E.F. JOHNSON CO.

- Equipment manufacturer

Allocation Issues

- In order to produce more locally responsive providers, licenses should be issued on a BEA rather than an MTA basis. (4-5)

- In order to conserve spectrum, local licensees employing the General Category channels should continue to be licensed on a site-by-site basis rather than on a BEA basis. However, BEA wide licenses could be made available to incumbents if they demonstrate that no other licensee's service area is within the desired BEA, and that they will provide service to a Commission specified percentage of the population. (5-6)

Incumbent Rights and Obligations

- Supports AMTA's plan for "progressive retuning," under which wide-area licensees would be allowed to introduce mandatory retuning after demonstrating that they had acquired a specified percentage of channels through purchase, voluntary retuning, or other means. (7-8)

- All incumbents willing to engage in voluntary retuning should receive spectrum on which to relocate, full reimbursement for relocation, tax certificates, and channel protection of at least 70 miles. "Holdouts" should receive as many of these same benefits as is possible. (8-9)

- Incumbents should be able to demand voluntary retuning within a reasonable time after the issuance of the wide-area authorization. (9)

- In order to permit voluntarily retuned licensees to provide service from the most beneficial site, existing licensees should be permitted to move their facilities prior to the awarding of wide-area licenses. (10-11)

Treatment of General Category Channels and Intercategory Sharing

- Local licensees should retain unconditional access to the lower 80 SMR channels, the 150 General Category channels, and inter-category shared access to the Business and Industrial/Land Transportation "Pool" Channels. (11)

Other Issues

- The Commission should only create the proposed new type of wide-area SMR network if it determines that the use of contiguous spectrum to achieve regulatory parity is important enough to merit the disruption that the FCC's plan will cause. (3-4)

- Local SMRs should be exempt from CMRS regulations. (11)

ENTERGY SERVICES, INC.

- Provider of electric utility service which relies heavily on 800 MHz land mobile operations

Treatment of General Category Channels and Intercategory Sharing

- Opposes allocating the General Category exclusively to SMRs because SMRs have already been allocated 280 channels, and many noncommercial entities have developed a large public safety PMRS infrastructure in the General Category. (6-9)

- Nextel's proposals to create a relocation block out of the 150 General Category channels and the 50 Business Category channels, freeze licensing of Business and General Category spectrum, and cancel all implementation schedules for licensees operating in the "new" SMR block are beyond the scope of this proceeding. Because affected entities had insufficient notice of these proposals, under the APA the Commission should forestall action until Nextel files a separate Petition for Rule Making on these issues. (9-13)

- In order to build out its PMRS, thereby assuring its utility customers of a higher state of emergency readiness, Entergy needs to slowly expand into more General Category and Business Category channels. Because Nextel's requests to create a relocation block out of the 150 General Category channels and the 50 Business Category channels, freeze licensing of Business and General Category spectrum, and cancel all implementation schedules for licensees operating in the "new" SMR block will prevent this expansion, these requests should be denied. (13-17)

ERICSSON CORPORATION

- Equipment manufacturer

Allocation Issues

- Joins with the parties who assert that there has been no demonstration that a contiguous allocation for an MTA-based 800 MHz SMR system is necessary, especially given that it is already possible to create 800 MHz wide-area SMR systems. (2)

- New licenses should not be limited to entities already operating wide-area 800 MHz systems. (3)

- The BEA is the proper geographic size for wide-area licenses. (3)

Auction Issues:

- Because small entities will be effectively shut out, opposes auctions. (4)

Incumbent Rights and Obligations

- Ericsson joins the majority of the other commenters in requesting that the Commission permanently grandfather existing 800 MHz SMR licensees who operate in the upper 200 channels proposed for allocation on an MTA basis. (1-2)

Treatment of General Category Channels and Intercategory Sharing

- General Category channels should not be reassigned. (3)

FISHER COMMUNICATIONS, INC.

- Analog SMR service provider

Allocation Issues

- Does not oppose geographic-based licensing of "upper block" channels per se, but adamantly opposes geographic-based licensing coupled with mandatory migration. (3)

- If the Commission establishes geographic licensing, it should adopt the proposals of several commenters recommending that the service areas be defined on the basis of BEAs rather than MTAs. BEAs more clearly reflect business operating and travel patterns of mobile communications users, appear to approximate more closely the coverage range of existing systems, and are based on many of the same definitional factors that characterize dispatch-oriented SMR subscribers. (3)

- Opposes the FCC's proposal to issue four 50-channel blocks in each geographic area. Larger blocks will increase bids, making it less likely that small traditional SMR operators will be able to participate. Prefers PCIA's suggestion that twenty 10-channel blocks be issued. If the Commission determines that larger channel blocks are necessary, the block size should be 20 channels, which would allow small entities to participate and enable larger entities to select frequencies of true interest for their applications. (4)

Auction Issues

- The Commission lacks statutory authority to use competitive bidding procedures to award 800 MHz SMR licenses in either the upper or lower bands. Congress did not intend for auctions to be used in the assignment of either wide-area or traditional SMRS, which are not new authorizations or newly allocated services, and in which virtually all spectrum is assigned, nor did it intend for auctions to be used as a vehicle for the retroactive recovery of the spectrum value of existing systems. (11-12)

- If the Commission does establish auction procedures for geographic licensing, it should not do so for the lower band SMRs. Auctioning of this spectrum would completely ignore the needs of existing systems and doom most small business SMR operations by removing options for future growth. (12)

MTA Licensee Rights and Obligations

- Under either mandatory migration or earned mandatory retuning, geographic licensees should be prohibited from retuning an incumbent's frequencies on a selective or individual channel basis. If any retuning is done by MTA licensees, it must be done, at the option of the incumbent licensee, on all channels that comprise the licensee's integrated system. (4-5)

- Urges that, instead of allowing geographic licensees to short space with incumbents, the Commission should define a fixed radius protected service area of a full 70 miles for incumbent SMRs in the 861-865 MHz band. (10)

Treatment of General Category Channels and Intercategory Sharing

- Generally supports the proposal to designate the "upper blocks" for wide-area licensing and the "lower blocks" for local licensing, but urges that wide-area licensees not be restricted to using only upper block channels in a wide-area configuration. Accordingly, asks the Commission to clarify that if a BEA licensee also holds licenses for lower block frequencies, it may incorporate those frequencies into its wide-area system -- this will promote the goal of efficient and full utilization of spectrum. (5)

- Strongly supports the tentative finding that the "lower 80" channels should continue being licensed on the basis of the same geographic separation and channelization criteria that exist in the current rules, which will ensure continuity and minimize disruption. (10)

Incumbent Rights and Obligations

- Strongly supports the tentative conclusion that incumbent SMRs should not be subject to mandatory relocation, and notes that the comments reflect overwhelming opposition to mandatory migration. (5)

  - Fisher and others already operate wide-area, analog SMR systems without the need for mandatory migration of other users and clear, contiguous spectrum is not a prerequisite to the provision of wide-area service. (6)

  - Forced relocation will cause massive disruption in service to end users, damaging the commercial best interest of those served and those providing service. (6)

  - Mandatory relocation serves the narrow interests of Nextel and its affiliates, who now recognize that MIRS technology needs clear contiguous spectrum to achieve the goals of digital cellular telephony in

a nationwide network. The public interest will not be served by putting Nextel's narrow interests ahead of the broader interests of existing end-users and suppliers. (6)

- Anything "mandatory" is not truly competitive and impinges on incumbent operations by giving MTA licensees a distinct and unfair advantage. Relocation decisions should be left to the parties and the marketplace. (7)

- The relocation of 2 Ghz licensees to accommodate PCS is not germane here. PCS is a new service whereas SMR and ESMR are well defined. Also, in the microwave relocation, there was suitable alternative spectrum available -- there is no corresponding spectrum available to SMRs. (7)

- Any retuning must be voluntary. Thus, supports having wide-area licensees "earn" the right to mandate relocation of an incumbent system by acquiring a specified percentage of the channels in a geographic area -- this approach also protects against a "last holdout" licensee in a given market seeking, for anticompetitive reasons, to prevent the rollout of a wide-area system. (8)

- Suggests that when an MTA licensee has assembled 90 percent of the upper-band channels, a two year period of voluntary negotiation with remaining incumbent licensees would be triggered. At the end of the two year period, if negotiations have not been successful, the wide-area licensee will have the right to relocate the incumbent, provided that the wide-area licensee offers fully comparable 800 MHz channels and demonstrates that the relocated licensee has full 70-mile co-channel protection. (8)

- Suggests that, prior to acceptance of applications for geographic licensing, the application freeze be lifted to allow incumbent licensees to file modification applications. After wide-area licensing begins, the Commission should continue to allow incumbent systems to modify their systems within their 20 Dbu contours. Continuation of the freeze or severe restrictions on modifications is a "back door" mandatory migration policy, with the result that incumbents are held hostage by the geographic licensee or "starved out" as a result of having no way to implement improvements to service or preserve the viability of their systems. (9-10)

- SMR operator

Allocation Issues

- States that the technique of employing market-based, wide-area licensing was successful in the cellular context because of the lack of existing users on affected spectrum. The SMR marketplace is populated by numerous systems that were not intended or designed to fit into neat geographic patterns. Nextel's comments provide no justification for the upheaval of existing SMRs. (1-2)

- Nextel's request that 200-channel blocks be auctioned or granted to entities that promise to provide ESMR service should not provide the basis for acquisition of spectrum warehouses. The public has not demonstrated an overriding desire for ESMR service or that it requires more dispatch services, and the only ESMR provider that stands to gain by Nextel's proposed licensing method is Nextel. (2-3)

- The Commission cannot find that analog operators will benefit from MTA-based licensing -- most are small operators with neither the interest nor the resources to build an MTA-wide system, and most recognize that to capitalize an MTA-wide system, prices would have to be increased beyond the constraints of price elasticity in the dispatch market. (3)

- Nextel's claims that its proposal will increase competition in the marketplace are specious at best. (3-4)

- Because Nextel has admitted that it cannot compete with cellular and has no intention to do so, the premise for MTA licensing -- that it might provide regulatory parity -- has been severely undercut. (4)

- Adoption of Nextel's proposals will destroy the analog SMR industry. The choice between Nextel and the remainder of the industry should be easy, in view of the Commission's statutory mandates and case law precedent -- the Commission should summarily reject the proposal as inappropriate and biased toward a single operator. (7-8)

Incumbent Rights and Obligations

- States that many commenters note that Nextel's request for forced relocation is a negation of its earlier claims that it would be able to provide service in the existing SMR environment. Nextel now claims that it requires contiguous spectrum to operate or because cellular operators have contiguous spectrum -- both of which ring hollow. Nextel has provided no valid justification for its demand that analog operators provide the spectrum for its "newest foray into the financial markets," nor has it shown that the necessary spectrum exists or how it will compensate analog operators in a meaningful way. (5)

GENESEE BUSINESS RADIO SYSTEMS, INC.

- Small business that sells, services, and rents dispatch radio equipment in the 450 MHz and 800 MHz frequency bands

Allocation Issues

- Endorses comments on SMR WON. FCC should auction only 100 channels. (2)

- Supports BEA auction areas. Should either auction one block separated into 15-15-15-5 channel blocks for small SMRs to bid or one 50 channel block separated into five 10 channel blocks. (2)

- Licensing should be in accordance with existing SMR rules. (2)

- Licensing by MTA does not consider incumbent systems since each MTA includes several BTAs or major cities that are individual market areas. (3)

Auction Issues

- Agrees with general competitive bidding principles if auctions are permitted. (4)

- FCC should impose a performance bond of $5000 per channel for the 5 year term of the license to ensure the auction winner will construct and operate the FCC grant over the term of the license. An additional penalty should be imposed for falsifying reports and status to FCC with mandatory 6 month imprisonment. (4)

- If auctions are permitted, commenter agrees with competitive bidding methodology for MTA licenses. However, commenter believes that one round of auctions with sealed bids would be unfair and recommends that at least several rounds be done with a thirty day interval. (4)

- Agrees with minimum $2500 upfront payment. Agrees with down payment and full payment for licenses awarded by competitive bidding. Also agrees with bid withdrawal, default, and disqualification proposals. (5)

- Agrees with FCC proposal on businesses owned by women and minorities. (5)

- For small businesses, requests that 80% be paid over the five years of the license and that the three year period for unjust enrichment also apply to small businesses. Disagrees with definition of small business sales. Recommends

use of U.S. Chamber of Commerce standard for retail/service companies of less than $5.5 million annually. (5)

Construction Requirements

- Supports recommendations. Opposes FCC practice that grants wide-area licensees a four year waiver of the one year construction limit. (3)

Incumbent Rights and Obligations

- Opposes mandatory retuning. (2)
- Supports retaining 40 Db protection and 22 dBuV/m to adjacent MTA or other licensee. (3)
- FCC should adopt rules for high power digital systems on a narrow 5 Khz spacing for incumbent providers' expansion. (3)

Treatment of General Category Channels and Intercategory Sharing

- In border areas, FCC should permit intercategory sharing for incumbent systems when channels are available. (2)
- A solution to the border problem could be to auction only 100 of the 200 channels. (3)

Application Procedures

- Agrees with FCC proposals for initial eligibility and application procedures for MTA licensees. (3)
- Agrees with FCC proposed application procedures for local SMRs. (4)

Other Issues

- Disagrees with classifying small SMR operators as CMRS. Only wide-area operators, such as Nextel, which has low RF power ERP, frequency re-use, and automatic hand-off should be CMRS. (4)

INDUSTRIAL COMMUNICATIONS & ELECTRONICS, INC.

- Wireless communications provider

Allocation Issues

- A clear contiguous band of spectrum will allow wide-area licensees to use advanced technologies and allow wide-area SMR licensees to compete. However, this requirement is not a technical necessity to the implementation of a viable, competitive wide-area SMR system. (4)

- Supports the proposal to license the upper block on an MTA basis. Opposes the use of BEAs. (4-5)

- Supports the Commission's proposal to continue licensing systems on the lower 80 channels based on the same geographic separation and channelization criteria that exist in the current SMR rules. This method will ensure continuity and minimize disruption. (6)

Auction Issues

- If the Commission is to conduct auctions for the assignment of 800 MHz wide-area authorizations, it should allow an MTA licensee to aggregate across spectrum blocks and across MTAs.

- Supports the Commission's rules prohibiting collusion, but the Commission should allow the forming of pre-auction bidding consortia. (12-13)

MTA/BEA Licensee Rights and Obligations

- Operational flexibility is necessary to allow wide-area SMR systems to compete with PCS and cellular. MTA licensees should be allowed to construct stations at any available site and on any available channel in their area and they should be able to self coordinate modifications. (6-7)

Incumbent Rights and Obligations

- As the comments overwhelmingly reflect, incumbent SMR systems should not be subject to mandatory relocation. Decisions regarding relocation should be left to the parties and the marketplace. (7)

- It is not possible to "revisit" customer equipment that is operating and essential to a customer's daily business without causing problems and disruption. (8)

- Wide-area licensees should bear all the costs incumbent licensees incur in retuning their transmitters and associated subscriber equipment. (8)

- There are insufficient alternative frequencies to accommodate all incumbents in an MTA licensing block. (9)

- Even if comparable replacement channels could be found, these channels could not operate within the existing transmit combiners utilized by the incumbents' systems. (9)

- Nonetheless, supports right of wide-area licensees to earn mandatory retuning of an incumbent system by acquiring a specified percentage of channels in the MTA to protect against the "last holdout" licensee. (10-11)

- The Commission should prohibit an MTA license winner from attempting to retune incumbents on a "selective" or "individual channel basis." If retuning is to be done, it must be total retuning. (11-12)

THE INDUSTRIAL TELECOMMUNICATIONS ASSOCIATION, INC. AND THE ALLIANCE OF PRIVATE 800/900 MHZ LICENSEES

- Frequency coordinator and independent membership market council of private, non-commercial radio licensees

Allocation Issues

- Agree with Nextel that the Commission must revise the applicable rules to enable CMRS service providers to compete on the basis of service characteristics, quality, and price rather than regulatory anomalies. The availability of contiguous spectrum will permit SMR licensees to enjoy greater flexibility in system design and operation and is part and parcel of the statutory mandate favoring regulatory symmetry. (8-9)

Incumbent Rights and Obligations

- Agree with and endorse Motorola's view that an orderly, fair and comprehensive transition plan is of utmost importance and that the Commission must ensure that incumbents will not be harmed by implementation of auctioned wide-area SMRs. State that the Commission must remedy the patchwork nature of past 800 MHz SMR licensing. (9-10)

- Are not convinced that any of the retuning models in the comments present a orderly, fair transition plan. Any plan relying entirely on voluntary retuning will be flawed because of the potential to resist the overtures of wide-area licensees, and any plan seeking mandatory retuning in a hasty fashion will be disorderly and unfair to incumbents. Similarly, it is not possible to create a relocation block of sufficient size to ease the transition process, and efforts to do so will result in the reallocation of channels vital to public safety and public service communications of non-SMR services. (10-11)

- In view of the mandate for regulatory parity but with reluctance the commenters conclude that the FCC must implement a retuning program that involves, in its final stages, some compulsory features. The Commission must, however, avoid mandating retuning in a hasty or disorderly fashion and must avoid a program premised on a discrete relocation pool. (11-12)

- Have reviewed the "compromise" plan developed by AMTA, which represents perhaps the only hope of reaching a realistic compromise. Even with such proposals, however, the FCC must incorporate safeguards to protect incumbent licensees. (12)

Treatment of General Category Channels and InterCategory Sharing

- One of ITA/APEL's fundamental concerns with this proceeding is that the FCC must take affirmative action to preserve the availability of 800 MHz channels for industrial use and guard against any attempts to use the Industrial/Land Transportation Pool channels to accommodate retuned SMR licensees. (4)

- Urge the Commission to remain cognizant of the critical nature of privately operated industrial and land transportation systems. Private, internal systems are the predominant method by which industrial concerns dispatch fleets for maintenance, deliveries, and emergencies. Also, the Commission should bear in mind that the spectrum available to industrial and land transportation entities has decreased significantly since the 800 MHz band was first allocated for private use. (4-6)

- Agree with Nextel that the Commission should preserve the existing prohibition on SMR use of the Public Safety channels. Also state, however, that the agency must develop a comprehensive solution that will promote efficient use of all 600 channels in the 800 MHz band. The existing intercategory sharing rule, 47 C.F.R. § 90.621(e)(1), has promoted spectrum efficiency. (7-8)

- Do not believe, given the fact that the pool of 50 Industrial/Land Transportation channels is inadequate for current demand, that it is appropriate to frustrate efficient use for traditional private systems of the existing Industrial/Land Transportation, Business and Public Safety Pool frequencies. While ITA/APEL are sympathetic to APCO's concerns about SMR use of the General Category channels, they do not believe it appropriate to restrict intercategory access to Public Safety channels by industrial and land transportation eligibles, and oppose any initiative by APCO to this effect. (8)

- Strongly oppose the suggestion of proponents of wide-area SMRs that the Commission cease licensing non-SMRs on the General Category channels. The effort to reallocate the General Category channels for SMR use assumes that the needs of SMR licensees take precedence over traditional private radio licensees -- a result that is neither necessary nor in the public interest. Moreover, data suggest that use of and demand for General Category channels by trunked SMRs vary widely among different areas and that licensees of non-SMR and non-trunked systems also have a need to use the General Category channels. (13-14)

- SMR-trunked and SMR-conventional systems operator

Allocation Issues

- The proposal to have a single operator in each of the top fifty major markets cannot be found to promote competition. (4)

- MTA-wide licensing would curtail or terminate the growth of all analog SMR systems within market areas. (5)

Auction Issues

- Strongly opposes the auctioning of SMR spectrum. Small businesses will suffer for concentrating on fulfilling licensee duties instead of focusing on "mega-mergers, stock sales, leveraged buy-outs and the like." (2-3)

- If Nextel wants to obtain spectrum through purchasing methods, it should engage in arms length negotiations with analog operators. Nextel is clearly trying to avoid the bargaining table and the costs associated therewith. (3-4)

- The proposed auctions would not be competitive as there would be numerous auctions with Nextel as the sole bidder. (5)

Incumbent Rights and Obligations

- Strongly opposes "frequency swapping." Trading of spectrum is neither possible nor desirable. (1)

Other Issues

- Because Nextel's sole supplier of technology and major stockholder is Motorola, Nextel's proposal will not encourage competition. (5)

- The promises that ESMR services will compete with cellular are greatly exaggerated and should not provide the basis for Commission action. (6)

- SMR licensee

Auction Issues

- Opposes auctions. Auctioning of channels in this industry will only benefit wide-area operators, such as Nextel, which already have a majority of spectrum licensed to them. (2)

Incumbent Rights

- Opposes mandatory retuning of incumbent licensees, as this would cause extreme hardship on commenter's business as well as business owners whose radios operate on his service. (1)

- Some of commenter's customers use radio equipment that cannot be retuned, and commenter uses transmitters that cannot be retuned. (1)

LAGORIO COMMUNICATIONS

- SMR provider

Allocation Issues

- The public does not want ESMR. Therefore, there is no need to destroy SMR to provide this unneeded service. (6)

- The Commission's proposals would unfairly prevent SMR providers from growing into larger entities. (8-9)

Auction Issues:

- The Commission's proposal to auction SMR spectrum under the guise of regulatory parity will ruin small SMR providers who lack the resources to bid for spectrum. (3-5)

Incumbent Rights and Obligations

- Only the parties which will benefit from Nextel's financial empire favor forced relocation. In order to allow competition to flourish, the Commission should listen instead to the voices of independent providers. (2-3)

- There is no evidence that spectrum is available for relocated incumbent providers. (6-7)

- There is no indication that the new MTA licensees will have the financial resources to relocate incumbent SMR licensees. (7-8)

THOMAS LUCZAK

- SMR provider

Allocation Issues

- Repeats his opening comment that those proposing to change the SMR rules have the burden of demonstrating the need for change. (2)

- Rather than rush to overhaul an SMR system which currently provides affordable service to thousands of businesses, the Commission should first wait until Nextel's wide-area ESMR system has been constructed, and then study its successes and failures. (2-4)

- The public interest will not be served by enacting a wide-area ESMR plan that the market has already unequivocally rejected. (6-7)

Incumbent Rights and Obligations

- In order to protect the rights of incumbents, the FCC should be sure that comparable frequencies are available prior to mandating relocation. Further, the FCC should be aware that frequency swaps will inevitably cause the incumbent SMRs to lose customers and divert resources that these small businessmen can ill afford to spend. (4-6)

MADERA RADIO DISPATCH, INC.

- SMR provider

Allocation Issues

- Even if SMR services are substantially similar to cellular or PCS, the Commission's proposals will decrease competition by eliminating local SMRs. That fact, combined with the fact that ESMR will never be able to compete with cellular or PCS, mandates that the Commission's proposals be rejected. (2-4)

Other Issues

- Because SMR services are not substantially similar to cellular or PCS, they should not be regulated as such. (1-2)

MOTOROLA

- Equipment manufacturer

Allocation Issues

- Although Motorola supported MTA-based licensing in its opening comments, Motorola now believes that BEAs are preferable. BEAs are large enough to take advantage of economies of scale, but are small enough to allow participation by a large number of entities. Moreover, the small number of BEAs will allow the auction process to remain manageable. (7)

- In order to take advantage of new spectrum efficient technologies, wide-area SMR licensees require a contiguous block of spectrum at least 10 MHz in size. (8)

- A minimally operational low capacity system utilizing AMPS technology would require at least 62 contiguous channels, CDMA would require 72 and GSM would require 112-128. Higher capacity systems would require two -three times as many channels. Hence, the Commission's proposal to auction 50 channel spectrum blocks could preclude certain types of technology. (8)

- The services which SMR systems will compete with will have a minimum of 10 MHz of unencumbered spectrum at their disposal. (9)

- Winning bidders should be allowed to subdivide their service authority on both a spectrum and geographic basis. This would make available excess spectrum capacity for alternative uses and would allow small SMR licensees to have the opportunity to participate in the provision of wide-area-based services at levels commensurate with their business and customer interests. (10)

- Supports site-specific licensing for systems on frequencies below channels 401-600 at 800 MHz. (16)

Auction Issues

- Because there is substantial interdependency among the wide-area SMR licenses to be auctioned, the Commission should employ simultaneous multiple round bidding which promotes informed, rational decision making by bidders and will facilitate the aggregation spectrum across geographic areas. (10-11)

- Opposes set asides for designated entities. The necessity of licensing a single 200 channel block renders it impossible to set aside frequencies. Moreover,

due to other Commission efforts, there is no need for additional set asides in this docket. (12)

Construction Requirements

- The Commission should establish strict construction and build out requirements for wide-area SMR license winners in order to promote expeditious delivery of services and to deter speculators. (13)

- The Commission should mandate strict eligibility rules for auction participants. (13)

- Licensees in the lower 400 channels of the 800 MHz allocation should be subject to strict construction requirements in order to prevent warehousing of spectrum. (14)

Incumbent Rights and Obligations

- The FCC should grant a package of benefits and incentives to incumbents agreeing to be retuned on a voluntary basis during an initial one year period. Specifically, incumbents should be entitled to full cost compensation and a guarantee that a comparable frequency home will be provided; incumbents should be entitled to an acceptable retuning transition plan; once retuned, incumbents must be protected against future disruptions; incumbents should be guaranteed a protected service area equivalent to what they already enjoy; incumbents should be permitted to modify their facilities consistent with the microwave relocation transition rules; retuned incumbents should be able to avail themselves of Section 1071 tax certificates; and, tax certificates and all other benefits should be fully transferable by the incumbent. (18-21)

- After the one year voluntary retuning period the Commission should conduct a public proceeding to evaluate the success of the program. (21-22)

Treatment of General Category Channels and Intercategory Sharing

- Eligibility for licensing in the General Pool and remaining 80 SMR Pool channels should be limited to retuned incumbents and local SMR operations. Services to be reclassified as CMRS should be eligible for the General Category channels. SMR systems should not be eligible for licensing in the Public Safety, Industrial and Business Pools. (15-16)

- The retention of inter-category sharing among the non-SMR pool eligibles will promote the most efficient use of spectrum. (16)

NEXTEL COMMUNICATIONS, INC.

- Developer of a nationwide wide-area SMR network

Allocation Issues

- Initially proposed licensing wide-area SMRs on the upper 200 channel contiguous block on an MTA-basis using competitive bidding to select among mutually exclusive applications. (6)

- Initially proposed creating new SMR blocks from the 150 General Category and the 50 Business Category channels. (6)

- Continues to support the Commission's decision to license wide-area SMRs by MTAs. However, if there were a comprehensive plan to establish a contiguous frequency block for the exclusive use of wide-area SMRs, would support using BEA-based licensing. (8)

- As an alternative to MTAs, suggests a "Cluster BEA" plan whereby wide-area SMRs would be licensed on 200 channel blocks in groups of four continuously numbered BEAs (e.g., BEAs number 1-4, 5-8, . . .). (8-9)

  - Cluster BEAs are large enough to support a wide-area SMR, but could also be subdivided into BEA-sized areas by a winning consortium of SMR providers. (9)

- After retuning, BEAs in the 80 SMR channels and the new SMR blocks would be auctioned on a single channel basis. This plan would substantially reduce the Commission's licensing burden by consolidating licensees. (10-11)

- Notes that SMR WON has no right to ask for a "relocation block" which will be granted exclusively (and free of charge) to incumbents retuned from the upper 200 wide-area channels. (12-13)

- Notes that PCIA's proposal is essentially a license giveaway which will both allow small incumbents to avoid competition, and relegate SMR to a perpetual secondary position in the market. (13-14)

- If wide-area SMRs are not licensed on a regional basis, the FCC will be overwhelmed with applications for individual SMR facilities, given that a wide-area SMR requires as many transmit/receive facilities as there are cell sites in a cellular system. (17-22)

- MTA based licensing is necessary in order for wide-area SMRs to compete with cellular and PCS. Small entities can bid on MTA-based licenses through consortia and then divide the territory. (22-24)

- Wide-area licenses cannot be for any less than 10 MHz (200 channels) of spectrum because 200 channels are necessary in order to deploy the technologies required to compete with other CMRS providers, and it is much less complex to retune incumbents if only a single system takes over their channels. (24-29)

- None of the other commenters offered any counterproposals to commenter's proposals regarding wide-area licensing, auctions, and mandatory retuning, other than seeking free spectrum or seeking to maintain the status quo. (35-37)

Auction Issues

- Under the Budget Act, the Commission must auction the wide-area SMR licenses. (16-17)

- Auctions should commence within 90 days of a Report and Order. (54)

- Awarding an MTA license for the entire 200 channel block, along with the appropriate interim coverage requirements and competitive bidding requirements, are the minimum safeguards required to thwart speculation and anti-competitive behavior. (54)

- In order to allow for bidding consortia which can later subdivide a market, bidding rules must be flexible. (55)

- Licenses should be auctioned on a simultaneous, multiple-round basis in order to allow for the purchase of metropolitan area, regional or nationwide blocks. (55)

- In order to ensure that bidders are sincere and have the ability to build-out their systems, there should be minimum bid increments, simultaneous stopping rules, an upfront payment of $0.02 x MHz x total pops, and a 20% down payment. (55-56)

- Punitive penalties for bid withdrawal would also discourage bidding abuse. (56-57)

Incumbent Rights and Obligations

- Initially proposed an initial 6 month voluntary retuning period with specific incentives, followed by a 6 month mandatory retuning period of all MTA incumbents to the new SMR blocks or the lower 80 SMR channels. (6)

- Also proposed providing those submitting to voluntary retuning with the following incentives: Tax certificates, prospective 70 mile co-channel protection, no future retuning, and the right to freely transfer these rights with the channel. In addition, all relocated incumbents would have their retuning costs paid and would be guaranteed comparable new facilities and spectrum. (7)

- Regulatory parity with cellular and PCS (i.e., the granting of clear, contiguous channels) demands that mandatory retuning be part of the wide-area SMR licensing process. (29-31)

- There is no evidence to support the commenters' claims that mandatory retuning will be too expensive for small business and drag the Commission into retuning disputes in that digital equipment is the same price as analog equipment, and the PCS proceedings have demonstrated that incumbent relocation can be accomplished in a smooth fashion. (31-33)

- Unlike in the PCS relocations, where incumbents were upbanded, all SMR incumbents will be offered comparable frequencies with similar propagation qualities. (33-35)

Other

- In their comments, both Pittencrieff Communications and the law firm of Brown and Schwaninger attempted to overstate the opposition to Nextel by filing repetitive pleadings on behalf of many different parties. (37-40)

- In its comments, SMR WON merely filed reams of paper, but avoided addressing the substance of the issues at hand. (40-41)

- Although accused of spectrum warehousing by many, Nextel's record of accomplishments refute this charge. Specifically, its new digital equipment is highly spectrum efficient, the system it has built in Los Angeles utilizes its spectrum to serve thousands of people over a large area, and the systems it is building or planning in New York City, California, Chicago, Washington, Texas, and Florida will utilize their spectrum to serve even more people. (42-46)