitting wide-area SMR development on the "new" 80 SMR channels, based upon "footprints" defined by a local service operator. (8-9)

Construction Requirements

- The Commission should allow the same slow growth for new 80 SMR channels that it proposes for the "upper 200 channels." (9)

Incumbent Rights and Obligations

- Any frequency exchanges should be wholly voluntary and the FCC should, in order to ensure comparable valuation of channels, permit use of both new and old channels for exactly the same purposes. (10)

- Opposes mandatory frequency swapping since: the incumbent should be rewarded for development of its system by allowing full value to be paid in an arms length transaction; the existing service works well and should not be disrupted; no assurances exist that comparable frequencies exist given the mathematics of combining antennas and frequency-specific site leases. (11-12)

- If the Commission mandates frequency swapping, minimum requirements would include ensuring the swapped channels are in the 851-861 MHz band; the channels should be satisfactory for use at the incumbent's

existing site considering existing equipment and contractual terms; all work to be performed by the incumbent should be compensated at the incumbent's regular rates for such work; and any necessary equipment, including test equipment, should be provided by the wide area licensees at no cost to the incumbent. (12-13)

Treatment of General Category Channels and Intercategory Sharing

- The Commission should continue to provide for the use of general category channels for traditional SMR systems and permit intercategory sharing, including allowing the use of General Category channels for trunked operation. (6-8)