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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of

Amendment of Part 90 of the
Commission's Rules to Adopt
Regulations for Automatic Vehicle
Monitoring Systems

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PR Docket No. 93-61

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CONSOLIDATED REPLY TO OPPOSITIONS AND COMMENTS
ON PETITIONS FOR RECONSIDERATION AND CLARIFICATION

AirTouch Teletrac ("Teletrac"), by its attorneys and pursuant to Section 1.429(g) of the Commission's rules, 47 C.F.R. § 1.429(g), hereby submits its consolidated reply to various oppositions and comments on the petitions for reconsideration and clarification that have been filed in this proceeding.¹ Teletrac particularly responds to those parties filing comments and oppositions that call for the retention and expansion of Part 15 protection under the new Location Monitoring Service ("LMS") rules and that support their positions by referring to Teletrac's election to address its views on Part 15 issues other than in its own initial petition for reconsideration.²

1 Report and Order, FCC 95-41, released February 6, 1995. The Commission's Public Notice of the petitions for reconsideration filed in this proceeding appeared in the Federal Register on May 9, 1995, 60 Fed. Reg. 24632. Oppositions and comments on the petitions were filed May 24, 1995. Pursuant to Section 1.4(h) of the Commission's rules, 47 C.F.R § 1.4(h), this consolidated reply is timely filed.

2 Teletrac filed a Petition for Partial Reconsideration and Clarification in this proceeding on April 24, 1995 ("Teletrac Petition"). Teletrac specifically asked the Commission to reconsider the emission masks specifications of Section 90.209(m) of the new rules and to clarify whether long range video links were included in the category of unprotected devices under Section 90.361 of the new rules.

In the same vein, Teletrac responds to those commenters that call for increasing restrictions on the voice service and interconnection provisions of the new LMS rules and that draw unwarranted conclusions from Teletrac's addressing these issues in its opposition. Finally, Teletrac responds to those oppositions that question Teletrac's and the other multilateration LMS providers' alternative recommendation for emission mask specifications.

I. INTRODUCTION

Teletrac, as the leading provider of commercial vehicle location services, has a considerable stake in the rules and policies adopted in this proceeding. While Teletrac has asked the Commission to reconsider only a narrow, technically prohibitive provision in the new LMS rules,³ it has proffered extensive comments in opposition to a number of the other petitions for reconsideration filed in this proceeding.

II. DISCUSSION

A. Part 15 Operations Are Not Entitled to Additional Protection or Concessions.

A number of commenters in this proceeding have implored the Commission to retain the irrebuttable presumption of noninterference awarded to Part 15 devices under Section 90.361 of the Commission's new LMS rules.⁴ Several go so far as to attempt to bolster their

3 See n.2, supra.

4 See, e.g., Comments of the Telecommunications Industry Association, User Premises Equipment Division, Wireless Consumer Communications Section ("TIA Comments"); Opposition of Metricom, Inc. and Southern California Edison Company ("Metricom Opposition"); Opposition of the Part 15 Coalition ("Part 15 Opposition"); Comments of Ad Hoc Gas Distribution Utilities Coalition ("Ad Hoc Comments").

position by inferring that if Teletrac did not object to the presumption in its petition for reconsideration, then the presumption of noninterference is valid. TIA, in particular, makes an incredible leap of logic by stating that:

The Section believes that the lack of an objection to § 90.361 by Teletrac is significant because Teletrac is the most advanced of the multilateration system operators in terms of system engineering experience, equipment deployment, system operation, and customer service. It seems reasonable to assume that if Teletrac believed that provisions of § 90.361 posed a threat to the health of its business, it would have requested that they be modified or eliminated. The Section therefore concluded that the objections of MobileVision, Pinpoint, and SBMS are based on faulty assumption that stem from a lack of field experience.

TIA Comments at p. 3. TIA is engaging in the ultimate conclusion-jumping with these statements. TIA's assumption that the objections of other multilateration LMS proponents to the provisions of Section 90.361 are faulty because Teletrac did not object is simply erroneous. Teletrac, in fact, made extensive comments in its opposition opposing the unlawful elevation of the status of Part 15 devices that results from the irrebuttable presumption of noninterference in Section 90.361 of the Commission's rules.⁵ Teletrac continues to emphasize its position that the Commission's negative definition of interference serves to unlawfully elevate Part 15 devices' status to co-primary with LMS even though these devices are lawfully secondary to LMS. Teletrac Opposition at pp. 3-4. In this regard, Teletrac fully supports the Opposition of Pinpoint

⁵ See Teletrac's Consolidated Opposition to Petitions for Reconsideration and Clarification filed May 24, 1995 ("Teletrac Opposition") at pp. 2-8.

Communications, Inc. to Petitions for Reconsideration ("Pinpoint Opposition") that the Commission's negative definition of interference in essence reverses the priority of use between multilateration LMS systems and Part 15 devices in the 902-928 MHz band and that this reversal was accomplished by the Commission without benefit of public notice and comment or an adequate justification for abrupt rule changes regarding the hierarchy of use in the band. Pinpoint Opposition at pp. 7-8.⁶

Moreover, as Teletrac has already pointed out in this proceeding, aside from the questionable legality of the Commission's action with respect to the status of Part 15 devices in the 902-928 MHz band, the irrebuttable presumption of noninterference poses very serious practical problems for licensed LMS users in the band. Teletrac Opposition at pp. 6-8. In light of all of these concerns, the Commission should reject any request by the Part 15 proponents to

6 Metricom also noted that Teletrac did not petition the Commission to reconsider this aspect of Section 90.361. Metricom Opposition at p. 7. Metricom further stated that "Teletrac, which is the only LMS applicant with any real experience in providing AVM, apparently believes that it can successfully meet the testing requirement as Teletrac's [petition] does not ask the Commission to reconsider this part of the Report and Order." Metricom Opposition at p. 12. Again, in its opposition Teletrac stated its position that field testing requirements fundamentally change Part 15 of the Commission's rules without proper administrative action. Teletrac Opposition at p. 3. That these parties must resort to a "negative inference" regarding at what point Teletrac states its positions on these issues only serves to demonstrate the weakness of their own positions regarding the lawful status of Part 15 devices.

retain their special protection or be awarded even more concessions in the band.⁷

B. The Permissible Use and Interconnection Provisions for LMS Should Not Be Restricted.

Various commenters on the petitions for reconsideration also oppose messaging, even in emergency situations, and interconnection for LMS.⁸ Some of these commenters appear to premise their opposition on their observation that Teletrac did not request reconsideration of these issues in the first instance.⁹ Again, Teletrac addressed these issues at length in its opposition. See Teletrac Opposition at pp. 12-15. Teletrac has argued that voice service should be allowed on a secondary basis because it is in the public interest. Id. at p. 13. The ATA is incorrect in stating that

7 TIA alleges in its opposition that "[e]ven if some reasonable criteria for demonstrating interference were formulated, it is difficult to see how a 'rebuttable' presumption of non-interference differs from a total absence of the provisions of § 90.361 . . . Thus, the Section believes that a request to make the non-interference presumption rebuttable is tantamount to a request to eliminate § 90.361 altogether." TIA Comments at p. 3. Clearly, Teletrac would prefer that the rule provision be eliminated altogether. Elimination would comport with LMS providers' lawful status vis a vis Part 15 devices in the band.

8 Metricom Opposition at pp. 1-4; UTC Consolidated Comments on Petitions for Reconsideration ("UTC Comments") at pp. 3-6; Opposition of the Connectivity for Learning Coalition to Petitions for Reconsideration ("Learning Coalition Opposition") at pp. 1-2; Opposition of the American Telemedicine Association to Petitions for Reconsideration (ATA Opposition") at pp. 8-9.

9 See ATA Opposition at p. 9, n.10.; Metricom Opposition at p. 3 ("Teletrac initiated this proceeding and, of all the parties who want to be LMS providers, has the most experience providing AVM Expanded voice capability is nowhere mentioned in Teletrac's [petition]"). These parties would be well served to review all of the pleadings in this reconsideration before making baseless proclamations as to Teletrac's positions on the pertinent issues.

"LMS is a vehicle location service, and LMS providers do not use voice service to locate vehicles. Therefore, a voice component is not necessary for vehicle location services." ATA Opposition at p. 9 (footnote omitted). As Teletrac noted in its opposition, voice plays an important role in emergency vehicle location situations-- "[e]mergency services may be augmented exponentially through simple voice messages that allow complex situations to be explained-- explanations that can be both time and life saving." Teletrac Opposition at p. 14. In addition, some commenters oppose voice service for LMS by suggesting that there are a number of other services available, such as cellular and PCS, if customers want voice service.¹⁰ These commenters miss the point--subscribers to LMS should not be required to subscribe to another radio service in order to be able to utilize voice in emergency and public safety situations. Voice service for LMS in these circumstances is invaluable and should not be prohibited.

Likewise, UTC's continuing suggestions that a two-second limit on message duration is more than adequate for the transmission of non-voice messages relating to location or monitoring functions and that a limit of one message per 30-minute interval allows for sufficient opportunities to update location or monitoring status (UTC Comments at p. 5, n.9) clearly reflect UTC's inexperience with the types of vehicle location service contemplated by the Commission's rules. Such restrictions would defeat the purpose of vehicle

¹⁰ See ATA Opposition at p. 9; Pinpoint Opposition at pp. 21-22; Part 15 Opposition at p. 12.

location services.¹¹ These services are dynamic, and 30-minute-old location information, particularly in stolen vehicle recovery, panic alerts and navigational/routing services, would be completely useless. Id. Thus, the Commission should disregard commenters' proposals that voice or interconnection be totally restricted for LMS.

C. The Commission's Emission Mask Specifications Should be Revised as Proposed in Teletrac's Petition.

Finally, a number of parties have opposed Teletrac's and the other multilateration LMS providers' alternative recommendations for emission mask specifications under Section 90.209(m) of the new rules.¹² As Teletrac has pointed out, the specifications contained in new Section 90.209(m) are prohibitive and impractical for all multilateration LMS systems.¹³ CellNet's argument that Teletrac's and other multilateration LMS proponents'¹⁴ alternative emission mask recommendations ignore a fundamental premise of the new rules-- the promotion of more effective sharing in the 902-928 MHz band¹⁵--

11 Teletrac Opposition at p. 15.

12 Ad Hoc Comments at pp. 16-17; Opposition to Petition for Reconsideration of Hughes Transportation Management Systems ("Hughes Opposition") at pp. 11-13; CellNet Data Systems, Inc. Opposition to Petitions for Reconsideration ("CellNet Opposition") at pp. 3-5.

13 Teletrac Petition at pp. 2-3. In fact, not a single existing multilateration LMS system can meet these requirements. Id. at p. 3.

14 MobileVision, L.P. ("MobileVision"), Uniplex Corporation ("Uniplex"), Pinpoint and Southwestern Bell Mobile Systems, Inc. ("SBMS").

15 CellNet Opposition at p. 4. CellNet insists that "higher power services must meet strict bandwidth and emission limits to avoid unnecessary and unacceptable interference to Part 15 devices also operating in the band." Id.

is misplaced. To the contrary, the Report and Order makes it clear that while AVM systems share their portion of the 902-928 MHz band with other users (e.g., Government radiolocation systems, and Industrial, Scientific, and Medical (ISM) equipment), "Part 15 uses are permitted in this band, but are secondary to all other uses, including AVM and amateur operations." Report and Order at ¶ 7 (emphasis added).

Ad Hoc argues that emissions should remain unreasonably limited.¹⁶ Specifically, Ad Hoc notes that Teletrac and other multilateration LMS proponents have already commented on the adopted emission band specifications and that Teletrac had at one time proposed a different formula than it now espouses, thus insinuating that Teletrac's current proposal is not credible. See Adcock Aff. at ¶ 9(a). However, the proposal proffered by Teletrac, and indeed also by Pinpoint, Uniplex, MobileVision and SBMS in their respective petitions, is the result of a negotiated consensus of these multilateration LMS proponents so that they might present to the Commission a workable alternative and avoid additional contention and debate. Teletrac and its multilateration LMS colleagues only wish to assist the Commission in bringing this proceeding to a speedy and successful end.¹⁷ Thus, for the reasons stated in the Teletrac

16 See Affidavit of Thomas G. Adcock, P.E., Exhibit II to Ad Hoc Comments. ("Adcock Aff.")

17 Hughes has proposed an alternative emission mask that Teletrac believes could be a reasonable compromise. Hughes Opposition at p. 13. However, in the interest of fairness to all multilateration LMS proponents, Teletrac continues to advocate the multilateration LMS consensus proposal. Both emission masks should provide sufficient protection to non-multilateration LMS operations from multilateration LMS mobile unit transmissions.

Petition, the alternative emission mask recommendation of the collective multilateration LMS proponents should be adopted by the Commission.

III. CONCLUSION.

For the reasons stated above and in Teletrac's Petition and Opposition, the Commission should reject the comments and oppositions of those parties that request additional and unwarranted protection for Part 15 devices, that want voice and interconnection prohibited for LMS, and that seek to restrict the multilateration LMS proponents to unfair and unworkable emission mask specifications. This proceeding was initiated to promulgate new, permanent rules for LMS, a service that the Commission has already found to be valuable. LMS should not now be undercut by Commission acceptance of those comments and oppositions.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Theresa Fenelon, an attorney with the law firm of Pillsbury Madison & Sutro, do hereby certify that I have on this 7th day of June, 1995, caused to be forwarded copies of the foregoing CONSOLIDATED REPLY TO OPPOSITIONS AND COMMENTS ON PETITIONS FOR RECONSIDERATION AND CLARIFICATION by first class United States mail, postage prepaid, to the following:

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