

EX PARTE OR LATE FILED
LUKAS, MCGOWAN, NACE & GUTIERREZ
CHARTERED

ORIGINAL

RUSSELL D. LUKAS
GERALD S. MCGOWAN
DAVID L. NACE
THOMAS GUTIERREZ
ELIZABETH R. SACHS
GEORGE L. LYON, JR.
PAMELA L. GIST
DAVID A. LAFURIA
TERRY J. ROMINE
MARCI E. GREENSTEIN+
MARJORIE GILLER SPIVAK
J. JUSTIN McCLURE+
MARILYN I. SUCHECKI+
DAVID D. McCURDY+
PAMELA GAARY HOLRAN
JOHN B. BRANSCOME+

1111 NINETEENTH STREET, N.W.
SUITE 1200
WASHINGTON, D.C. 20036

CONSULTING ENGINEERS
THOMAS G. ADcock, P.E.
MEHRAN NAZARI
ALI KUZEHKANANI
JAMES R. LANDOLL, P.E.
LEROY A. ADAM
LEILA REZANAVAZ
FARID SEYEDVOSOGHI

(202) 857-3500

TELECOPIER
(202) 842-4485

WRITER'S DIRECT DIAL
(202) 828-9470

January 13, 1995

RECEIVED

JAN 13 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Notice of Ex Parte Communication
GN Docket No. 93-252
DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On behalf of SunCom Mobile & Data, Inc. ("SunCom"), this notice is submitted in accordance with Section 1.1206(a)(2) of the Commission's rules, with the original and one copy being submitted to the Commission's Secretary.

On January 12, 1994, the undersigned and those persons identified on the enclosed discussion outline, met separately with (a) Regina Keeney, Chief, Wireless Telecommunications Bureau, Larry Atlas, John Cimko and Marty Liebman of her staff; (b) Commissioner Chong and Jill Lucket of her staff; and (c) David Siddall of Commissioner Ness' office, and on all three occasions made a permissible oral ex parte presentation concerning the above docket.

At the meetings, argument was presented consistent with SunCom's argument in its Petition for Reconsideration in the captioned proceeding, and consistent with the enclosed discussion outline. No additional arguments or issues were presented.

In order to comply fully with both the spirit and letter of the Commission's ex parte rules, we have also enclosed copies of correspondence to Ms. Keeney, Ms. Lucket and Mr. Siddall in preparation for our meetings.

Very truly yours,

Thomas Gutierrez

No. of Copies rec'd
List ABCDE

TG:cms

LUKAS, MCGOWAN, NACE & GUTIERREZ

CHARTERED

1111 NINETEENTH STREET, N.W.

SUITE 1200

WASHINGTON, D.C. 20036

RUSSELL D. LUKAS
GERALD S. MCGOWAN
DAVID L. NACE
THOMAS GUTIERREZ
ELIZABETH R. SACHS
GEORGE L. LYON, JR.
PAMELA L. GIST
DAVID A. LAFURIA
TERRY J. ROMINE
MARCI E. GREENSTEIN+
MARJORIE GILLER SPIVAK
J. JUSTIN McCLURE+
MARILYN I. SUCHECKI+
DAVID D. McCURDY+
PAMELA GAARY HOLRAN
JOHN B. BRANSCOME+

+ NOT ADMITTED IN D.C.

CONSULTING ENGINEERS
THOMAS G. ADCKOCK, P.E.
MEHRAN NAZARI
ALI KUZEHKANANI
JAMES R. LANDOLL, P.E.
LEROY A. ADAM
LEILA REZANAVAZ
FARID SEYEDVOSOGHI

(202) 857-3500

TELECOPIER
(202) 842-4485

WRITER'S DIRECT DIAL
(202) 828-9470

RECEIVED
JAN 13 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

January 10, 1995

Regina Keeney, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, N.W., Room 5002
Washington, D.C. 20554

Dear Gina:

This is to follow up on our conversation of several weeks ago wherein we set a meeting date of January 12, 1995, at 3:00 p.m. to 3:30 p.m. to speak about the SunCom Mobile & Data, Inc. ("SunCom") pending Petition for Reconsideration in GN Docket No. 93-252. (This is a non-restricted proceeding where oral ex parte communications are permissible, and SunCom will place in the file the necessary record of our meeting as prescribed by applicable Commission rules.)

When we spoke I advised you that I would write to you shortly before the meeting to provide you with additional detail regarding the matters that we seek to discuss at the meeting. Towards that end, I have enclosed a discussion outline that we will be presenting in the meeting. As the outline is fairly straightforward, I will not impose upon you by reiterating each of the points presented therein. Nevertheless, I will take just a minute to put this very important matter into perspective and present you with a succinct overview of the issues involved.

In late 1993, SunCom approached Commission staff and explained that it sought both (a) a declaratory ruling that its proposed ownership of multiple 220 MHz systems after they have been constructed in a given geographic area would not contravene Section 90.739 of the Commission's rules with respect to ownership of multiple local 220 MHz systems; and (b) a waiver of Section 90.725(f) of the Commission's rules to afford adequate (extended) time periods to construct its 220 MHz network. As of this date, SunCom has not received grant of either of its requests and, during the course of our meeting, we will explain why grant of such

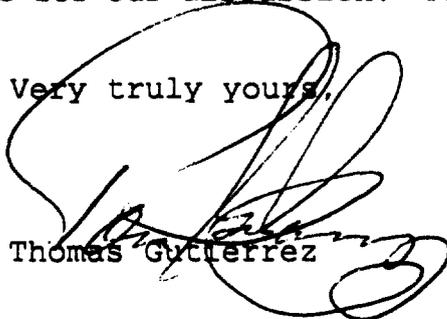
requests would both serve the public interest and be necessary to provide fair and equitable treatment to SunCom.

After obtaining informal staff reaction to its proposals, SunCom presented formal requests for relief in early 1994. Those requests were subsequently incorporated into the referenced docket, apparently based upon a staff belief that such incorporation would expedite handling of these requests. Unfortunately, when the Report and Order in the subject proceeding was adopted, there was no bona fide resolution of either of the issues presented by SunCom. SunCom has timely petitioned for reconsideration of its Report and Order based upon, inter alia, SunCom's belief that the Commission did not act on the relief it requested.

As you may be well aware, from the start the 220 MHz proceeding has been both full of promise and complication. 220 MHz was the Commission's first large-scale effort to promote truly narrowband technology. (The channels at issue are separated by a mere 5 kHz.) Whereas the narrow spacing offers promise in developing a whole new era of spectrally efficient communications, it (and the fact that only five channels are included in each authorization) has also made it most difficult for 220 MHz systems to compete with existing and potential competitors. Towards this end, SunCom has proposed to combine 220 MHz systems in a given market in order to achieve both wide-area, and high capacity spectrally efficient systems. Whereas there is some disagreement in the record with respect to whether the combined systems are absolutely necessary for 220 MHz to survive, there appears to be a consensus (one with which the Commission itself has agreed) that there are considerable benefits associated with wide-area systems such as SunCom proposed. SunCom submits that, if the majority of authorized 220 MHz systems are built, they will be built through the SunCom network and other similar networks. Accordingly, grant of requests such as SunCom's appear to be necessary to the establishment of a vital 220 MHz industry and the establishment of narrowband, spectrally efficient technology.

I have enclosed an outline for our discussion. Please call if you have any questions.

Very truly yours,


Thomas Gutierrez

Enclosure
TG:cms

January 12, 1995

Attendees: Regina Keeney (FCC)
Tom Gutierrez (LMN&G)
Warren Havens (SunCom)
Channing Jones (SunCom)
Chris Boas (SunCom)
Peter Hilton (Securicor)

SUNCOM MOBILE & DATA, INC.
220 MHz PRESENTATION BEFORE
THE WIRELESS TELECOMMUNICATIONS BUREAU

- I. Regulatory Status of SunCom Proposal (Tom Gutierrez)
 - A. SunCom Mobile & Data, Inc. Proposal
 - o Post-construction combination of 220 local megahertz systems
 - o Multi-year extended construction schedule
 - B. Public Interest Factors Supporting Grant
 - o Coverage and capacity constraints require networking to make 220 MHz viable
 - o Network design and construction is a complex, long-term undertaking requiring extended construction
 - o Narrowband technology must be afforded every opportunity to succeed
 - o No trafficking issues involved
 - C. Grant of the SunCom Extended Construction Schedule Would be Consistent with Prior Commission Action Involving Other Licensees
 - o Nextel
 - o American Mobile Data
 - o Dial Page
 - o Millicomm
 - o DCL Associates

D. Action on the SunCom Proposal to Date

- o SunCom proposals presented informally in late, 1993
- o SunCom proposals presented formally in early 1994
- o SunCom proposals incorporated in GN Docket 93-252 in May 1994
- o SunCom issues not addressed in GN Docket 93-252 Report and Order (August 1994)
- o FCC modifies rules governing management agreements
- o Further Notice in GN Docket 93-252 is not yet released
- o SunCom Petition for Reconsideration (filed December 21, 1994)

E. Relief Requested

- o Grant of extended construction schedule
- o Declaratory ruling regarding 90.739
- o Interim extension of existing construction schedules

II. SunCom's Proposal (Warren Havens)

A. SunCom's founders

- o Cellular operating experience
- o Financial investment

B. Scope of SunCom's proposed network

- o Wide-area coverage
- o Increased capacity
- o Approximately 600 authorizations to be included

C. SunCom's proposed extended construction schedule

- o 8-year schedule initially sought
- o Proposed schedule reduced to 5 years

- o Further tightening, to a minimum of 3 years, possible

D. System Management (Howard Oringer)

III. Securicor

A. Securicor's manufacturing experience

- o Wireless/SMR experience in UK
- o Production of equipment for service within U.S.
- o Relationship with EF Johnson

B. Timing is critical to 220 MHz production

- o Approximately 100 systems can be delivered to SunCom by April 4 deadline
- o Expiration of authorizations due to non-construction would disrupt essential continuity in manufacture and delay industry development by years

C. Development of narrowband technology

- o 220 MHz is at forefront of U.S. narrowband efforts
- o Delay or disruption of 220 MHz efforts would postpone narrowband development that could extend to other bands
- o Participation in narrowband developmental efforts (see attached letter from Richard Shiben)

LUKAS, MCGOWAN, NACE & GUTIERREZ

CHARTERED

1111 NINETEENTH STREET, N.W.

SUITE 1200

WASHINGTON, D.C. 20036

RUSSELL D. LUKAS
GERALD S. MCGOWAN
DAVID L. NACE
THOMAS GUTIERREZ
ELIZABETH R. SACHS
GEORGE L. LYON, JR.
PAMELA L. GIST
DAVID A. LAFURIA
TERRY J. ROMINE
MARC E. GREENSTEIN⁺
MARJORIE GILLER SPIVAK
J. JUSTIN McCLURE⁺
MARILYN I. SUCHECKI⁺
DAVID D. McCURDY⁺
PAMELA GAARY HOLRAN
JOHN B. BRANSCOME⁺

⁺ NOT ADMITTED IN D.C.

CONSULTING ENGINEERS
THOMAS G. ADCKOCK, P.E.
MEHRAN NAZARI
ALI KUZEHKANANI
JAMES R. LANDOLL, P.E.
LEROY A. ADAM
LEILA REZANAVAZ
FARID SEYEDVOSOGHI

(202) 857-3500

TELECOPIER
(202) 842-4485

WRITER'S DIRECT DIAL
(202) 828-9470

January 10, 1995

Jill Lockett, Special Advisor
Office of Commissioner Chong
Federal Communications Commission
1919 M Street, N.W., Room 844
Washington, D.C. 20554

Dear Jill:

This is to follow up on our conversation of several weeks ago wherein we set a meeting date of January 12, 1995, at 2:00 p.m. to 2:30 p.m. to speak about the SunCom Mobile & Data, Inc. ("SunCom") pending Petition for Reconsideration in GN Docket No. 93-252. (This is a non-restricted proceeding where oral ex parte communications are permissible, and SunCom will place in the file the necessary record of our meeting as prescribed by applicable Commission rules.)

When we spoke I advised you that I would write to you shortly before the meeting to provide you with additional detail regarding the matters that we seek to discuss at the meeting. Towards that end, I have enclosed a discussion outline that we will be presenting in the meeting. As the outline is fairly straightforward, I will not impose upon you by reiterating each of the points presented therein. Nevertheless, I will take just a minute to put this very important matter into perspective and present you with a succinct overview of the issues involved.

In late 1993, SunCom approached Commission staff and explained that it sought both (a) a declaratory ruling that its proposed ownership of multiple 220 MHz systems after they have been constructed in a given geographic area would not contravene Section 90.739 of the Commission's rules with respect to ownership of multiple local 220 MHz systems; and (b) a waiver of Section 90.725(f) of the Commission's rules to afford adequate (extended) time periods to construct its 220 MHz network. As of this date, SunCom has not received grant of either of its requests and, during the course of our meeting, we will explain why grant of such

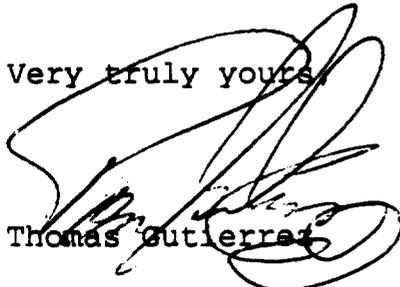
requests would both serve the public interest and be necessary to provide fair and equitable treatment to SunCom.

After obtaining informal staff reaction to its proposals, SunCom presented formal requests for relief in early 1994. Those requests were subsequently incorporated into the referenced docket, apparently based upon a staff belief that such incorporation would expedite handling of these requests. Unfortunately, when the Report and Order in the subject proceeding was adopted, there was no bona fide resolution of either of the issues presented by SunCom. SunCom has timely petitioned for reconsideration of its Report and Order based upon, inter alia, SunCom's belief that the Commission did not act on the relief it requested.

As you may be well aware, from the start the 220 MHz proceeding has been both full of promise and complication. 220 MHz was the Commission's first large-scale effort to promote truly narrowband technology. (The channels at issue are separated by a mere 5 kHz.) Whereas the narrow spacing offers promise in developing a whole new era of spectrally efficient communications, it (and the fact that only five channels are included in each authorization) has also made it most difficult for 220 MHz systems to compete with existing and potential competitors. Towards this end, SunCom has proposed to combine 220 MHz systems in a given market in order to achieve both wide-area, and high capacity spectrally efficient systems. Whereas there is some disagreement in the record with respect to whether the combined systems are absolutely necessary for 220 MHz to survive, there appears to be a consensus (one with which the Commission itself has agreed) that there are considerable benefits associated with wide-area systems such as SunCom proposed. SunCom submits that, if the majority of authorized 220 MHz systems are built, they will be built through the SunCom network and other similar networks. Accordingly, grant of requests such as SunCom's appear to be necessary to the establishment of a vital 220 MHz industry and the establishment of narrowband, spectrally efficient technology.

I have enclosed an outline for our discussion. Please call if you have any questions.

Very truly yours,



Thomas G. Tierret

Enclosure
TG:cms

January 12, 1995

Attendees: Jill Lockett (FCC)
Tom Gutierrez (LMN&G)
Warren Havens (SunCom)
Channing Jones (SunCom)
Chris Boas (SunCom)
Peter Hilton (Securicor)

SUNCOM MOBILE & DATA, INC.
220 MHz PRESENTATION BEFORE
COMMISSIONER CHONG'S OFFICE

- I. Regulatory Status of SunCom Proposal (Tom Gutierrez)
- A. SunCom Mobile & Data, Inc. Proposal
- o Post-construction combination of 220 local megahertz systems
 - o Multi-year extended construction schedule
- B. Public Interest Factors Supporting Grant
- o Coverage and capacity constraints require networking to make 220 MHz viable
 - o Network design and construction is a complex, long-term undertaking requiring extended construction
 - o Narrowband technology must be afforded every opportunity to succeed
 - o No trafficking issues involved
- C. Grant of the SunCom Extended Construction Schedule Would be Consistent with Prior Commission Action Involving Other Licensees
- o Nextel
 - o American Mobile Data
 - o Dial Page
 - o Millicomm
 - o DCL Associates

D. Action on the SunCom Proposal to Date

- o SunCom proposals presented informally in late, 1993
- o SunCom proposals presented formally in early 1994
- o SunCom proposals incorporated in GN Docket 93-252 in May 1994
- o SunCom issues not addressed in GN Docket 93-252 Report and Order (August 1994)
- o FCC modifies rules governing management agreements
- o Further Notice in GN Docket 93-252 is not yet released
- o SunCom Petition for Reconsideration (filed December 21, 1994)

E. Relief Requested

- o Grant of extended construction schedule
- o Declaratory ruling regarding 90.739
- o Interim extension of existing construction schedules

II. SunCom's Proposal (Warren Havens)

A. SunCom's founders

- o Cellular operating experience
- o Financial investment

B. Scope of SunCom's proposed network

- o Wide-area coverage
- o Increased capacity
- o Approximately 600 authorizations to be included

C. SunCom's proposed extended construction schedule

- o 8-year schedule initially sought
- o Proposed schedule reduced to 5 years

- o Further tightening, to a minimum of 3 years, possible

D. System Management (Howard Oringer)

III. Securicor

A. Securicor's manufacturing experience

- o Wireless/SMR experience in UK
- o Production of equipment for service within U.S.
- o Relationship with EF Johnson

B. Timing is critical to 220 MHz production

- o Approximately 100 systems can be delivered to SunCom by April 4 deadline
- o Expiration of authorizations due to non-construction would disrupt essential continuity in manufacture and delay industry development by years

C. Development of narrowband technology

- o 220 MHz is at forefront of U.S. narrowband efforts
- o Delay or disruption of 220 MHz efforts would postpone narrowband development that could extend to other bands
- o Participation in narrowband developmental efforts (see attached letter from Richard Shiben)

LUKAS, MCGOWAN, NACE & GUTIERREZ

CHARTERED

1111 NINETEENTH STREET, N.W.

SUITE 1200

WASHINGTON, D.C. 20036

RUSSELL D. LUKAS
GERALD S. MCGOWAN
DAVID L. NACE
THOMAS GUTIERREZ
ELIZABETH R. SACHS
GEORGE L. LYON, JR.
PAMELA L. GIST
DAVID A. LAFURIA
TERRY J. ROMINE
MARCI E. GREENSTEIN⁺
MARJORIE GILLER SPIVAK
J. JUSTIN McCLURE⁺
MARILYN I. SUCHECKI⁺
DAVID D. MCCURDY⁺
PAMELA GAARY HOLRAN
JOHN B. BRANSCOME⁺

⁺ NOT ADMITTED IN D.C.

CONSULTING ENGINEERS
THOMAS G. ADCOCK, P.E.
MEHRAN NAZARI
ALI KUZEHKANANI
JAMES R. LANDOLL, P.E.
LEROY A. ADAM
LEILA REZANAVAZ
FARID SEYEDVOSOGHI

(202) 857-3500

TELECOPIER
(202) 842-4485

WRITER'S DIRECT DIAL
(202) 828-9470

January 10, 1995

David R. Siddall, Legal Advisor
Office of Commissioner Ness
Federal Communications Commission
1919 M Street, N.W., Room 832
Washington, D.C. 20554

Dear David:

This is to follow up on our conversation of several weeks ago wherein we set a meeting date of January 12, 1995, at 1:00 p.m. to 1:30 p.m. to speak about the SunCom Mobile & Data, Inc. ("SunCom") pending Petition for Reconsideration in GN Docket No. 93-252. (This is a non-restricted proceeding where oral ex parte communications are permissible, and SunCom will place in the file the necessary record of our meeting as prescribed by applicable Commission rules.)

When we spoke I advised you that I would write to you shortly before the meeting to provide you with additional detail regarding the matters that we seek to discuss at the meeting. Towards that end, I have enclosed a discussion outline that we will be presenting in the meeting. As the outline is fairly straightforward, I will not impose upon you by reiterating each of the points presented therein. Nevertheless, I will take just a minute to put this very important matter into perspective and present you with a succinct overview of the issues involved.

In late 1993, SunCom approached Commission staff and explained that it sought both (a) a declaratory ruling that its proposed ownership of multiple 220 MHz systems after they have been constructed in a given geographic area would not contravene Section 90.739 of the Commission's rules with respect to ownership of multiple local 220 MHz systems; and (b) a waiver of Section 90.725(f) of the Commission's rules to afford adequate (extended) time periods to construct its 220 MHz network. As of this date, SunCom has not received grant of either of its requests and, during the course of our meeting, we will explain why grant of such

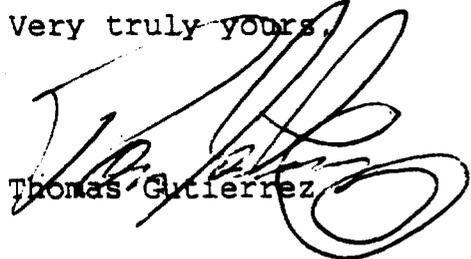
requests would both serve the public interest and be necessary to provide fair and equitable treatment to SunCom.

After obtaining informal staff reaction to its proposals, SunCom presented formal requests for relief in early 1994. Those requests were subsequently incorporated into the referenced docket, apparently based upon a staff belief that such incorporation would expedite handling of these requests. Unfortunately, when the Report and Order in the subject proceeding was adopted, there was no bona fide resolution of either of the issues presented by SunCom. SunCom has timely petitioned for reconsideration of its Report and Order based upon, inter alia, SunCom's belief that the Commission did not act on the relief it requested.

As you may be well aware, from the start the 220 MHz proceeding has been both full of promise and complication. 220 MHz was the Commission's first large-scale effort to promote truly narrowband technology. (The channels at issue are separated by a mere 5 kHz.) Whereas the narrow spacing offers promise in developing a whole new era of spectrally efficient communications, it (and the fact that only five channels are included in each authorization) has also made it most difficult for 220 MHz systems to compete with existing and potential competitors. Towards this end, SunCom has proposed to combine 220 MHz systems in a given market in order to achieve both wide-area, and high capacity spectrally efficient systems. Whereas there is some disagreement in the record with respect to whether the combined systems are absolutely necessary for 220 MHz to survive, there appears to be a consensus (one with which the Commission itself has agreed) that there are considerable benefits associated with wide-area systems such as SunCom proposed. SunCom submits that, if the majority of authorized 220 MHz systems are built, they will be built through the SunCom network and other similar networks. Accordingly, grant of requests such as SunCom's appear to be necessary to the establishment of a vital 220 MHz industry and the establishment of narrowband, spectrally efficient technology.

I have enclosed an outline for our discussion. Please call if you have any questions.

Very truly yours,


Thomas Gutierrez

Enclosure
TG:cms

January 12, 1995

Attendees: David Siddall (FCC)
Tom Gutierrez (LMN&G)
Warren Havens (SunCom)
Channing Jones (SunCom)
Chris Boas (SunCom)
Peter Hilton (Securicor)

SUNCOM MOBILE & DATA, INC.
220 MHz PRESENTATION BEFORE
COMMISSIONER NESS' OFFICE

- I. Regulatory Status of SunCom Proposal (Tom Gutierrez)
- A. SunCom Mobile & Data, Inc. Proposal
- o Post-construction combination of 220 local megahertz systems
 - o Multi-year extended construction schedule
- B. Public Interest Factors Supporting Grant
- o Coverage and capacity constraints require networking to make 220 MHz viable
 - o Network design and construction is a complex, long-term undertaking requiring extended construction
 - o Narrowband technology must be afforded every opportunity to succeed
 - o No trafficking issues involved
- C. Grant of the SunCom Extended Construction Schedule Would be Consistent with Prior Commission Action Involving Other Licensees
- o Nextel
 - o American Mobile Data
 - o Dial Page
 - o Millicomm
 - o DCL Associates

D. Action on the SunCom Proposal to Date

- o SunCom proposals presented informally in late, 1993
- o SunCom proposals presented formally in early 1994
- o SunCom proposals incorporated in GN Docket 93-252 in May 1994
- o SunCom issues not addressed in GN Docket 93-252 Report and Order (August 1994)
- o FCC modifies rules governing management agreements
- o Further Notice in GN Docket 93-252 is not yet released
- o SunCom Petition for Reconsideration (filed December 21, 1994)

E. Relief Requested

- o Grant of extended construction schedule
- o Declaratory ruling regarding 90.739
- o Interim extension of existing construction schedules

II. SunCom's Proposal (Warren Havens)

A. SunCom's founders

- o Cellular operating experience
- o Financial investment

B. Scope of SunCom's proposed network

- o Wide-area coverage
- o Increased capacity
- o Approximately 600 authorizations to be included

C. SunCom's proposed extended construction schedule

- o 8-year schedule initially sought
- o Proposed schedule reduced to 5 years

- o Further tightening, to a minimum of 3 years, possible
- D. System Management (Howard Oringer)

III. Securicor

- A. Securicor's manufacturing experience
- o Wireless/SMR experience in UK
 - o Production of equipment for service within U.S.
 - o Relationship with EF Johnson
- B. Timing is critical to 220 MHz production
- o Approximately 100 systems can be delivered to SunCom by April 4 deadline
 - o Expiration of authorizations due to non-construction would disrupt essential continuity in manufacture and delay industry development by years
- C. Development of narrowband technology
- o 220 MHz is at forefront of U.S. narrowband efforts
 - o Delay or disruption of 220 MHz efforts would postpone narrowband development that could extend to other bands
 - o Participation in narrowband developmental efforts (see attached letter from Richard Shiben)