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SunCom
Mobile & Data, Inc.

Federal Communications Commission
Wireless Bureau
Attn.: Marty Liebman

July 18, 1995

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Via fax to: (202) 634 7651

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Dear Mr. Liebman,

Since I have been discussing these issues with you, I am addressing this to you. Please give a copy of this to Bureau Chief Regina Keeney.

Regarding 220 MHz rules and policies, including with respect to relocation/ modification of local 5-channel trunked licenses, our Company proposes in sum the following.

While we are a member of AMTA, whose services and members we greatly appreciate, we respectfully disagree on AMTA's proposed plan for license modification for 220 MHz.

The Commission should commence with and complete as soon as possible new rules for 220 MHz as it has previously announced. Also as announced last year, until completion of such new rules, there should be no allowance of license-site relocation or other changes in rules or policy. Basically, the current rules don't work, there is need for a major overhaul, and dealing with modifications before hand will only delay the needful, encourage poorly planned construction, and encumber or prevent better solutions only possible as part of a major overhaul.

Below is our rationale for the above, as well as additional, related proposals:

1. There are major issues regarding 220 MHz that need to be addressed in forthcoming Rule making, including the issues raised by SunCom in its two petitions and its related petition for reconsideration. In brief, these involve multi-year construction for substantial wide-area networks of existing local 5-channel 220 MHz licenses, and aggregation by such networks of multiple licenses per market.
2. The Commission must also determine how to handle new licensing for 220 MHz, which may be on a wide-area basis (for at least most if not all channels not yet licensed).
3. The Rule making noted above in paragraphs '1' and '2' should be coordinated, and until such coordinated Rule making is completed and provides for regulatory symmetry with other CMRS, 220 MHz service will not have the regulatory foundation needed for viability. The construction period for existing licenses should be extended through the

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completion of such Rule making and for twelve months afterward. This extension should be announced at the commencement of the Rule making (by the end of this Summer, per Ms. Keeney at the June AMTA meeting). This extension would be superseded by any longer construction authorization provided under the new rules to licenses participating in wide-area networks, or by any other longer construction authorization provided by such new rules.

Among other reasons for granting an extension until twelve months after such new rules is that, until such new rules come up with an appropriate relocation/ modification scheme, a majority of existing licenses either can't obtain leases at existing site facilities or such sites are not viable for the high-power "macrocell" transmission needs of 220 MHz, and probably over 75% are not reasonable sites when part of wide-area networks where relative location of sites and channels per site must be carefully planned for real-life viability and finally determined in successive stages (see below). Twelve months is the standard construction time for single-site (as opposed to wide-area) CMRS and should run from the time when relocation/ modification is permitted, as it is with other CMRS.

4. After completion of such coordinated Rule making, existing licenses would be able to modify/relocate in accordance with such new rules, which would allow for modifications that are consistent with the new-licenses' wide-area definitions and other new rules which would effect, or be effected by, such modification.

5. The Commission should consider one type of license-site relocation for single licenses and another for wide-area networks of licenses. Such wide-area networks, if granted multiple years to construct, will most likely have sequential stage construction requirements (percentages of total channels involved in the network that must be constructed within successive time periods). Such networks should not be required to apply for from the start, or all at once, site relocations for licenses to be built over all construction stages. Rather, there should be a window for such relocation (and other modification) applications at the beginning of each stage.

The reason is that wide area systems must be built in stages, with channels added at different locations based not on a theoretical initial plan, but upon successive trials in the marketplace, upon coverage obtained from core sites (including in the seasons with poorer coverage: foliage and certain weather decreases coverage) to which farther-out sites' locations in a network must be coordinated, upon developments in competitors' systems, upon types of services that may develop and require channels that are not clearly predictable, upon demographic changes, and upon other factors impossible to predict well at the beginning.

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6. The Commission, earlier this year, ruled that Telcos can own and operate 220 MHz, based upon regulatory symmetry, and with a goal of serving the public demand for more wide-area services built and operated with economies of scale, which require substantial resources such as Telcos have. Interconnected 220 MHz, being CMRS, should be entitled to regulatory symmetry with other CMRS. For interconnected wide-area 220 MHz networks, such symmetry should include 1) similar multi-year construction as in other CMRS, without which the networks cannot be planned, financed, and built in a commercially reasonable and competitive fashion, and 2) a substantial aggregation of channels and bandwidth capacity, without which competitive economies of scale in offering even basic services cannot be achieved.

7. Until these major issues, and other important issues, are properly considered and resolved for 220 MHz in the upcoming Rule making, it is unwise to lift the freeze on license modification or make any other piecemeal change or stop-gap relief. Such pre-Rule making modification allowance may divert and delay Commission efforts on the more important major Rule making and will probably result in an inferior form of modification verses what would be achieved within such more-global Rule making which could tailor the form of modification to the larger scheme decided upon therein for existing and new 220 MHz licensing, including licensing for the type of wide-area-networks the Commission has already concluded is needed for 220 MHz (in the Telco entry Rule making, see above).

8. In this upcoming Rule making, it seems clear that for future licensing in 220 MHz, the Commission will consider some sort of wide-area scheme involving BTA's, MTA's, MSA-RSA's, or other geographic regional delimitations. When such scheme (or another one) is adopted, then relocation/ modification of previously issued licenses should be done in conjunction with such new scheme, not independently. Also, the Commission may consider allowing consolidations of existing local licenses seeking to build wide-area systems to obtain authorizations for multi-year construction and operation--including modifications-- for their licenses based on the same geographic definitions as for the new licenses. This would facilitate cooperation or consolidation between the existing and the new wide-area operators. (In this regard, there is little danger of 220 MHz operators consolidating too much and thus diminishing competition in the marketplace: there is too little 220 MHz spectrum compared with SMR (already massively consolidated), cellular, PCS, etc.)

9. This type of more fully considered and global Rule making-- in which 220 MHz, including the modification issue, is brought up to a standard of CMRS regulatory symmetry, and in which both existing and new licensees operate under well coordinated (if not in all parts identical) rules-- will be best for both existing licensees and network operators as well as new wide-area licensees. In large part this is because for the 220 MHz industry to become most competitive and successful, there must be considerable

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cooperation or consolidation, which such coordinated rules will greatly facilitate. This is especially true for 220 MHz, which has very limited bandwidth compared to other services and licenses such as SMR/ ESMR, cellular, and PCS.

10. With fair, symmetrical regulation concluded, including future licensing procedures, current 220 MHz companies, who have long struggled under costly regulatory uncertainties and delays, can finalize business plans and obtain the financing and resources needed to offer a variety of competitive CMRS offerings. It is only because such fair regulation has not yet been achieved or clearly promised that only a small fraction of the 220 MHz licenses issued have been built.

Most of the licenses built to date appear to be financed, directly or indirectly, via telemarketing-sales shops such as have operated heavily in the 800 MHz SMR license-application field for years. This type of financing places a great burden on 220 MHz: Large sums are raised from small investors for each limited 5-channel system, based on overly aggressive financial projections and with means that are questionable from a Securities law standpoint (namely, non-exempt sales of unregistered securities, etc.).

The telemarketers and related parties make their money up front, not after they prove out their lofty projections: most of the gross proceeds of such fund raising are paid out to the telemarketers and organizers. What is left is a minor portion of the investors' money for construction and operation and a group of newly joined investors/ owners not experienced in CMRS operation and ill informed of the larger issues, uncertainties, and competitive needs in the CMRS field (including for well-planned wide-area networks with appropriate sites). In short, as happened in 800 MHz, this sort of financing and related construction/ operation is almost sure to back-fire and retard 220 MHz. It is a type of "trafficking" in licenses and is not commercially reasonable and competitive financing.

11. As explained previously to the Commission, our company plan for securing licenses and financing their construction and operation as a network does not involve and has never involved, unlike the above-noted operations, large (or even small) cash outs for our organizers, shareholders, or for the 220 MHz licensees who committed to our company for construction and management. Our founders, employees, and shareholders have invested over a million dollars in cash and in kind to develop our company, whose plan has from the start been based on the Commission providing in a timely fashion regulatory symmetry for 220 MHz CMRS wide-area networks. We have developed many sources for commercially reasonable financing, and several strategic partnerships with existing telcos and other operators, eager to finance and team up with our company when and if the Commission provides such fair and viable regulatory environment. In our petitions to the Commission, we advocated a strong financial showing requirement, and when the new Rule making begins, we intend to propose or support further conditions to prevent abusive financing, trafficking, etc.

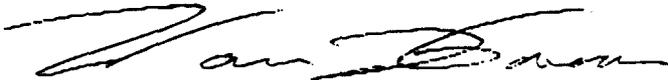
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By the position we express herein, we are not disagreeing with other AMTA 220 MHz members on the importance of on going license construction, and we are arranging for substantial construction regardless of the course of new 220 MHz rules. However, for substantial, sustained, and competitive wide-area construction, major new rules are absolutely required.

Accordingly, as we proposed in our two petitions in early 1994 and have advocated ever since, it is our view that the only real solution for viable 220 MHz services lies in major new, CMRS-"symmetrical" regulation for 220 MHz. Allowing for modification beforehand is an inadequate solution that may only delay and restrict this needed major Rule making, and will probably also facilitate certain types of on going "trafficking" or commercially unreasonable financing/ construction/ operation which will retard the 220 industry. Most of all, to be fair to the small, struggling, pioneering 220 MHz industry (and considering that the Commissions announced about a year ago that the new Rule making for 220 MHz would commence in the "near future") the Commission commence the vitally needed new Rule making with a minimum of further delay and grant a reasonable blanket construction extension well beyond its conclusion as noted above.

Sincerely,



Warren Havens
President

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