ORIGINAL

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

In the Matter of	)	
	)	
Amendment of Parts 22, 90, and 94 of the Commission's Rules to Permit Routine Use of Signal Boosters	)	WT Docket No. 95-70
	)	RM-8200
	)	

To: The Commission

REPLY COMMENTS OF SKYTEL CORP.

SkyTel Corp. ("SkyTel") [1/], by its attorney, and pursuant to Section 1.415 of the Commission's Rules ("Rules"), hereby replies to various comments submitted in response to the Notice of Proposed Rule Making, 10 FCC Rcd 6681 (1995) ("Notice") in the above-captioned proceeding.

The Commission's basic proposal to expand the use of signal boosters was met with near unanimous support. SkyTel counts seventeen of the eighteen commenters as favoring the proposal. And the lone dissenter, Hewlett-Packard Company, confined its objections to the use of signal boosters in the 450-470 MHz band subject to Part 90 of the Rules. [2/] The supporting parties diverge primarily on interference issues. SkyTel now joins those parties who urge the Commission to take precautions to ensure that the routine use of signal boosters does not routinely cause interference.

1/ SkyTel is a wholly owned subsidiary of Mobile Telecommunication Technologies Corp. ("Mtel"). Mtel and its subsidiaries, including SkyTel and Destineer Corp. ("Destineer"), are Commission licensees providing a wide range of high technology wireless communications services. SkyTel holds a common carrier nationwide paging license and numerous non-network paging licenses. Destineer holds three narrowband nationwide PCS authorizations, one of which was obtained via a Pioneer's Preference.

2/ See Comments of Hewlett-Packard Co., at 1 n.1 (Aug. 14, 1995).

SkyTel's overriding concern is that the unrestrained use of signal boosters will cause harmful interference to its paging operations at 931-932 MHz. And the arguments of those favoring an increase in the permitted output power of these devices have done nothing to allay SkyTel's concerns. Considering the interference potential, and the difficulty policing the use of signal boosters, SkyTel urges the Commission to stick to its proposal limiting the total output power of boosters to 500 milliwatts.

SkyTel agrees with the comments of The Personal Communications Industry Association ("PCIA"). In particular, SkyTel supports the adoption of the four changes in the proposed rules that PCIA advocates. 3/ Those changes strike the proper balance between the need to minimize the interference problems posed by signal boosters and the need to avoid unnecessarily burdensome regulation.

SkyTel also concurs with the suggestion of Paging Network, Inc. ("PageNet") that the Commission conform proposed Section 22.385 of the Rules to its more explicit counterparts in Parts 90 and 94. 4/ It seems clear from the Notice that the Commission intends that no signal booster be employed "to extend service area coverage". 10 FCC Rcd at 6682. Yet, as PageNet noted, the proposed language for Section 22.385 does not expressly ban the use of boosters to "extend the system's signal coverage area" as do proposed Sections 90.219(a) and 94.95(a). The inclusion of similar language in Sec-

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3/ See Comments of PCIA, at 6 (Aug. 14, 1995).

4/ See Comments of PageNet, at 3-5 (July 14, 1995).

tion 22.385 would deprive a common carrier paging operator of the argument that a signal booster can extend its coverage area so long as the booster is located within its "protected service area." 5/

SkyTel supports PageNet's recommendation that the rules governing signal boosters be comparable in Part 22 and Part 90. SkyTel assumes that the facial differences between the proposed rules -- including disparate definitions of "signal booster" for Parts 22 and 90 -- are linked to the Commission's unexplained decision to prohibit the use of boosters for Part 22 two-way mobile or VHF paging operations. 6/ If these devices are only permitted for 931-932 MHz paging under Part 22, then that limitation should be explicit in proposed Section 22.385. SkyTel questions, however, how that limitation could square with Congressionally-mandated regulatory parity, insofar as the Commission proposes to sanction the use

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5/ The term "protected service area" is similarly applied as a limitation on the use of "in-building radiation systems." See 47 C.F.R. § 22.383. Yet, the term is not defined in Section 22.99 of the Rules. Nor is it expressly defined elsewhere in Part 22. SkyTel suggests that if the term "protected service area" is to be included in Sections 22.383 and 22.385, it ought to be a defined term. Alternatively, an already defined term such as "service area" or "service contour" should be employed. Use of the former term would be consistent with the definition of "fill-in transmitter". See 47 C.F.R. § 22.99.

6/ A "signal booster" under the proposed Part 22 definition "automatically reradiates signals from base transmitters." Notice, 10 FCC Rcd at 6683. In contrast, under Part 90, a "signal booster" will be a device which "automatically receives, amplifies, and retransmits on a one-way or two-way basis, the signals received from base, fixed, mobile, and portable stations." Id. at 6684. The different definitions suggest that two-way signal boosters will not be authorized under Part 22, which is consistent with the Commission's explicit proposal "to expand the use of signal boosters to Part 22 common carrier paging operations at 931-932 MHz." Id. at 6681.

of boosters "in all Part 90 frequency bands above 150 MHz." Notice, 10 FCC Rcd at 6681.

SkyTel also questions why the proposed Part 22 rules do not distinguish between narrowband and broadband signal boosters, for it seems clear that a greater likelihood of interference results from the use of the broadband devices. Recognizing this, the proposed Part 90 rules define "narrowband (Class A)" and "broadband (Class B)" boosters, and subject the use of Class B boosters to specific conditions under subsections (b) and (e) of proposed Section 90.219. See id. at 6684. Because less expensive broadband boosters will undoubtedly be operated by common carrier licensees, SkyTel suggests that boosters be similarly classified under Part 22, and that the use of broadband boosters be subject to the same conditions that apply to Class B boosters under Part 90. 7/

SkyTel agrees with the comments of Nextel Communications, Inc. ("Nextel") concerning the breadth of the Commission's definition of "signal booster". 8/ Under that definition, and as envisioned by the Commission, boosters can be deployed in buildings, such as below-ground parking facilities and aircraft hangers. See id. at 6681. Therefore, a claim could be made that a signal booster can serve as an "in-building radiation system" under Part 22. See 47 C.F.R. §§ 22.99, 22.383. And if used in-building, a booster

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7/ SkyTel believes that the provisions of Section 90.219 should be strengthened as suggested by PCIA. See supra p. 2. Regardless, there should be parity between the rules in Part 22 and Part 90 applicable to signal boosters.

8/ See Comments of Nextel, at 5-6 (Aug. 14, 1995).

arguably would not be subject to an output power limitation. Consequently, the Commission should either redefine its terms to distinguish a "signal booster" from an "in-building radiation system" or subject the latter to additional Part 22 technical specifications designed to avoid interference. 9/

Finally, SkyTel submits that the comments of Seiko Communications of America, Inc. ("Seiko") supporting the use of translators by FM subcarrier paging providers are wholly outside the scope of this rule making. Suffice it to say that FM broadcasters would be among those with a substantial interest in any rule that "would permit increased flexibility for FM SCA licensees to employ signal translators on a routine basis." 10/ Clearly, no notice was given that would fairly appraise FM broadcasters, or other interested parties, that the use of FM SCA translators would be at issue in this rule making. In the absence of adequate notice, see 5 U.S.C. § 553(b)(3), 47 C.F.R. § 1.413(c), the adoption of Seiko's proposed rule in this proceeding would be subject to invalidation under the "logical outgrowth" test. See, e.g., Aeronautical Radio, Inc. v. FCC, 928 F.2d 428, 445-46 (D.C. Cir. 1991). SkyTel, therefore, suggests that the Commission can consider the issues raised by Seiko only after a further notice of proposed rule making. See 47 C.F.R. § 1.421. See also Report and Order in Gen. Docket No.

9/ The Commission has stated that it would consider placing output power limitations on in-ground radiation systems in a future rule making. See Report and Order in CC Docket No. 92-115, 9 FCC Rcd 6513, 6560 (1994).

10/ Comments of Seiko, at 2 (Aug. 14, 1995).

85-301, 2 FCC Rcd 3304, 3304, 3312 n.16 (1987).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Katherine A. Baer, a secretary in the law firm of Lukas, McGowan, Nace & Gutierrez, Chartered, do hereby certify that I have had hand delivered on this 1st day of September, 1995, copies of the foregoing REPLY COMMENTS OF SKYTEL CORP. to the following:

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