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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Before the**
**Federal Communications Commission**
**Washington, D.C. 20554**

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| In the Matter of | ) | |
| | ) | |
| Amendment of Part 90 of the Commission's Rules To Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service | ) | PR Docket No. 89-552 |
| | ) | |
| Implementation of Sections 3(n) and 332 of the Communications Act | ) | GN Docket No. 93-252 |
| | ) | |
| Regulatory Treatment of Mobile Services | ) | |
| | ) | |
| Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, 220-222 MHz | ) | PP Docket No. 93-253 |

To: The Commission

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**COMMENTS OF SECURICOR RADIOCOMS, LTD.**

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September 27, 1995

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**SUMMARY**

Securicor Radiocoms Ltd. ("Securicor") hereby submits its Comments on the Third Notice of Proposed Rulemaking, FCC 95-312 (August 28, 1995) ("Third Notice") in this proceeding. By its Third Notice, the FCC proposes wholesale revisions to Subpart T of Part 90, inter alia, to adopt a new channel allocation plan for the 220-222 MHz band and to award "Phase II" licenses through competitive bidding.

Securicor manufactures and distributes the highly spectrally-efficient 5 kHz linear modulation, or "LM," equipment in the 220-222 MHz Band. The 5 kHz The Securicor LM system can carry analog speech, digital "plain" or encrypted speech and text, maps, black and white or color pictures and even slow-scan video. The LM data rate in a 5 kHz channel is currently offered at 14.4 kb/s with performance equalling that of a toll quality telephone circuit. Securicor, through the distribution of its affiliate Linear Modulation Technology Limited, has equipped over 1500 channels in the 220 MHz Band with 5 kHz LM equipment, and anticipates equipping an additional 2500 channels by the December 31, 1995 construction deadline for the non-nationwide 220 MHz systems.

In Securicor's view, the FCC's proposed revisions in the Third Notice to the operational and technical rules governing the 220 Band virtually abandon the Commission's earlier-stated intention of using the 220 Band as a test-bed for the development and deployment of highly spectrally-efficient narrowband technologies. The FCC's existing service rules for the 220 Band

are now achieving precisely that which they were intended, i.e., they have promoted the development and introduction of competitive very narrowband technologies. Many 220 Band Phase I systems are now becoming operational and the benefits of those services are increasingly available to end users. Proponents of 5 kHz technologies have faced continual opposition by vested equipment manufacturers at every turn, opposition and litigation from incumbent spectrum-holders in the 220 Band that delayed the allocation of spectrum, opposition and litigation from disappointed lottery applicants (or those who claimed they would have been applicants) that delayed the availability of financing, delays in the regulatory process as a result of the auction legislation, a four year freeze on the acceptance of applications (including, most criticaly, station relocation applications) and, now, proposed changes in the service rules in part due to a perceived industry-wide failure, all before the first construction deadline. Securicor respectfully suggests that the deployment of 10,000 or more narrowband channels and the development of competitive equipment markets in the 220 Band by year's end as a significant accomplishment attributable to the FCC's leadership in promoting spectrally-efficient technologies consistent with the mandate of Section 7 of the Communications Act.

Apart even from the equities of potentially stranding licensees and manufacturers that have acted in good faith in expending millions of dollars of resources in reliance upon the

FCC's stated intent, the proposed revisions to the technical and operational rules will not even accomplish that which the Commission now apparently intends -- i.e., the introduction of non-narrowband technologies in the 220 Band. Rather, the proposed rules, if adopted unmodified, will create an unworkable and chaotic band environment in which Phase I licensees --one of the most likely parties to bid at auction for Phase II licensees -- will have little ability to raise capital to participate in the auctions and little incentive to expand their systems and services. The result will be a marginalized service in the 220 Band and minimized auction revenues from the Phase II licenses.

Securicor concurs that in the event the FCC permits the introduction of wideband technologies in the 220 Band through channel aggregation, that those technologies should reflect a level of spectrum efficiency at least equivalent to that which is available from state-of-the-art 5 kHz narrowband systems. Wideband systems must provide one high-grade voice channel with performance equalling that of a toll quality telephone circuit and a data rate of at least 14.4 kb/s <u>for every 5 kHz of spectrum aggregated</u>. Under these standards, equipment employing 25 kHz TDMA technology must, for example, provide five voice channels and an aggregate data rate of 72 kb/s.

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**COMMENTS OF SECURICOR RADIOCOMS LTD.**

Securicor Radiocoms Ltd. ("Securicor"), by its counsel and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. §1.415, hereby submits its Comments on the Third Notice of Proposed Rulemaking, FCC 95-312 (August 28, 1995) ("Third Notice") in the above-captioned proceeding.[1]

By its Third Notice, the FCC revisits the technical and operational rules governing the use of the 220-222 MHz band ("220 Band") by the Private Land Mobile Radio service under Part 90 of its Rules. The Commission, in particular, proposes wholesale revisions to Subpart T of Part 90, inter alia, to adopt a new channel allocation plan for the 220 Band and to award "Phase II"

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[1] In the Matter of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service (Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking), ___ FCC Rcd ____ (1995).

applications through competitive bidding. In so doing, the FCC recognizes that the "220 MHz service is an infant industry that presents unique issues and concerns",[2] but nevertheless proposes revisions that admittedly are a "significant departure" from the technical and operational rules that have governed the 220 Band through the award of the approximately 3,800 "Phase I" licenses and the construction of the Phase I systems.[3]

## I. STATEMENT OF INTEREST

Securicor manufactures and distributes the highly spectrally-efficient 5 kHz linear modulation, or "LM," equipment in the 220-222 MHz Band. The 5 kHz LM systems currently being deployed in the 220 MHz band represent the current state-of-the-art in spectrally-efficient technology. To Securicor's best knowledge, there are no systems currently in commercial deployment in private land mobile usage anywhere in the world that provide a greater level of spectrum efficiency.

The 5 kHz Securicor LM system can carry analog speech, digital "plain" or encrypted speech and text, maps, black and white or color pictures and even slow-scan video. The LM data rate in a 5 kHz channel is currently offered at 14.4 kb/s with performance equalling that of a toll quality telephone circuit. In addition, Securicor intends to offer by year's end 5 kHz LM systems in the U.S. with a data rate of 19.2 kb/s.

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[2] Third Notice at para. 2.

[3] Third Notice at para. 82.

With the FCC's leadership in promoting the deployment of spectrally-efficient 5 kHz technologies in the U.S. through the allocation of the 220-222 MHz band in 5 kHz channels to PLMR uses[4] and the Commission's proposal in the Notice of Proposed Rule Making in PR Docket No. 92-235 to channelize the 72-76 MHz and 150-174 MHz bands with 5 kHz channels,[5] Securicor undertook an ambitious program to work with U.S. partners to develop and distribute LM equipment in the U.S.[6] In this respect, Securicor has both acquired a minority interest in, and entered into licensing and technology transfer agreements with, E.F. Johnson Co.

In addition, Securicor, through the distribution of its affiliate Linear Modulation Technology Limited, has equipped over 1500 channels in the 220 MHz Band with 5 kHz LM equipment, and anticipates equipping an additional 2500 channels by the December 31, 1995 construction deadline for the non-nationwide 220 MHz systems. Securicor has relied heavily in this process upon the capabilities of Securicor TeleSciences, Inc. ("TeleSciences"), its U.S. affiliate headquartered in Moorestown, New Jersey, which

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[4] Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, 6 FCC Rcd 2356 (1991), recon., 7 FCC Rcd 4484 (1992).

[5] Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them (Notice of Proposed Rule Making), 7 FCC Rcd 8105 (1992).

[6] Securicor received type acceptance for its 220 MHz LM system on March 7, 1994.

is playing a key role in the manufacturing, assembly, testing and distribution of the LM 220 MHz systems.

In Securicor's view, the FCC's proposed revisions in the Third Notice to the operational and technical rules governing the 220 Band virtually abandon the Commission's earlier-stated intention of using the 220 Band as a test-bed for the development and deployment of highly spectrally-efficient narrowband technologies. Apart even from the equities of potentially stranding licensees and manufacturers that have acted in good faith in expending millions of dollars of resources in reliance upon the FCC's stated intent, the proposed revisions to the technical and operational rules will not readily accomplish that which the Commission now apparently intends -- i.e., the introduction of non-narrowband technologies in the 220 Band. Rather, the proposed rules, if adopted unmodified, will create an unworkable and chaotic band environment in which Phase I licensees --one of the most likely parties to bid at auction for Phase II licensees-- will have little ability to raise capital to participate in the auctions and little incentive to expand their systems and services. The result will be a marginalized service in the 220 Band and minimized auction revenues from the Phase II licenses.

Securicor thus supports the adoption of Rules by the Commission in this proceeding that will ensure the timely licensing of Phase II 220 Band systems in a manner that promotes the expansion of Phase I systems. Given the many resources and

commitments that have been made to these systems thus far, and those that will be made prior to the construction deadline, this is the most realistic growth path for the 220 Band. Accordingly, we urge the Commission to expeditiously adopt rules here that will facilitate the timely availability of meaningful Phase II licenses and that will continue to promote the introduction of spectrally-efficient narrowband services.

## II. THE EXISTING SERVICE RULES HAVE PROMOTED THE DEVELOPMENT OF SPECTRALLY-EFFICIENT TECHNOLOGIES

In adopting the existing Subpart T of Part 90 of its Rules, the Commission made clear that "[w]e initiated the reallocation proceeding and this proceeding to provide a 'home' for development of narrowband technologies."[7] This was done for two reasons. First, the Commission recognized that growing demand for spectrum could be satisfied by the implementation of sophisticated higher-capacity communications systems such as 5 kHz narrowband.[8] Second, the Commission acknowledged "narrowband technologies cannot develop to their full potential on a co-channel basis with private land mobile systems that are, for the most part, operating at 25 kHz bandwidths."[9] In addition, to maximize the benefit of narrower channel bandwidths, the Commission adopted a "preferred" channel allocation plan to

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[7] In the Matter of Amendment of Part 90 of the COmmission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Services, 6 FCC Rcd 2356, 2358 (1991).

[8] Id. at 2357.

[9] Id. at 2358.

encourage trunking which was recognized as technology that increased spectrum efficiency, especially for land mobile voice operations.[10]

The adoption of Subpart T of Part 90 of the Rules was an outgrowth of approximately fifteen years of efforts by both the FCC (which began exploring the potential of narrowband technologies through its UHF Task Force chaired by Dr. Raymond Wilmotte in the 1970s) and the private sector. For example, a working prototype 5 kHz ACSB mobile radio in the 150 MHz band was demonstrated by Sideband Technologies, Inc. ("STI") at the Land Mobile Expo in Denver, Colorado in the spring of 1981, and a working 5 kHz portable in the 150 MHz band was demonstrated by STI to the FCC in late 1983. STI subsequently submitted a petition for allocation of the 218-222 MHz band to 5 kHz technologies on July 16, 1984.

During the period culminating with the allocation of the 220 Band to narrowband systems the FCC consistently fostered the development of narrowband technologies, recognizing the mandate of the Communications Act to promote the deployment of spectrally-efficient technologies. Thus, in permitting the introduction of 5 kHz systems on interstitial allocations in the VHF band in 1985, the FCC held that the primary near-term objective of the docket was to stimulate new spectrum efficient

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[10] Id.

technologies.[11] The Commission recognized that the 5 kHz channel spacing plan for the high band might result in some increased interference based on the state of the equipment then available. However, in pursuing a policy to encourage technological advancements, the Commission found that it would be in the public interest to base the 5 kHz channel plan "on equipment which we believe will be available in the near future."[12] In allocating the 220 Band to 5 kHz technologies as the first significant commercial allocation to 5 kHz systems, the FCC firmly established U.S. leadership in the introduction of highly-spectrally efficient very narrowband technologies.

The development of 5 kHz technologies, of course, was not free from impedance from entrenched technologies. With the FCC's leadership, however, the development of very narrowband technologies has achieved significant momentum despite the repeated opposition of these vested interests. E.F. Johnson has been licensed from Securicor to develop its own line of LM products. SEA, Inc. has developed and deployed its amplitude compandored single sideband, or "ACSB," systems in both the interstitial VHF channels and the 220 Band. II Morrow, Inc., a subsidiary of United Parcel Service, has developed its system for use in the 220 Band. NTT is developing its "Real-Zero Single

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[11] In the Matter of Amendment of Part 90 of the Commission's Rules and Regulations to Authorize Narrowband Technologies for Base and Mobile Communications in the Private Land Mobile Radio Services, 57 Rad. Reg. 2d (P&F) 1439 (1985).

[12] Id.

Sideband" or "RZ-SSB" technology for deployment in the 220 Band. For its part, in addition to its E.F. Johnson agreements, Securicor has acquired the U.S. manufacturing capability of TeleSciences in Moorestown, New Jersey to assist it with the development and distribution of its LM products in the 220 Band. We believe that other manufacturers and distributors are also planning to compete in the 220 Band with very narrowband products.

In short, the FCC's existing service rules for the 220 Band are now achieving precisely that to which they were intended, i.e., they have promoted the development and introduction of competitive very narrowband technologies. As noted above, many 220 Band Phase I systems are now becoming operational and the benefits of those services are increasingly available to end users. However, legal uncertainties, including delays associated with the licensing process (and in particular the Evans v. FCC litigation) have complicated the deployment of Phase I 220 Band systems. The lack of certainty concerning the 220-222 MHz service, including, most particularly, the uncertainty surrounding the incumbent licensees' ability to relocate their stations and their ability to expand their systems both in channel capacity and geographic coverage has significantly inhibited the ability of Phase I licensees to obtain funding for their efforts.[13] This, in turn, has dampened

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the pace of implementation of the 220-222 MHz service.[14]

At the FCC Meeting on July 28, 1995 where the Commission adopted the Third Notice, Commissioner Chong expressed disappointment in the manner in which the 220 Band has developed to date. Securicor respectfully urges the Commission to review closely the history of the allocation and licensing of the 220 Band prior to making any final conclusions here.

The introduction of new technologies that compete with well-entrenched technologies and vested interests is never an easy or quick process. In this case, proponents of 5 kHz technologies faced continual opposition by vested equipment manufacturers at every turn, opposition and litigation from incumbent spectrum-holders in the 220 Band that delayed the allocation of spectrum, opposition and litigation from disappointed lottery applicants (or those who claimed they would have been applicants) that delayed the availability of financing, delays in the regulatory process as a result of the auction legislation, a four year freeze on the acceptance of applications (including, most criticaly, station relocation applications) and, now, proposed changes in the service rules in part due to a perceived industry-wide failure, all before the first construction deadline. Given this history, Securicor respectfully suggests that the deployment of 10,000 or more narrowband channels and the development of competitive equipment

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[14]Securicor is concurrently submitting its Reply Comments on the Fourth Notice of Proposed Rulemaking in this proceeding.

markets in the 220 Band by year's end should be viewed not as a disappointment (and a reason for departure from the existing rules), but rather as a significant accomplishment attributable to the FCC's leadership in promoting spectrally-efficient technologies consistent with the mandate of Section 7 of the Communications Act.

Legislation, litigation and regulation apart, Securicor believes in very narrowband technology and given the appropriate framework, believes the marketplace will support the development and deployment of that technology as one competitive alternative. But, we do not believe that the service rules proposed in the Third Notice provide that framework.

Accordingly, although Securicor recognizes that some revisions to the 220 Band service rules are required to ensure the timely issuance of Phase II licenses, it cautions against a "significant departure" from the existing service rules. In our view, the new service rules should "stay the course" and continue to evidence the FCC's leadership in promoting the development and deployment of very narrowband technologies.

## III. THE PROPOSED RULES WILL CREATE A CHAOTIC AND UNWORKABLE BAND ENVIRONMENT THAT WILL INHIBIT THE 220 BAND SERVICE

In the Third Notice (at paras. 64-65), the Commission acknowledges that its existing service rules were designed to maximize trunking efficiencies that could be gained by narrowband systems through a non-contiguous channel assignment plan. The Commission, however, now proposes to award Phase II non-nationwide licenses in the 220 Band in blocks of five or ten

contiguous channels for the Bureau of Economic Analysis "Economic Area" or "EA" licenses and in blocks of ten, fifteen or twenty contiguous channels for the Regional licenses. The FCC's proposal in this respect is based upon its conclusion that "the possible benefits that could be obtained from enabling licensees to employ contiguous channels ... outweigh the potential technical or economic advantages of developing narrowband trunking systems."[15] Securicor respectfully disagrees.

As detailed above, Securicor believes that the rationales underlying the FCC's adoption of the existing 220 service rules are still valid today. Indeed, because many parties, including Securicor and other manufacturers, have acted in reliance on these rules the equities even more strongly favor retaining the essential character of the 220 Band. In addition, it is reasonable and equitable to conclude that those parties who will participate most extensively in Phase II of the 220 Band are likely to be those parties, i.e., manufacturers, regional operators and local licensees, who participated most extensively in Phase I licensing. This is certainly the assumption that appears to underlie the FCC's proposals for both Phase II 800 MHz and 900 MHz SMR licensing. Any trade-offs that must be made to implement Phase II licensing thus should favor the known and certain (i.e., trunked narrowband systems) over the unknown and speculative.

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[15]Third Notice at para. 65.

Beyond this, the proposed recasting of the 220 Band channel assignment plan for Phase II licensing will exponentially increase the difficulties encountered by both Phase I and Phase II licensees in expanding their systems and services and in managing interference between co-channel licensees. In particular, the large majority of the 3,800 Phase I licenses have been issued under the channel plan set forth in existing Section 90.721 governing trunked, non-nationwide systems, which provides for non-contiguous channel assignments. By the construction deadline, many thousands of channels will be constructed and operational pursuant to these Phase I licenses, most particularly in the largest one hundred urban areas throughout the nation. Many of these Phase I licensees, like their counterparts in other wireless services, will no doubt seek to expand both their system capacity and their geographic coverage. Indeed, it is exactly this type of system that is contemplated by the Phase II geographic licenses. Yet, if the contiguous channel plan is adopted as proposed, an existing Phase I licensee would not be able to acquire a single license that encompassed its existing channels. A Phase I licensee assigned Group No. 1 under existing Section 90.721 would find, for example, that it held a license for one channel (No. 1) in Regional license No. 3, one channel (No. 31) in Regional license No. 5, one channel (No. 61) in EA license No. 1, one channel (No. 91) in EA license No. 3 and one channel (No. 121) in EA license No. 5. The recasting of the 220 Band channel plan therefore will render essentially meaningless

existing Phase I channel assignments in incenting or enabling Phase I licensees to obtain financing from the capital markets to participate in the Phase II auctions.

Conversely, potential new entrants in the Phase II auctions would also face significant difficulties in the event they desired to consolidate their operations with co-channel Phase I licensees. The prevailing bidder for a Phase II, EA No. 1 license, for example, would find that it held a license for one channel in each of Phase I Groups 1 through 10.

In addition, the issuance of Phase I and Phase II licenses on the basis of inconsistent channel plans will create a chaotic band environment. The FCC has determined that Phase II licensees must protect Phase I licensees from harmful interference.[16] The inconsistent Phase I and II band plans, however, would make effective monitoring of this protection, either by Phase I licensees or the Commission, an administrative challenge of undue complexity. A Phase I licensee may find itself co-channeled with a myriad of Phase II licensees, each operating multiple base stations. Phase II licensees would similarly face compliance issues with many Phase I licensees. The legal and engineering costs associated with compliance in this environment are likely to be prohibitive.

In addition, the inconsistent Phase I and II band plans are likely to have a chilling effect on business relationships

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[16]Third Notice at para. 99.

throughout the 220 Band. Economies of consolidated regional or national system management and equipment purchases are likely to be lost to both Phase I and Phase II licensees. Roaming and networking services incorporating Phase I and Phase II licenses would be less likely to develop. End users with other service options, in turn, will be less likely to subscribe to commercial services in the 220 Band.

Accordingly, the proposed Phase II band plan, if adopted, will minimize the business opportunities for both Phase I and Phase II licensees and will marginalize the auction revenues that may be garnered from the Phase II licenses. In Securicor's view, the Phase II band plan essentially will limit the operations of 220 Band systems to local areas. This, of course, also suggests that the Third Notice's conclusion (at para. 108) regarding the "principal use" of the 220 Band may well be erroneous.

By contrast, retention of the same channel groupings for Phase II licenses as currently reflected in Section 90.721 will facilitate regionalization of 220 Band operations and will minimize difficulties resulting from co-channel Phase I and II operations. In turn, this will further the business combinations and relationships available to both Phase I and Phase II licensees and will maximize the value of the Phase II licenses at auction.

## IV. THE SERVICE RULES SHOULD BASE SPECTRUM EFFICIENCY DETERMINATIONS ON STATE-OF-THE-ART TECHNOLOGY

In the Third Notice (at paras. 83-84), the Commission

proposes to permit 220 Band licensees to aggregate 5 kHz channels and deploy wideband technology provided that "a spectral efficiency at least equivalent to that obtained through five kHz channelization" is maintained. As set forth above, Securicor believes that the FCC's continued leadership in promoting the deployment of very narrowband technologies in the 220 Band would best serve the public interest, and that the introduction of wideband technologies in the 220 Band by recasting the band plan reflected in Section 90.721 at this time is not in the public interest.

Securicor concurs, however, that in the event the FCC permits the introduction of wideband technologies in the 220 Band through channel aggregation, that those technologies should reflect a level of spectrum efficiency at least equivalent to that which is available from state-of-the-art 5 kHz narrowband systems. To this end, Securicor believes that wideband systems must provide one high-grade voice channel with performance equalling that of a toll quality telephone circuit and a data rate of at least 14.4 kb/s <u>for every 5 kHz of spectrum aggregated</u>. Given the widely-publicized difficulties of certain wideband technologies in providing high grade voice service, the FCC's Rules must be clear that <u>only</u> toll quality voice service will meet these spectrum efficiency standards. Under these standards, equipment employing 25 kHz TDMA technology must, for example, provide five voice channels and an aggregate data rate of 72 kb/s. This is consistent with the state-of-the-art in 5

kHz technology that is commercially available today in the 220 Band. To require less of the wideband technologies would defeat the FCC's desire to promote the deployment of spectrally-efficient technologies in the 220 Band.[17]

## V. THE PENDING NATIONWIDE NON-COMMERCIAL APPLICATIONS SHOULD BE PROCESSED AND LICENSED ACCORDING TO EXISTING SERVICE RULES

In the Third Notice (at para. 30), the Commission has requested comments on the appropriate disposition of the 33 pending Phase I applications for nationwide, non-commercial licenses. These applications have been pending for four years. Securicor believes that principles of equity mandate that the FCC should process these nationwide non-commercial applications according to the Rules under which they were filed and award the licenses for these systems by lottery. Displacing these applicants who timely met all FCC-established deadlines and acted in reliance upon the FCC's Rules in favor of new applications to be selected through auction would work substantial inequities. This is especially true because the delay in processing these applications that has resulted in this consideration is clearly not attributable to the applicants.

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[17]Securicor recognizes that the existing channel assignments for the nationwide 220 Band authorizations provide contiguous channel allocations and, provided that the spectrum efficiency standards detailed above are met, does not object to the use of wideband techologies by these nationwide licensees.

## VI. CONCLUSION

For these reasons, Securicor respectfully urges the FCC to adopt a Report and Order in this proceeding consistent with the modifications suggested herein.

**Respectfully submitted,**

**SECURICOR RADIOCOMS LIMITED**

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