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

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

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

Regulatory Treatment of Mobile Services )  
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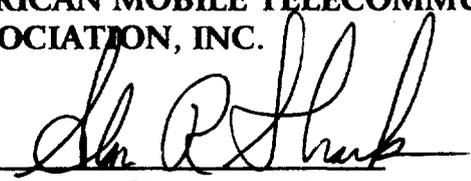
Implementation of Section 309(j) of the )  
Communications Act -- Competitive ) PP Docket No. 93-253  
Bidding, 220-222 MHz )

To: The Commission

REPLY COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.

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October 12, 1995

No. of Copies rec'd 009  
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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>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</b>	) ) ) )	PR Docket No. 89-552 RM-8506
<b>Implementation of Sections 3(n) and and 332 of the Communications Act</b>	) )	GN Docket No. 93-252
<b>Regulatory Treatment of Mobile Services</b>	)	
<b>Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, 220-222 MHz</b>	) ) )	PP Docket No. 93-253

To: The Commission

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

I. The American Mobile Telecommunications Association, Inc. ("AMTA" or the "Association"), pursuant to Section 1.415 of the Federal Communications Commission ("FCC" or the "Commission") Rules and Regulations, 47 U.S.C. § 1.415, respectfully submits its Reply Comments in the above-entitled proceeding.<sup>1</sup> Overall, the Comments filed by the various parties to this proceeding were consistent with those filed by AMTA. These Reply Comments focus on the protection of incumbent licensees, AMTA's support for commenters concerned about proposed secondary authorizations where there are primary operations in the 220-222 MHz band, and other

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<sup>1</sup> *Second Memorandum Opinion and Order and Third Notice of Proposed Rulemaking*, PR Docket No. 89-552, 10 FCC Rcd \_\_\_\_ (1995)("Notice" or "NPR").

issues addressed in the NPR.

**I. Protection of Incumbent Systems**

2. In the NPR, the Commission proposed protection of incumbent operators' 38 dBu contours. NPR at ¶ 99. The proposed protection standard was presumably based on hypothetical data compiled prior to the commencement of system operations in the real world.

3. In its Comments on the NPR, AMTA stated that the Commission's proposed rules would not provide adequate protection for Phase I licensees. As AMTA and several other commenters detailed, Phase I licensed stations are significantly outperforming original expectations.<sup>2</sup> The Commission's revised Rules for the 220-220 MHz service should reflect actual performance.

AMTA's Comments indicated that the Association would include a specific proposal for incumbent protection in these Reply Comments.

4. Several commenters agree that greater protection is needed for Phase I systems.<sup>3</sup> After reviewing the Comments filed and following further discussions of its 220 MHz Council, AMTA supports those commenters advocating the adoption of a 28 dBu signal strength standard, with Phase II

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<sup>2</sup> As pointed out by Roamer One, Inc., use of a 38 dBu contour will fail to protect more than one-half of a typical Phase I licensee's service area, with the potential result of severe interference problems and administrative litigation. Comments of Roamer One, Inc. at 5-6.

<sup>3</sup> See Comments of E.F. Johnson Company at 7; Comments of Michael R. Kelley at 4-5; Comments of Incom Communications Corporation; Comments of Roamer One, Inc.; Comments of ComTech Communications, Inc. at 14.

licensees not to exceed 28 dBu at the Phase I licensee's 28 dBu contour.<sup>4</sup>

AMTA recommends that the current co-channel separation requirement of 120 km be maintained, except in situations where parties have reached voluntary agreements to operate in closer proximity.

5. Protection of the incumbent's 28 dBu contour will provide existing systems with an estimated average signal radius of approximately 60 km, or 37 miles. This represents a much more realistic picture of incumbents' reliable service areas, even when operating at ERP levels far below those authorized. At the same time, allowing Phase II licensees to provide a signal strength of 28 dBu at borders will provide signal parity between existing and new licensees.

6. As pointed out by several commenters, the FCC revised hypothetical service area data for the cellular radio service to reflect real world experience. Similar revision to its Rules is needed here to reflect the actual performance of 220 MHz technology as currently licensed and operating.

## **II. Secondary Authorizations**

7. AMTA supports those commenters questioning the advisability of secondary authorizations in the 220-222 MHz band.<sup>5</sup> Where primary licensees are actively operating, secondary authorizations, even at low power

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<sup>4</sup> AMTA refers the Commission especially to the data on this issue provided in the Comments of ComTech Communications, Inc.

<sup>5</sup> See, Comments of E.F. Johnson Company at 5-6; Comments of ComTech Communications, Inc. at 8.

levels, have the potential to cause interference to primary systems. While secondary operations are authorized only on a non-interference basis, location and resolution of interference problems can be costly and time-consuming, as well as administratively burdensome to the Commission. AMTA therefore echoes commenters' suggestions that entities wishing to offer secondary fixed services be required to enter into an agreement with any primary licensees potentially affected by secondary operations.<sup>6</sup>

### **III. Channel Assignment**

8. The NPR sought comment on whether contiguous channel block assignments would be preferable to the interleaved channels now allocated for trunked operations in the 220-222 MHz band. NPR at ¶ 65. AMTA's Comments recommended that the FCC not attempt to create contiguous channel blocks from the 100 non-nationwide frequencies now assigned on a non-contiguous basis. Other commenters agree.

9. As Securicor points out,<sup>7</sup> drastically re-allocating frequencies between Phase I and Phase II licensees would lead to a chaotic band environment: incumbents would have to look to multiple Phase II licensees for interference protection, while Phase II licensees would have to coordinate engineering and construction of their systems with a multitude of existing system operators.

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<sup>6</sup> See, Comments of E.F. Johnson at 5-6.

<sup>7</sup> Comments of Securicor Radiocom, Ltd. at 12-13.

Generally, licensees attempting to use contiguous channel blocks for trunked operations suffer serious combiner loss.<sup>8</sup> Moreover, those incumbents planning to expand their current systems through participation in Phase II auctions would be unable to gain a license with any resemblance to their current channel plan. They would experience significant difficulty in coordinating existing and new portions of their systems, leading to loss of potential customers.

10. The Association notes that non-nationwide channels 171-180 and 186-200 are currently allocated for non-trunked use. The Association suggests that, with the elimination of use restrictions (such as “data-only”) on these channels, they could be assigned on a contiguous basis for those potential Phase II licensees desiring such operations. AMTA otherwise concurs with commenters urging that existing channel separation be maintained.<sup>9</sup>

11. Generally, commenters agreed, as did the Association, with the Commission’s proposed division of non-nationwide channels into regional and Bureau of Economic Analysis Economic Area (“EA” or “BEA”) -based allocations. A viable 220-222 MHz system will require more than five, and in many cases, more than ten channels, to be competitive with other services. AMTA’s Comments therefore recommended larger regional and BEA channel blocks than

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<sup>8</sup> See, Comments of Personal Communications Industry Association (PCIA) at 7-8.

<sup>9</sup> See, Comments of Securicor; Comments of E.F. Johnson at 4-5; Comments of PCIA at 8.

those proposed by the FCC: 2 regional blocks of 30 channels each, and 2 10-channel and 3 15-channel blocks to be licensed on an BEA basis. AMTA believes that blocks of this size are the minimum necessary to make operations feasible; regional systems, especially, will need more channels to justify the expense involved in constructing a system over such a large area. Several commenters indicated support for larger channel blocks than those the FCC proposed, if not AMTA's specific channel block proposal.<sup>10</sup> The Association recommends that current non-nationwide, non-contiguous channel groups be combined to form these blocks, except where current allocations would allow contiguous blocks.

#### **IV. Disposition of Pending Applications**

12. The overwhelming majority of commenters discussing this issue agreed with AMTA that pending nationwide non-commercial and remaining non-nationwide applications should be processed under the rules in effect at the time of filing, and that the remaining licenses be awarded by lottery.<sup>11</sup>

13. As stated by several commenters, the 33 pending nationwide applications were filed in good faith; that they have not been processed and the licenses awarded in the years since is due only to Commission delay. To

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<sup>10</sup> See, Comments of SMR Advisory Group, L.C. at 14; Comments of the Personal Communications Industry Association at 9.

<sup>11</sup> See, Comments of the Industrial Telecommunications Association; Comments of the Ericsson Corporation; Comments of UTC; Comments of Global Cellular Communications, Inc.; Comments of the Washington Legal Foundation; Comments of Mtel Technologies, Inc.; Comments of 360 Mobile Data Joint Venture; Comments of Columbia Cellular Corporation, among others.

therefore effect a rules change, based only on subsequent changes in regulatory attitudes, is manifestly unfair and amounts to retroactive rulemaking.

14. AMTA also concurs with those commenters disagreeing with the Commission's contention that there is no perceived demand for non-commercial nationwide spectrum. The presence of 33 pending applications for four such licenses shows a continuing need for private, internal-use systems on the part of large corporations with specialized communications needs.<sup>12</sup>

AMTA concurs with the large number of commenters urging that remaining 220 MHz Phase I applications be processed under the rules in effect at the time of filing.

## V. Conclusion

15. AMTA continues to support the Commission's proposals in this proceeding as set forth in its Comments and further detailed in these Reply Comments. The proposed incumbent protection standard is inadequate, and should be expanded to reflect real-world experience, with signal parity allowed to Phase II licensees. While commenters, including AMTA, generally support many aspects of the Commission's proposal, adjustments should be made to ensure viable, competitive systems in this band without fears of harmful

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<sup>12</sup> To maintain a clear division between commercial and non-commercial spectrum, AMTA opposes the Commission's proposal to continue to allow non-commercial licensees to lease excess capacity on their systems. *See*, NPR at ¶ 71; *cf.*, Comments of UTC at 6.

interference or undue technical or administrative difficulties.

16. AMTA has represented the 220 MHz community throughout its long and sometime difficult regulatory history. Incumbent licensees, equipment manufacturers and other entities have made large investments in time and resources to create a viable industry. The Association now looks forward to continued growth and development in this frequency band. For the reasons described above, AMTA urges the Commission to proceed expeditiously to complete this proceeding consistent with the recommendations detailed 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 12th day of October, 1995, placed in the United States mail, first class postage pre-paid, a copy of the foregoing Reply Comments to the following:

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