

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

RECEIVED
SEP 27 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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
RM-8506

Implementation of Sections 3(n))
and 332 of the Communications Act)
Regulatory Treatment of Mobile Services)

GN Docket No. 93-252

DOCKET FILE COPY ORIGINAL

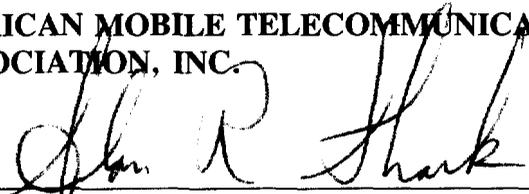
To: The Commission

**REPLY COMMENTS OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.

By:


Alan R. Shark, President
1150 18th Street, N.W., Suite 250
Washington, D.C. 20036
(202) 331-7773

Counsel:
Elizabeth R. Sachs, Esq.
Lukas, McGowan, Nace & Gutierrez
1111 19th Street, N.W., Suite 1200
Washington, D.C. 20036
(202) 857-3500

September 27, 1995

Doc. of 0-1000 rec'd
SEP 27 1995

029

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

RECEIVED
SEP 27 1995
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Amendment of Part 90 of the)
Commission's Rules to Provide) PR Docket No. 89-552
for the Use of the 220-222 MHz Band) RM-8506
by the Private Land Mobile)
Radio Service)

Implementation of Sections 3(n))
and 332 of the Communications Act) GN Docket No. 93-252
)
)

Regulatory Treatment of Mobile)
Services)

To: The Commission

REPLY COMMENTS

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Reply Comments in the above-entitled proceeding.

The record on this subject is clear: The 220 MHz industry does not support the FCC's proposal regarding the conditions under which Phase I licensees would be permitted to modify their authorizations. Instead, virtually all commenting parties endorsed the alternative proposal suggested in AMTA's Comments. The Association urges the FCC to reconsider its modification proposal, and instead to adopt the AMTA recommendation which enjoys broad industry support.

The comments in this proceeding provide **no** record support for the Commission's 220 MHz modification proposal. No commenting party agreed with the FCC's

recommendation that Phase I 220 MHz licensees should be permitted to relocate only if they can do so without altering the station's original 38 dBuV/m contour and can maintain coverage over at least fifty percent (50%) of that contour from the new site. While a number of commenters, including AMTA, agreed that a 220 MHz modification provision must avoid the creation of mutually exclusive situations and must be easy and expeditious to implement, none endorsed the approach suggested by the FCC.

In its Comments, the Association recommended a modification plan that had been developed by its 220 MHz Council after extensive discussions. Specifically, AMTA proposed that Phase I licensees be permitted to relocate up to one-half the distance over 120 kilometers toward any co-channel licensee to a maximum of 35 kilometers. The Association described its approach as consistent with important Commission objectives. First, it would prevent instances of mutual exclusivity since an application to move more than one-half of the required mileage separation between an existing location and the site of a co-channel station would be rejected as unacceptable for filing. The rules would not permit the acceptance of mutually exclusive applications.

Additionally, AMTA provided data indicating that the vast majority of Phase I licensees are licensed to operate in core urban areas. Permitting relocations of up to 35 kilometers will not result in rural and suburban licensees moving closer to a densely populated market since most systems already are located in those areas. However, it will enable urban, suburban and rural Phase I licensees to select what they consider the optimal site to serve their existing markets.

This proposal was supported by a variety of 220 MHz licensees, network

organizers and equipment suppliers.¹⁷ Thus, EFJ noted that it "strongly supports AMTA's proposal...." EFJ Comments at p. 5. Roamer took the position that, "...the public interest would be far better served if the Commission were to adopt AMTA's relocation proposal." Roamer Comments at p. 8. Similarly, SEA indicated that, "...AMTA has proposed a solution that will accomplish the same objectives (i.e. allow licensees to relocate and avoid creating mutual exclusivity), but in a way that will not impose as great a procedural burden on the Commission's staff or upon the licensee community as the proposal advanced by the Commission...." SEA Comments at p. 3.

The approach recommended by AMTA was not opposed by any commenting party, although some entities focused their Comments on other aspects of the 220 MHz modification issue. For example, ComTech Communications, Inc. ("ComTech") took the position that the FCC's proposal would unnecessarily restrict licenses' ability to serve the public. However, it recommended that, if the Commission's approach were adopted, it should be clarified to permit licensees to use directional antennae, as well as reduced antenna height and power, to satisfy the contour restrictions. Additionally, ComTech suggested that the existing service contour should be calculated based on the maximum permissible ERP and HAAT, and commented on several related matters. Thus, although ComTech did not specifically support AMTA's proposal in its Comments, there is nothing in ComTech's position that is inconsistent with the approach

¹⁷ See Comments of E.F. Johnson Co. ("EFJ"), Roamer One, Inc. ("Roamer"), SEA, Inc. ("SEA"), and Police Emergency Radio Services, Inc. et al. ("220 MHz Licensees"). SMR Advisory Group, L.C. ("SMR Advisory") did not reference AMTA's Comments, but the company has been an active participant in the Association's 220 MHz Council and recommended a position identical to AMTA's.

recommended by AMTA. In fact, the Association recommends inclusion of ComTech's recommendations in the event the FCC adopts its original proposal.

Neither Incom Communications Corporation ("Incomco") nor the Personal Communications Industry Association ("PCIA") referenced AMTA's proposal. Rather, both recommended modifications of the FCC's approach, suggestions intended to provide greater flexibility for Phase I licensees should the agency's plan be adopted. Incomco advocated a protected contour of either 32 dBu or, at a minimum, 60 kilometers on the basis that real world experience indicated that 220 MHz systems had a service contour greater than that reflected in the FCC's proposal. Incomco Comments at p. 6. Incomco proposed that the Commission permit Phase I licensees to modify by relocating up to 30 kilometers from their authorized site, provided that the 120 kilometer co-channel separation is maintained at the proposed site. *Id.* at p. 7. PCIA indicated that it believed the use of a 28 dBuV/m interference contour would be a more appropriate standard for this proceeding, but stated that it would reserve its comments on the FCC's proposed use of the 38 dBuV/m contour until it completed a technical review. PCIA Comments at pp. 3-4.

It does not appear that any of these individual positions are necessarily inconsistent with the Association's proposal. All advocate increased flexibility and protection for Phase I licensees. None supported the FCC's proposal in its current form. AMTA anticipates that an even broader industry consensus may be evidenced at the Reply Comment stage of this proceeding.

The Association's proposal has elicited broad support from the 220 MHz industry.

It addresses each of the concerns raised by the Commission in terms of avoidance of mutual exclusivity, simplicity and speed of implementation. It would allow Phase I licensees some opportunity to respond to the changed circumstances which have arisen since their applications were filed almost five years ago, although far less latitude than has been afforded every other class of FCC licensee. Adoption of this proposal will neither delay nor devalue the 220 MHz auctions the FCC has already scheduled for next year. Rather, it will allow a promising industry to reach a level of development that is likely to attract potential bidders and investors

For the reasons described herein, AMTA urges the Commission to adopt the modified 220 MHz proposal described in its Comments and herein.

CERTIFICATE OF SERVICE

I, Cheri Skewis, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this 27th day of September, 1995, placed in the United States mail, first class postage pre-paid, a copy of the foregoing Reply Comments to the following:

*Chairman Reed E. Hundt
Federal Communications Commission
1919 M Street, NW, Room 814
Washington, DC 20554

*Commissioner James H. Quello
Federal Communications Commission
1919 M Street, NW, Room 802
Washington, DC 20554

*Commissioner Andrew C. Barrett
Federal Communications Commission
1919 M Street, NW, Room 826
Washington, DC 20554

*Commissioner Rachelle B. Chong
Federal Communications Commission
1919 M Street, NW, Room 844
Washington, DC 20554

*Commissioner Susan Ness
Federal Communications Commission
1919 M Street, NW, Room 832
Washington, DC 20554

*Regina Keeney, Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW, Room 5002
Washington, DC 20554

*John Cimko, Jr., Chief
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW, Room 5002
Washington, DC 20554

*Larry Atlas
Associate Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW, Room 5002
Washington, DC 20554

*Martin D. Liebman
Engineer
Policy Division
Wireless Telecommunications Bureau
Federal Communications Commission
2025 M Street, NW, Room 5202
Washington, DC 20554

Mark J. Golden
Vice President, Industry Affairs
Personal Communications Industry
Association
1019 19th Street, NW, Suite 1100
Washington, DC 20036

Alan S. Tilles, Esq.
David E. Weisman, Esq.
Meyer, Faller, Weisman and
Rosenberg, P.C.
4400 Jenifer Street, NW, Suite 380
Washington, DC 20015
Counsel for Personal Communications
Industry Association

Russell H. Fox, Esq.
Gardner, Carton & Douglas
1301 K Street, NW
Suite 900, East Tower
Washington, DC 20005
Counsel for E.F. Johnson Company
and Comtech Communications, Inc.

William J. Franklin, Esq.
1919 Pennsylvania Avenue, NW
Suite 300
Washington, DC 20006-3404
Counsel for Roamer One, Inc.

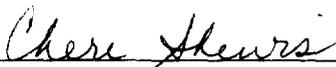
Thomas J. Keller, Esq.
Verner, Liipfert, Bernhard,
McPherson and Hand, Chartered
901 15th Street, NW
Suite 700
Washington, DC 20005-2301
Counsel for SEA, Inc.

Laura C. Mow, Esq.
Hunter & Mow, P.C.
1620 I Street, NW
Suite 701
Washington, DC 20006
Counsel for SMR Advisory Group, L.C.

David J. Kaufman, Esq.
Scott C. Cinnamon, Esq.
Brown Nietert & Kaufman, Chartered
1920 N Street, NW, Suite 660
Washington, DC 20036
Counsel for Incom Communications Corp.

Dennis C. Brown, Esq.
Brown and Schwaninger
1835 K Street, NW, Suite 650
Washington, DC 20006
Counsel for Fred Danial
d/b/a Orion Telecom

Robert A. Fay
President
Police Emergency Radio Services, Inc.
82 Herbert Street
Framingham, MA 01701



Cheri Skewis

* By Hand Delivery