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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Amendment of Section 22.949 of the) RM - 8647
Commission's Rules to Provide for a)
Moratorium on Acceptance of)
"Unserved Area" Cellular Applications)
Within the National Radio Quiet Zone)

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GTE'S STATEMENT IN SUPPORT OF PETITION FOR RULEMAKING

GTE Mobilnet ("GTE"), pursuant to section 1.405 of the Commission's Rules,¹ hereby submits its statement in support of the *Petition for Rulemaking* filed jointly by Easterbrooke Cellular Corporation ("Easterbrooke") and United States Cellular Corporation ("USCC") (jointly "Petitioners").² Petitioners ask the Federal Communications Commission ("FCC" or "Commission") to amend section 22.949 of its rules to preclude the filing of "Phase I" or "Phase II" unserved area applications which propose coverage within the National Radio Quiet Zone ("Quiet Zone").³

Like Petitioners, GTE is a cellular license holder in several areas located either entirely or partially within the Quiet Zone. In one of GTE's license areas,

¹ 47 C.F.R. § 1.405.

² Amendment of Section 22.949 of the Commission's Rules to Provide for a Moratorium on Acceptance of "Unserved Area" Cellular Applications Within the National Radio Quiet Zone, *Petition for Rulemaking*, RM - 8647, filed by Easterbrooke Cellular Corporation and United States Cellular Corporation, May 4, 1995. Public Notice of the Petition for Rulemaking was given on May 24, 1995, Report No. 2074.

³ 47 C.F.R. § 22.949. The Quiet Zone is established and rules are set forth in section 22.369(a) of the Commission's Rules. 47 C.F.R. § 22.369(a).

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GTE's ability to provide 100% coverage by the build-out date has been constrained by the Quiet Zone restrictions. Accordingly, GTE fully supports the *Petition for Rulemaking* and urges the Commission to quickly adopt the rules set forth therein.⁴

I. BACKGROUND

As discussed in the *Petition for Rulemaking*, the National Radio Quiet Zone was established in 1958 and covers an area of approximately 13,000 square miles. The Quiet Zone was created to minimize possible interference with National Radio Astronomy Observatory ("NRAO"), located at Green Bank, West Virginia, and with the Naval Radio Research Observatory ("NRRO"), located at Sugar Grove, Pendleton County, West Virginia.⁵ Pursuant to section 22.369(a) of the Commission's Rules, carriers planning to construct and operate a new or modified base station within the Quiet Zone must, concurrent with filing for FCC authority to operate the base station, notify the NRAO of the planned facility, including the technical details.⁶ The Commission will then allow a 20 day comment period. Should the NRAO file comments objecting to the proposed

⁴ GTE also supports Joint Petitioners Motion for Stay, filed on May 4, 1995, asking the Commission not to accept Phase I or Phase II "unserved area" applications for RSAs proposing service area boundaries which extend, in whole or in part, into the National Radio Quiet Zone.

⁵ *Petition for Rulemaking* at 2-3. The NRAO coordinates interference protection for both observatories.

⁶ 47 C.F.R. § 22.369(a).

facility, Commission Rules state that the FCC will “take whatever action is deemed appropriate.”⁷

II. DISCUSSION

A. GTE’s Ability to Achieve 100% Build-Out is Affected by Quiet Zone Restrictions

Like Easterbrooke and USCC, GTE, on behalf of Contel Cellular of Richmond, Inc., is the managing general partner of the B-block cellular licensee in three license areas lying in whole or in part within the Quiet Zone.

Cellular Market Area	% of Market Area in Quiet Zone
Roanoke, Virginia MSA, Market 157B	43%
Bedford, Virginia 4 RSA, Market 684B	3%
Bath, Virginia 5 RSA, Market 685B	100%

In spite of the restrictions imposed to protect the Quiet Zone, GTE has been able to achieve 100% build-out in both the Roanoke, Virginia MSA, and the Virginia 4 RSA. Currently, GTE provides coverage to 55% of the total area encompassed by Virginia 5 RSA. GTE’s efforts to provide 100% coverage in this license area have been hindered by Quiet Zone restrictions.

For example, GTE has been notified by the NRAO that a proposed cell site at McClung, Virginia, must be limited to 0.005 watts radiating toward the NRAO observation point. Absent Quiet Zone restrictions, GTE would employ an omnidirectional antenna system at the cell site, operating with a maximum ERP of 60 watts in each direction. With this configuration, the distance to service

⁷ 47 C.F.R. § 22.369(a)(3). As Petitioners note, however, deference is given as a matter of practice to the NRAO, and a cell site will not be licensed without NRAO approval. *Petition for Rulemaking* at 3.

area boundary at 0°, 270°, and 315° would be 37.7 km, 41.0 km, and 39.5 km respectively. The antenna system GTE will actually deploy, however, will have a distance to service area boundary at 0°, 270°, and 315° of only 23.9 km, 16.9 km, and 13.9 km respectively.⁸ Thus, Quiet Zone restrictions dramatically reduced the coverage area possible at GTE cell sites and hinder GTE's ability to cover 100% of Virginia 5 RSA.

B. The Commission Should Amend its Rules to Prohibit Unserved Area Applications for Service Areas Located Within the Quiet Zone

GTE's five year build-out period for Virginia 5 RSA expires on September 19, 1995. GTE believes that, due to the special circumstances existent within the Quiet Zone, the Commission should adopt a rule prohibiting unserved area applications for service areas extending in whole or in part into the Quiet Zone. This rule change would not frustrate the purpose of the current five-year rule, and would allow licensees to continue to work with the NRAO to seek innovative means of providing cellular coverage within the Quiet Zone.

In adopting the five-year build-out rule, the Commission balanced a number of competing interests. The Commission sought to allow licensees sufficient time to construct and modify their networks, to allow competing applicants to bid for unserved areas, and to ease its own administrative burden. The Commission found that five years was sufficient time to enable licensees to build their networks and modify them to meet unforeseen demand and technical

⁸ Similarly, radiated power restrictions will limit the coverage area of GTE's Covington, Virginia cell site by approximately 8 km on the 0° azimuth.

problems, without causing significant delays in providing coverage to unserved areas. Also, by prohibiting unserved area applications until after it processed applications to expand existing systems, the Commission avoided the confusion and administrative burden associated with considering both types of applications simultaneously.⁹

GTE submits that extending the five-year period for cellular carriers operating within the Quiet Zone would not affect the balance struck by the Commission in adopting the current rule. As noted above, the Commission limited the build-out period so that competing cellular applicants could apply to provide service to areas that the initial applicant was unwilling to serve within five years. However, as Petitioners and GTE have demonstrated, unserved areas exist within the Quiet Zone not because of an unwillingness to serve, but rather because of radiated power limits imposed to limit interference. As a result, allowing unserved area applications after expiration of the five-year period is extremely unlikely to result in any greater cellular coverage.¹⁰

Moreover, GTE believes that extending the five-year build-out period for Quiet Zone license areas will improve the chances that unserved areas are ultimately served. During the build-out period, GTE has expended considerable effort, time, and financial resources to meet its obligation to provide cellular

⁹ Amendment of the Commission's Rules for Rural Cellular Service, *Second Report and Order*, RM-5167, 2 FCC Rcd 2306, 2307-2308 (1987).

¹⁰ Also, as Petitioners argue, enforcing the current rule will unnecessarily increase the Commission's administrative burden. *Petition for Rulemaking* at 8.

service to the public in this market while simultaneously working to protect the NRAO from harmful interference. For example, GTE engineers have proposed a unique antenna system design at its McClung, Virginia site in an attempt to provide greater cellular service coverage. GTE plans to use two antennas employing electrical and mechanical downtilt, with adjustable amplitude and phase, in order to meet its obligations to protect the NRAO by suppressing radiation toward the observatory and to provide cellular service to the public. Thus, although GTE has not yet been able to provide 100% coverage in Virginia 5 RSA, it continues to work with the NRAO to find acceptable technical solutions that will enable greater coverage.

GTE has invested and will continue to invest considerable financial resources to develop technological solutions that will enable it to provide ubiquitous cellular coverage in Virginia 5 RSA. If unserved area applications are accepted, however, there is substantial risk that another carrier will obtain the right to serve these areas before these technical solutions can be fully developed and implemented. Absent the proposed rule, GTE and other licensees would be less willing to risk continuing to make the financial investment necessary to enable greater Quiet Zone cellular coverage.

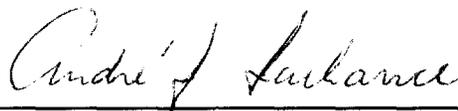
III. CONCLUSION

GTE fully supports amending section 22.949 of the Commission's Rules to preclude the filing of "Phase I" or "Phase II" unserved area applications that propose coverage within the National Radio Quiet Zone. Like Petitioners, GTE's

ability to provide cellular coverage throughout its license areas located within the National Radio Quiet Zone has been hindered by Quiet Zone restrictions. GTE believes that special circumstances existent within the Quiet Zone justify the rule change, and that the proposed rule would not frustrate the Commission's purpose in adopting the five-year exclusive build-out rule. GTE also believes that the rule change will allow cellular licensees to continue efforts to find technical solutions that will enable greater Quiet Zone coverage.

Respectfully submitted,

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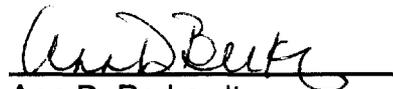
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Certificate of Service

I, Ann D. Berkowitz, hereby certify that copies of the foregoing "GTE's Statement in Support of Petition for Rulemaking" have been mailed by first class United States mail, postage prepaid, on the 23rd day of June, 1995 to the following parties:

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