- SMR WON has no right to accuse Nextel of warehousing rural spectrum, given that SMR WON never utilized this spectrum to better serve its customers when it had the opportunity to do so. (46-47)

- SMR WON's comments are misguided in that they seek to protect its members from market forces, halt competitive innovation, and deny business customers the benefits of technical innovation. Further, SMR WON's accusation of monopolistic practices against Nextel has no basis in either fact or law, as there is plenty of competition from non-SMR technologies, and DOJ has already cleared Nextel of any possible anti-trust violations. (47-50)

- The Small Business Administration's comments are filled with factual errors and miss the essential point that many of Nextel's customers are themselves small businesses which need inexpensive, feature-rich wireless communications, such as those offered by Nextel. (50-53)

ONECOMM CORPORATION

- SMR service provider

Allocation Issues

- Generally supports AMTA's Consensus Plan because it represents an industry consensus. Has modified its original comments to reflect the consensus that is developing. (7-8)

- Strongly agrees with commenters urging that geographic licensing in the upper band is needed to develop wide-area systems and technologies and believes that the larger MTA or "cluster BEA" licenses are preferable. Recognizes that the AMTA Consensus Plan responds to concerns that MTA licenses are too large to allow smaller operators to bid and thus, will support licenses awarded on an BEA-basis to help achieve consensus. (9)

- Concurs with the Consensus Plan that the FCC should encourage bidding coalitions and the use of management agreements, joint operating relationships, and joint ventures, all of which will in turn encourage participation by smaller SMRs. To preserve the integrity of wide-area licensing, however, partitioning should not be permitted for areas smaller than BEA boundaries, nor should frequency partitions be allowed. (9-10)

- Concurs with those commenters urging that the upper 200 channels should be allocated in one or two blocks, which will help give wide-area licensees sufficient bandwidth to achieve regulatory parity. Splitting the 200 channels into 2.5 MHz blocks will present significant practical problems because the typical five-channel system would be spread over all four MTA (or BEA) licenses. Further, spread spectrum technology would not develop as readily and, if BEA licensing is implemented, a 2.5 MHz BEA license would be inadequate to gain wide-area economies of scale. (10)

Auction Issues

- Based on the success of spectrum auctions to date, believes they are the most efficient way for SMR providers to obtain geographic licenses -- however, licenses auctioned will hold much less value if they do not include geographic licensing, contiguous spectrum, and sufficient bandwidth. (8)

- Believes existing site-by-site and first-come-first-served licensing on the lower channels should be retained until after five years, when reconfiguration will be largely accomplished. After the initial five year period, all licenses should be auctioned on a BEA basis. (18)

Construction Requirements

- Supports giving MTA (or BEA) licensees a five year construction period, and urges that coverage requirements track other CMRS services requirements by requiring coverage of one-third of the population or geography in three years and two-thirds in five years. (19)

- Concurs with DCL Associates that retroactive reduction or elimination of extended implementation periods previously granted would shake the industry's confidence in the Commission and endanger auctions. Commenters who complain that channels licensed to wide-area systems are not being used are merely observing a characteristic of large system construction -- the wide-area SMR build-outs are comparable to cellular build-outs which, in initial periods, showed some unused channels. Extended implementation schedules have sufficient regulatory teeth to prevent warehousing with 5 year schedules and annual certification requirements, and there is no basis for elimination of the program. (20-21)

Incumbent Rights and Obligations

- Generally supports AMTA's Progressive Reconfiguration (voluntary to mandatory reconfiguration) Plan but urges the Commission to adopt a clearly defined notice procedure to allow adequate planning by both incumbents and BEA licensees. (11-13)

- Suggests modifying the Consensus Plan recommendation (that within 6 months of grant of a wide-area license, licensees must notify incumbents of the licensee's desire to reconfigure the incumbent's system) and proposes that once an incumbent is given notice, the BEA licensee must retune the incumbent. An exception would exist if the Commission denied the BEA licensee's showing that it accumulated sufficient frequencies to reconfigure. Incumbents would have a minimum of six months notice before any reconfiguration occurs. The BEA licensee would be permitted to begin reconfiguration on the expiration of the six months and would be required to complete it within one year thereafter. An exception would be made if FCC approval of the wide-area licensee's reconfiguration showing is delayed. (13-14)

- The above approach ensures that incumbents receive actual notice of a BEA licensee's intent to reconfigure and sufficient planning time. In exchange, wide-area licensees should be given flexibility as to when notice must be given -- OneComm proposes that notice may be given any time between: (a) filing the showing of sufficient spectrum accumulation, and (b) six months after FCC approval of the showing. (14)

- To provide certainty to BEA and incumbent licensees, urges that the number of constructed channels held by all licensees in a BEA on the auction block be determined as of the date of adoption of final rules in this proceeding. The number of constructed channels in each BEA as of that date should be compiled from FCC records. To trigger mandatory reconfiguration, the BEA licensee would submit a showing, which would likely be put on public notice, demonstrating accumulation of the requisite number of channels. (14-15)

- None of the alternative licensing and relocation plans presented by other commenters achieve the objectives undergirding the FNPRM.

  - While SMR WON urged establishment of a relocation block, it failed to identify the spectrum for creation of such a block or a plan to refarm spectrum for this purpose, nor has it shown that its plan is less disruptive than the AMTA plan or achievable in the five year time frame allotted for wide-area system construction.

  - PCIA's suggestion that all reconfiguration be voluntary overlooks practical experience, which demonstrates that purely voluntary reconfiguration will not yield contiguous spectrum. (15-16)

Treatment of General Category Channels and Intercategory Sharing

- Concurs with Motorola that the Commission should maintain the flexibility embedded in intercategory sharing, which is necessary to the success of reconfiguration. (18)

- Recognizes that SMRs in the lower band channels may wish to establish wide-area systems, and urges that SMR licensees in the lower band channels be allowed to expand to wide-area systems and to form joint ventures or consortia to obtain BEA licenses. Suggests that, for the first five years of implementation, the primary licensing regime in these channels be site-by-site, but that licensees may also: (a) receive wide-area authorization, (b) receive extended implementation, and (c) voluntarily group together to apply for BEA licenses that could be aggregated into channel blocks. (18)

OSITIS COMMUNICATIONS

- SMR operator

Other Issues

- The Commission should not hand out privileged rights to licensees and manufacturers to have monopoly rights on any technology. (1)

- Motorola has used their trunking technology as a monopoly. The Commission should make a choice to either serve Motorola or the public need. (1)

- Currently, the Commission is obsessed with making money for the government and this is clouding all other issues. (1)

PERSONAL COMMUNICATIONS INDUSTRY ASSOCIATION

- CMRS and PMRS trade association

Allocation Issues

- Initially proposed adoption of a two-phase wide-area licensing plan. Opposed mandatory relocation and auctioning of 800 MHz wide-area licenses. Submitted that there is virtually no unlicensed 800 MHz spectrum. Supported assigning maximum blocks of 10 channels on a wide-area basis. Opposed allocating General Category channels solely for carrier use or precluding carrier use entirely. Opposed issuing licenses on MTA or BTA basis. (2-8)

- Submits that the Commission can resolve its licensing problems without creating another mega-carrier with the same number of channels as cellular from SMR spectrum. The Budget Act does not ask for this. There is no evidence that an additional one to four such mega-carriers are needed to create market competition in each MTA. (11-12)

  - A company wishing to create such a large competitor should be allowed to do so through the marketplace, not through forcing independent SMR operators to relocate and suffer economic hardship, which will harm competition with cellular. (12-13)

- The proposed rules would prevent independent SMR operators from expanding and thus eliminate a competing class of wireless service providers for no practical reason. (13)

- The independent SMR industry is fostering, not thwarting, the introduction of new technology. (13)

  - Submits that SMR trunked technology is efficient, successful, and cost-efficient. Analog SMR operations are constantly being updated to offer new and improved services, including those Nextel plans to offer. (14)

  - Submits that the Commission's proposals will promote Nextel's chosen technology at the expense of other existing technologies. (15)

  - Submits that the analog SMR industry is thriving and competitive. The marketplace should decide which operators and technologies succeed. (15)

- Submits that many SMR operators understand the importance of developing a business with new technology because they already did it when SMR was new. (15-16)

- Submits that SMR operators are only trying to insure that they have the opportunity to use innovative technology, without harming existing operators, and that future licensing remains on a "level playing field." Some SMR operators are investing greatly in new equipment and technology. (16)

- Opposes Nextel's definition of wide-area operation as too limited. Nextel would be the only "wide-area SMR." Some existing technologies that do not fit this definition are spectrum efficient. (17)

  - Submits that frequency reuse is not necessary or the most efficient choice in wide-area operation. Where additional channel capacity is not needed, it results in much higher infrastructure costs and needless costs for consumers. (17-18)

  - Submits that contiguous spectrum is not necessary for wide-area operations, but rather only for Nextel's chosen system. (20-22)

  - Submits that guardbands are not necessary for wide-area operations. Notes that Nextel stated this to gain NABER's support for its Waiver Request in 1990. (22-23)

  - Allocating channels in four 50 channel blocks would necessitate re-tuning of every radio that operates in the 861-865 MHz portion of the band. In contrast, PCIA's proposal to use 10 channel blocks would avoid this logistical problem. (18-19)

Incumbent Rights and Obligations

- SMR operators overwhelmingly oppose mandatory relocation. (18)

  - Submits that mandatory retuning is unfair and would severely damage the SMR industry. (19)

    - Nextel's analysis only shows that mandatory retuning would not achieve creation of a 200 channel block, and that only Nextel has enough spectrum to come close to this task. (19)

    - Even in Nextel's examples, which are best case scenarios, Nextel still cannot completely retune its Chicago systems. Thus,

limited mandatory relocation is only possible if Nextel alone receives a geographic license. (19-20)

- Nextel should be encouraged to privately arrange relocations. (20)

- Opposes SMR WON's channel recovery proposal. (28)

  - This would create a patchwork of various channels spread all over the band. The Commission could not logistically reassign the channels to the relocated entities. (28)

  - This plan would disadvantage independent SMR operators with recent wide-area authorizations. They could not construct a system in one year and would have to return their channels, resulting in less competition for Nextel. (28-29)

  - Submits that the Commission should not recover channels from licensees who have legitimately demonstrated their qualifications, though it should ensure that operators which have received construction extensions fulfill their promises, under pain of channel recovery at the end of the license term. (29)

Treatment of General Category Channels and Intercategory Sharing

- Opposes designating the General Category channels for SMR use only. (23)

  - Submits that the channels are heavily used by all segments of the land mobile industry, including non-SMR entities, independent SMR operators, and private users. (23-25)

  - Submits that numerous General Category channels not already used have been licensed. Many have been constructed through agreements with SMR operators. A number of radio dealers who do not currently operate SMR systems have put together networks exclusively on those channels and are starting system construction. (25)

  - Submits that there is no available spectrum in this band to create a relocation pool. (26)

- Opposes Nextel's proposal to reassign the 50 Business Pool frequencies for SMR use only. (26)

- Disagrees with Nextel that these channels are primarily used for SMRs and that most of these licensees provide commercial service to third parties on a carrier basis. (26-27)

- Submits that these channels are not available to create a relocation pool. (27)

PITTENCRIEFF COMMUNICATIONS, INC.

- SMR service provider with approximately 38,000 subscriber units in service

Allocation Issues

- The majority of other parties agree with PCI's recommendation that the lower 80 channels, as well as the 150 channels currently designated for General Category use, be available for SMR systems on a local basis. (3)

- Agrees that Business Radio Service channels should remain available for local SMR licensees now using the lower 80 SMR and General Category channels to expand their systems. (3)

- While PCI still believes that it is in the public interest for the FCC to license as many entities as possible to offer wide-area SMR service, in the interest of compromise PCI is willing to consider the issuance of only two wide-area SMR licenses in an area if the area is the size of BEA. (4)

  - PCI was concerned that by licensing blocks of spectrum greater than 50 channels on an MTA basis, local licensees would not have a meaningful opportunity to secure an authorization covering their market area. (4)

  - Recognizes that local service providers can team with MTA applicants to ensure that they have an ability to continue to serve their market as part of a coalition under the sponsorship of the MTA applicant but disagrees with this approach as illogical and contrary to natural market dynamics to require service providers to seek licenses for more coverage area than they desire. (4)

  - Licensing on a BEA basis only will grant existing local SMR providers an opportunity to secure a wide-area authorization where they already offer service and preserve local SMR service. (4)

- While some local SMR channels could be licensed on a BEA basis, that alternative is neither feasible nor desirable today. (5)

- Sound engineering principles and a reliable FCC database can ensure that local channels are licensed where they are needed, when they are needed, while offering protection to co-channel users. These local SMR systems would continue to be governed by regulations in place today. (5)

- Retention of site-specific licensing would not necessarily foreclose licensing of these systems on a BEA basis in the future. To secure a BEA license,

recommends that a local licensee be required to demonstrate either that: (1) no other co-channel systems serve the BEA; or (2) it has secured the consent of all affected co-channel licensees. (6)

- In either case, the local BEA licensee would still be required to serve a FCC-specified percentage of the BEA or face loss of the BEA authorization. (6)

- Because the new BEA authorization would simply be a modification of an existing license, and there would be no competing applications, the FCC would not be required to employ its auction authority. (6)

- No such BEA applications for local service should be accepted until the FCC determines that the retuning process is complete. (6)

Auction Issues

- Prefers that the FCC modify its regulations to permit wide-area licensing without requiring the use of auctions. (12)

- Strongly opposes the use of auctions for licensing local SMR systems as counterproductive and a waste of public resources. (13)

- Agrees with AMTA that auction rules should recognize the important role of existing SMR licensees in the licensing process for wide-area systems and it is unclear why preferences for small businesses, women and minorities would be appropriate in this context. (13)

Construction Requirements

- Supports strict construction requirements and believes wide-area licensees who aggregate all 200 upper SMR channels should not be permitted to satisfy these construction requirements on an aggregated basis by building only, for example, the 120 channel block. (11)

- Each block must be separately constructed in accordance with the FCC's rules or risk channel recapture. (11)

- If BEA licensing rather than MTA licensing is employed, provision of service to a percentage of the population only is an acceptable test of a licensee's provision of service in a timely fashion. (11)

Incumbent Rights and Obligations

- Expects that AMTA will propose a process of "progressive" retuning with mandatory retuning required after four years following license grant. (7)

- Continues to be troubled by any form of mandatory retuning but will accept it under certain terms and conditions. (8)

  - To achieve mandatory retuning on an expeditious basis, the wide-area licensee should be required to demonstrate that it has attempted to obtain the use of as great a percentage as possible of the channels in its BEA. (8)

  - The retuning process should be structured so as to ensure that incumbent licensees are able to continue to serve their customers with no additional costs and with virtually no interruption of service. Prior to any mandatory retuning, wide-area licensees should be required to offer a "premium package" of benefits to incumbent licensees, including: (1) tax certificates to the extent available; (2) a minimum of 70 mile co-channel protection on retuned channels; (3) the use of channels that can be employed at the licensee's existing site or anywhere within the licensee's existing coverage area, at the licensee's option; and (4) full cost compensation of all reasonable retuning expenses. (8)

  - Within 90 days of receiving an authorization, wide-area licensees should be required to notify every affected incumbent licensee. Within one year of notification, incumbent licensees should be allowed to demand that the wide-area licensee retune their facilities on at least the premium package basis. Failure of the wide-area licensee to do so should result in the incumbent licensee retaining its authorization under existing terms and conditions and the wide-area licensee should forfeit its ability to require retuning. (9)

  - The "premium package" would be available for a limited period of time followed by a less attractive alternative to encourage incumbent licensees to seek voluntary retuning. The "standard retuning package" should include: (1) co-channel protection at a level specified in the FCC's rules; (2) the use of channels that can be employed at the licensee's existing site; and (3) full cost compensation for all reasonable retuning expenses. Again, if the wide-area licensee is unable to offer this standard retuning package, the incumbent licensee should retain its authorization under existing terms and conditions. (9)

- Any incumbent licensees that continue to operate on their existing channels should be afforded generous co-channel protection from the wide-area licensee. Unless the wide-area licensee has constructed facilities on the common channels at the time of license grant, such grandfathered incumbent licensees should be fully protected by the wide-area licensee for at least the 40/22 Dbu separation criteria. In addition, such grandfathered licensees should be permitted to modify their systems observing the 40/22 Dbu co-channel separation criteria with any constructed system. (10)

Treatment of General Category Channels and Intercategory Sharing

- Because local SMR channels should not be auctioned, there is no reason to restrict local SMR use of General Category or Pool channels. (11-12)

Other Issues

- Recommends that the FCC adopt an approach in border areas similar to that which it will employ in other locations. One third of the available 800 MHz spectrum should be designated for wide-area BEA systems in border areas, with two licenses being issued. The remainder of the channels should be available, on a percentage basis, in the same fashion as the 800 MHz channels in other areas. (6-7)

PORT-A-PHONE

- SMR licensee

Allocation Issues

- If the Commission proceeds with geographic licensing, the Commission should incorporate a system similar to the two-phase licensing mechanism proposed by PCIA. This scheme provides an opportunity for incumbent licensees to elect to expand their systems, without the threat of being subject to auction. (3)

Auction Issues

- Opposes the proposal to auction off "already-licensed spectrum." Small SMR businesses are flourishing under the existing rules. There is no reason to change the rules to favor big business speculators. (2-3)

- The Commission's statutory authority restricts auctions to "initial" licensing. (3)

Incumbent Rights

- Opposes mandatory migration or relocation. If relocation of an incumbent is not valuable enough to the wide-area licensee to enable mutually acceptable business arrangements, the force of a government requirement will not magically change the economic realities. (3)

- Existing SMR operators obtained the authorizations for their existing systems based on the assumption that systems could be expanded in terms of capacity and geographic coverage. The Commission should not now take actions that will preclude further expansion of these systems. (4)

PRO-TEC MOBILE COMMUNICATIONS, INC.

- SMR operator

Allocation Issues

- Submits that Nextel's proposals are fundamentally unfair. They would devastate the successful SMR industry, which has served the public well and created the value in the spectrum. (5-6)

Auction Issues

- Opposes Nextel's proposals. The Budget Act does not grant authority to the Commission to auction spectrum presently licensed. (1-2)

- Submits that Nextel's proposals are not necessary and practical, as required by the Act. For example, Nextel will be the only bidder in most auctions. (3-4)

Other Issues

- Opposes Nextel's proposal for regulatory parity, as Nextel has not shown that "substantially similar services" between SMR, cellular, and PCS. Nextel's interpretation of that term to include all land mobile services contradicts the designs of Communications and Budget Acts and the Commission's history. (4-5)

POLAR COMMUNICATIONS MUTUAL AID CORPORATION

- Independent local exchange carrier serving twenty-two exchanges in rural, northeastern North Dakota

Allocation Issues

- Although existing licensees on the 200 channels would be allowed to continue operating on their previously authorized channels at their previously authorized sites, they would not be able to expand their service areas. In addition, such existing licensees are likely to encounter disruptive interference from MTA licensees constructing and modifying their systems. Thus, existing local upper band SMR licensees are likely to migrate voluntarily where the 80 remaining local SMR channels remain available, thereby further limiting the channels available to independent LECs seeking to enter or expand in the SMR sector. (2-3)

- Believes that the FCC and Nextel misperceive the nature and extent of the need for SMR service -- telecommunications service needs and customer mobility patterns are primarily local. (4)

- Specifically, the principal need for SMR service in northeastern North Dakota is for local dispatch and interconnected services. Most of the potential customers are small businesses, such as farms and ranches, requiring basic, no-frills offerings that can be furnished at low-to-moderate prices. (4)

- Under these circumstances, the FCC would be ill-advised to designate 71.4% of existing 800 MHz SMR spectrum to wide-area use on an MTA basis. (4)

  - Even if some wide-area demand were demonstrable, it would be more prudent for the FCC to wait and see whether it was satisfied by the forthcoming new MTA and BTA broadband PCS systems before disrupting or curtailing local SMR services and opportunities. (5)

Treatment of General Category Channels and Intercategory Sharing

- The FCC's tentative proposal to prohibit SMR providers from obtaining General Category and Pool Channels will further tighten the noose around the necks of local SMR providers. (6)

- If upper band channels are licensed on an MTA basis and if lower band channels, where available, are needed for the relocation of existing local licensees, the handful of potentially available General Category and Pool

channels may be the only opportunity for entry by LECs and other new local SMR providers. (6)

- Understands that few such channels are actually available in border or non-border areas and that Nextel's proposal for reliance by local SMR providers on 150 contiguous General Category channels and 50 Business Category channels in non-congested areas is unlikely to afford significant relief. (6)

Other Issues

- Hoped to obtain SMR channels pursuant to GN Docket No. 94-90 necessary to respond to unsatisfied local dispatch and interconnected wireless service needs within northeastern North Dakota. Its prospective customers, however, have no need for a system encompassing the Minneapolis - St. Paul MTA nor does it have the resources to acquire, construct and operate such a wide-area system. (5)

- Polar's situation is exacerbated by its proximity to the Canadian border. International treaties preclude the use of many upper band and most lower band SMR channels near the Canadian border, making it even more difficult for existing and prospective local SMR services to find channels. (5-6)

- SMR Operator

Incumbent Rights and Obligations

- Nextel's "band clearing" approach should not be adopted since there would be significant costs and disruption to incumbent licensees and their customers. (2)

- The requirement for continued station specific interference criteria with respect to all incumbent co-channel stations is appropriate. (2)

Other Issues

- The Commission should ensure the integrity of the licensing process which is necessary to ensure a level playing field. There has been much criticism of the application processing (e.g., OneComm's applications, and irregularities in Florida concerning American Mobile Systems Incorporated). The Commission must ensure that existing SMR operations have not been unduly blocked by sham applications. (3)

RACOM INC. ET AL. "THE SMR OPERATORS"

- SMR operators

Allocation Issues

- Support PCIA's proposal. (2-4)

- Urge Commission to focus on creating a fair and efficient licensing mechanism, not a third mega-carrier cellular company. The industry is already thriving. (5)

- Submit that additional mega-carriers would limit the public's options by eliminating the low-cost cellular alternative of independent SMR. Most dispatch users only need access to one or two SMR sites, not a full PCS system, which will be much more expensive due to huge infrastructure costs. Even those users who do need multi-system access are being served by numerous cost-efficient wide-area analog SMR systems. (6)

- Submit that SMR Operators are not thwarting the introduction of new technology. (7)

  - SMR trunked technology is efficient and continually updated to provide new and improved services, including many which Nextel plans to offer. SMR operators have been trying to implement their innovations. (7-8)

  - Nextel's proposal would thwart technological innovation. It allows only Nextel to innovate because it prevents independent SMR operators from expanding. (7-8)

- Submit that Nextel's definition of "wide-area" would limit geographic licensing to Nextel alone. It excludes efficient technologies that do not need "frequency reuse." (8-9)

- Submit that SMR does not need contiguous spectrum to compete with cellular. This was admitted in Nextel's original waiver request. (10-12)

Incumbent Rights and Obligations

- Oppose mandatory relocation as benefiting only Nextel at all other operators' expense. (9)

- Even Nextel's spectrum is insufficient to relocate systems. It should only be allowed to achieve contiguous spectrum through the marketplace, not by eliminating most of the SMR industry. (9-10)

- Submit that Nextel's and SMR WON's "relocation" pool does not exist. SMR WON's proposal to recover unconstructed channels would prevent independent SMR operators with recent wide-area authorizations from implementing their systems. This would reduce competition to Nextel. (12-13)

- SMR operators and manufacturers

Allocation Issues

- There is no evidence that an additional cellular-type SMR system is needed in each MTA. (6-7)

- Contiguous spectrum is not necessary for competitive systems to operate. It is not the responsibility of the rest of the SMR industry to solve any problems which Nextel may have with its technology. (11)

- The MTA blocks proposed by the Commission are too large, requiring the Joint Commenters to attempt to build-out geographic areas in which they cannot compete. (14)

- The Commission's proposal to allocate channels in four 50 channel blocks would result in the need to re-tune every radio that operates in the 861-865 MHz portion of the band. This re-tuning presents logistical problems. Instead, the Commission should adopt PCIA's proposal to allocate geographic licenses in 10 channel blocks. (14)

Auction Issues

- Auctions are intended for new services, not reconfigurations of existing services. (15)

- Auctions are unnecessary and will result in incumbents being unable to participate in geographic licensing. (15)

Incumbent Rights and Obligations

- Existing licensees must be given flexibility in site selection and growth possibilities.

- Strongly opposes mandatory retuning. Dispatch radios cannot be retuned one by one over a period of time. In addition, because some of the Joint Commenters are participants in analog roaming networks, thousands of users over a multi-state region would need to be reprogrammed to accommodate the retuning of one system. (7-8)

- Mandatory relocation only benefits Nextel and penalizes every other operator. (8)

- Nextel's success should be accomplished through the usual workings of the marketplace. (8)

Other Issues

- The Joint Commenters are not attempting to thwart technological innovation. Rather, the Joint Commenters have been attempting to work with the Commission to arrive at a licensing mechanism which will allow the Joint Commenters to implement their own technological innovation. Nextel's proposal only allows Nextel to be innovative. (11-12)

- Nextel's proposed definition of "wide-area SMR" would leave Nextel as the only applicant for a geographic license. There is no rationale to limit an applicant seeking a geographic license to Nextel's chosen technology. (13)

R.F. COMMUNICATIONS (FETTERMAN)

- SMR operator

Allocation Issues

- Urges that Nextel be made to explain why its system needs contiguous spectrum. Contends that no new circumstances (including the effect of the 1993 Budget Act) have occurred to invalidate the Commission's refusal to restrict new co-channel applications in Fleet Call's intended service areas in 1991. (3)

- Suggests that Nextel wants to compensate for its technical problems and save its falling stocks. (4)

- Argues that Congress did not require "regulatory symmetry" within the Budget Act, only <u>necessary and practical</u> steps to provide <u>technical parity</u>. Congress did not intend a redistribution of spectrum. (4)

  - The Commission's distribution of PCS frequencies in unequal spectrum blocks belies the argument that different services are entitled to equal amounts of spectrum. (4)

- Suggests that Nextel is trying to collect blocks for future resale, using the spectrum warehoused in its ESMR systems. Proposals to provide quality investment opportunities in commodities for a few corporations do not serve the public. (5)

Other Issues

- Opposes considering Nextel's proposals until the Commission determines whether Nextel may hold a CMRS license. Argues that Nextel will probably reverse its positions if found ineligible to provide CMRS. (2)

RUSS MILLER RENTAL

- Small SMR operator in the Dallas/Fort Worth market

Allocation Issues

- After almost 20 years of licensing and operation of the 800 MHz band, to attempt to redesign the SMR spectrum for high capacity cellular telephone type usage is not in the best interest of the majority of the SMR operators and will cause major economic harm. (1-2)

- To deter speculation, proposes that future eligibility for SMR spectrum be limited to existing SMR licensees who are operating constructed stations in the same area (within 35 miles of an existing station licensed to the same licensee). (3)

  - This policy would not prohibit any new entrants from obtaining SMR spectrum as new entrants could acquire a constructed incumbent licensee to establish eligibility. (4)

  - Proposes no limit on the number of channels applied for, as long as all of the channels are part of the licensee's constructed adjacent footprint. Otherwise, proposes a limit of five channels at a time, per location, not per area. (4)

- Supports the two phase licensing process proposed by PCIA. (4)

- These rules and policies will provide existing wide-area and local licensees the same rights to relocate or expand their systems. If wide-area licensees desire contiguous spectrum, they can either continue to acquire frequencies from other licensees or trade frequencies with other licensees in order to accomplish their goals. (5)

- The existing 280 SMR channels, the 150 General Category channels, the 50 Business Category channels, the 50 Industrial/Land Transportation Category channels and the 70 Public Safety Category channels should all retain their current allocation and inter-category sharing provisions. This will allow SMR systems to expand as needed yet still provide some frequencies for those entities that require their own private systems. (5)

- Believes MTA-based service areas are too large for effective economic operation of SMR systems. (6)

- Proposes that licensees continue to develop their own self-defined service areas based upon the service requirements of their customers and their own needs and marketing plans. (6)

- If the FCC should decide to license wide-area systems based upon FCC-defined service areas, favors BEAs over MTAs. (7)

- To eliminate the burden of site-specific licensing, the FCC could allow the use of fill-in type sites and relocation of existing sites within protected service areas with simple notification to the FCC where the site is in the interior of the licensee's footprint for the frequencies involved or will not extend the licensee's 22 Dbu contour of the existing station. (7)

- Proposes that the FCC allow SMRs with established contiguous footprints of contiguous or non-contiguous frequencies to apply for their own service area based licenses on those frequencies. This service area designation could be based upon whatever the licensee chooses, such as counties, states, BTAs or MTAs. (7)

- Believes that dividing the channels into contiguous, non-contiguous and local and wide-area designations will create a lower or second class of licensee, as the lower frequencies will not retain their value and will create a long-term competitive disadvantage. (8)

- Does not support the use of BTAs, BEAs, or any other type of artificial area for local licensing. The current backlog of SMR applications is not the norm and cannot be used as an excuse to stop site-specific licensing. (8-9)

- The proposed 5 channel limit over a BTA sized area is too few for such a large area and is nothing more than the 40 mile rule expanded. (9)

Auction Issues

- Proposes that there be no designated channel blocks and subsequent auctions for those blocks. The elimination of auctions would allow the smaller SMRs to continue to operate and to expand using available channels. (7)

- If the FCC should decide to license systems based upon geographic areas with auctions, then individual licensees should be allowed to band together to bid on the area as a whole, but operate independently of each other. There should be no restrictions on the transfer of the resulting partial geographic area licenses. (9)

- Believes the FCC is exceeding its authority with respect to auctioning of the already heavily licensed SMR spectrum. Also, auctions will increase the cost