

APPENDIX B

INITIAL REGULATORY FLEXIBILITY ANALYSIS

As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected impact on small entities of the policies and rules proposed in this Second Further Notice of Proposed Rule Making. Written public comments are requested on the IRFA.

Reason for Action: This rule making proceeding was initiated to secure comment on proposals for establishing a flexible regulatory scheme for the 800 MHz Specialized Mobile Radio (SMR) service that would promote efficient licensing and enhance the service's competitive potential in the commercial mobile radio marketplace. The proposals advanced in the Second Further Notice of Proposed Rule Making are also designed to implement Congress's goal of regulatory symmetry in the regulation of competing commercial mobile radio services as described in Sections 3(n) and 332 of the Communications Act, 47 U.S.C. §§ 153(n), 332, as amended by Title VI of the Omnibus Budget Reconciliation Act of 1993 (Budget Act). The Commission also seeks to adopt rules regarding competitive bidding for the remaining 800 MHz SMR spectrum based on Section 309(j) of the Communications Act, 47 U.S.C. § 309(J), which delegates authority to the Commission to use auctions to select among mutually exclusive initial applications in certain services, including 800 MHz SMR.

Objectives: The Commission proposes changes to its rules for the 800 MHz SMR service that are intended to promote the growth of traditional local SMR service and emerging geographic area SMR services, and to enhance the ability of all SMR providers to compete in the larger commercial mobile services market. Specifically, the Commission seeks to designate both contiguous and non-contiguous spectrum in the 800 MHz SMR band for use by smaller SMR systems to provide opportunities for those that seek to provide local niche services as well as those that seek to provide service on a geographic area basis. It also seeks to encourage more efficient use of spectrum in congested areas and to accommodate technologically advanced systems. Finally, the Second Further Notice of Proposed Rule Making seeks to establish a new licensing mechanism for the 800 MHz SMR service that will significantly streamline the processing of applications, reducing the administrative burden for both applicants and the Commission.

Legal Basis: The proposed action is authorized under the Budget Act, Pub. L. No. 103-66, Title VI, §6002, and Sections 2(a), 3(n), 4(i), 302, 303(g), 303(r), 309(i), 309(j), 332(a), 332(c), and 332(d) of the Communications Act of 1934, 47 U.S.C. §§ 152(a), 153(n), 154(i), 302, 303(g), 303(r), 309(i), 309(j), 332(a), 332(c) and 332(d), as amended.

Reporting, Recordkeeping, and Other Compliance Requirements: Under the proposal contained in the Further Notice of Proposed Rule Making, SMR licensees who obtain geographic area licenses may be required to report information regarding location of their facilities and coverage of their service areas. SMR applicants seeking treatment as "designated entities" may also be subject to reporting and recordkeeping requirements to

demonstrate compliance with our competitive bidding rules.

Federal Rules Which Overlap, Duplicate or Conflict With These Rules: None.

Description, Potential Impact, and Number of Small Entities Involved: The Second Further Notice of Proposed Rule Making potentially affects numerous small entities already operating 800 MHz SMR systems on frequencies that would be designated for geographic area licensing. The Second Further Notice of Proposed Rule Making tentatively concludes that existing licensees on these frequencies should be allowed to continue operating under their existing authorizations. The competitive bidding proposals contained in the Second Further Notice of Proposed Rule Making also could affect small entities seeking initial licenses in the 800 MHz SMR service. The Second Further Notice of Proposed Rule Making proposes special provisions in the Commission's auction rules to benefit small businesses. After evaluating comments filed in response to the Second Further Notice of Proposed Rule Making, the Commission will examine further the impact of all rule changes on small entities and set forth its findings in the Final Regulatory Flexibility Analysis.

Significant Alternatives Minimizing the Impact on small Entities Consistent with the Stated Objectives: This Second Further Notice of Proposed Rule Making solicits comment on a variety of alternatives. Any additional significant alternatives presented in the comments will also be considered.

IRFA Comments: We request written public comment on the foregoing Initial Regulatory Flexibility Analysis. Comments must have a separate and distinct heading designating them as responses to the IRFA and must be filed by the deadlines provided in paragraph 409 of the First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making.

APPENDIX C

LIST OF COMMENTERS

Advanced Communications, Inc. (ACI)
Advanced MobileComm, Inc. (Advanced MobileComm)
Air Waves Communications, Inc.
American Industrial & Marine Electronics, Inc. (AI&ME)
American Mobile Telecommunications Association (AMTA)
American Petroleum Institute (API)
American SMR Company L.C. (American SMR)
Anheuser-Busch Companies, Inc. (Anheuser-Busch)
Applied Technology Group, Inc. (Applied Technology)
Bill Ashby
Association of Public-Safety Communications Officials-International, Inc. (APCO)
Atlantic Cellular Company L.P. (Atlantic Cellular)
Automated Business Communications (ABC)
B & C Communications (B & C)
Bis-Man Mobile Phone, Inc. (Bis-Man)
Bolin Communication Systems (Bolin)
Douglas L. Bradley & Dennis Hulford (Bradley & Hulford)
Brandon Communications, Inc. (Brandon)
August Bert Carver T/A Action Radio (Carver)
Cellcall, Inc. (Cellcall)
The Cellular Telecommunications Industry Association (CTIA)
Centennial Telecommunications, Inc. (Centennial)
Chadmoore Communications, Inc. (Chadmoore)
Communications Center, Inc. (CCI)
Communications, Inc.
Communications Unlimited, Inc. (CUI)
The Council of Independent Communication Suppliers (CICS)
Courtesy Communications (Courtesy)
Cumulous Communications Corp. (Cumulous)
Dakota Electronics (Dakota)
DCL Associates, Inc. (DCL)
Deck Communications, Inc. (Deck)
Delta Communications, Inc. (Delta)
Dial Call Communications, Inc. (Dial Call)
Diamond "L" Industries, Inc. (Diamond "L")
Don Clark Radio Communications, Inc. (Don Clark Radio)
Dru Jenkinson, Inc., (Dru Jenkinson, *et al.*)
 Jana Green, Inc.
 Shelly Curtright, Inc.
Eden Communications, Inc. (Eden)
E.F. Johnson Company (EF Johnson)
Entergy Services, Inc. (Entergy)

Ericsson Corporation (Ericsson)
E.T. Communications Co. (ET Communications)
Robert Fetterman d/b/a R.F. Communications (Fetterman)
Fisher Communications, Inc. (Fisher)
Freedom Mobile Communication, Inc.
Fresno Mobile Radio, Inc. (Fresno)
Genesee Business Radio Systems, Inc. (Genesee)
Gulf Coast Radiofone (Gulf Coast)
Industrial Communications & Electronics, Inc. (IC&E)
Industrial Telecommunications Association, Inc. & The Alliance of Private 800/900 MHz Licensees (ITA)
Joriga Electronics, Inc. (Joriga)
James A. Kay, Jr. (Kay)
Keller Communications, Inc. (Keller)
Lagorio Communications (Lagorio)
Kevin Lausman d/b/a Communications Service Center (Lausman)
Link Communications, Inc.
Thomas Luczak (Luczak)
Madera Radio Dispatch, Inc. (Madera)
McCaw Cellular Communications, Inc. (McCaw)
Morris Communications, Inc. (Morris)
Motorola, Inc. (Motorola)
NashTel, L.L.C. (NashTel)
National Telephone Cooperative Association (NTCA)
Nextel Communications, Inc. (Nextel)
Nielson Communications, Inc. (Nielson)
Nodak Communications, Inc. (Nodak)
Onecomm Corporation (OneComm)
Organization for the Protection and Advancement of Small Telephone Companies (OPASTCO)
Palmer Communications Incorporated (Palmer)
Parkinson Electronics Company, Inc., (Parkinson, *et al.*)
 Banks Tower Communications, Ltd.
 Speed-Net
 Peacock's Radio
 Wild's Computer Service, Inc. & Mobile Relays, Inc.
Personal Communications Industry Association (PCIA)
Pierre Radio Paging & Telephone Inc. (Pierre Radio)
Pittencrief Communications, Inc. (Pittencrief)
L. Clark Phillips II
Pro Tec Mobile Communications, Inc. (Pro-Tec)
Radio Communications Center (RCC)
Raserco, Inc. (Racerco)
Rayfield Communications, Inc. (Rayfield)
Russ Miller Rental (Russ Miller)
Sierra Electronics

SMR Small Business Coalition (Coalition)
SMR WON
Marc Sobel d/b/a Airwave Communications (Sobel)
The Southern Company (Southern)
Southern Minnesota Communications, Inc. (SMCI)
Spectrum Resources, Inc. (Spectrum)
C.T. Spruill
Rod Stalvey d/b/a Stalvey Communications (Stalvey)
Supreme Radio Communications, Inc. (Supreme Radio)
Catherine Sutter
Telecellular de Puerto Rico, Inc. (Telecellular)
T & K Communications Systems, Inc. (T & K)
Total Com, Inc. (Total Com)
Triangle Communications, Inc. (Triangle)
U.S. Small Business Administration (SBA)
United States Sugar Corporation (US Sugar)
UTC, The Telecommunications Association (UTC)
Vanguard Cellular Systems, Inc. (Vanguard)
Vantek Communications, Inc. (Vantek)
Wiztronics, Inc. (Wiztronics)

LIST OF REPLY COMMENTERS

4X Corporation
Advanced MobileComm, Inc.
American Mobile Telecommunications Association
Anheuser-Busch Companies, Inc.
Applied Technology Group, Inc. (Applied)
Cellcall, Inc.
Council of Independent Communications Suppliers
Cumulous Communications Corp.
DCL Associates, Inc.
Dial Call Communications, Inc.
Eden Communications, Inc.
E.F. Johnson Company
Entergy Services, Inc. (Entergy)
Ericsson Corporation
Robert Fetterman d/b/a R. F. Communications
Fisher Communications, Inc.
Fresno Mobile Radio, Inc.
Genesee Business Radio Systems, Inc.
Industrial Communications & Electronics, Inc. (IC&E)
Industrial Telecommunications Association, Inc. & The Alliance of Private 800/900 MHz Licensees
Joint Commenters (Joint Commenters)
 Radio Communications Center
 Deck's Communications, Inc.
 Air Communications, Inc.
 North Plains Communications, Inc.
 Alan Johansen d/b/a Al's Radio & Marine Electronics
 Control Communications Corp.
 Stan's Communications, Inc.
 Triangle Communications, Inc.
 General Communications, Inc.
 Nielson communications, Inc.
 Allied Radio Communications, Inc.
 Southern Minnesota Communications, Inc.
 Industrial Electronics, Inc.
 Mobile Communications of Miami, Inc.
 T & K Communications Systems, Inc.
 Intermountain Communications of Southern Idaho, Inc.
 Platte Valley Communications, Inc.
 Bill Wayne d/b/a Mr. Radio
 Robert Fetterman d/b/a R. F. Communications
 XW Corporation
 Radicom, Inc.
 Mobile Relay Associates, Inc.

Coast Communications, Inc.
Graybill Electronics, Inc.
Elder's Radio Communications
Lee's Two-Way Radio, Inc.
Electronic Specialists, Inc.
Radio Communications of Cary, Inc.
Hinds & Campbell Properties, Inc.
Almar Communications, Inc.
Three-Way Communications, Inc.
Knight's Communications, Inc.
IDA Corporation
RCM, Inc.
Wecom, Inc.
Atlantic Communications, Inc.
South Central Radio, Inc.
Trident, Inc.
Future Communications, Inc.
Keane Communications, Inc.
Stone's Mobile Radio, Inc.
Hendrix Electronics, Inc.
Solar Communications, Inc.
SMR Services, Inc.
Delta Communications, Inc.
California Trunking, Inc.
Felder Communications, Inc.
B & C Communications, Inc.
J. G. Boswell Company

James A. Kay, Jr.
Edward H. Lachowicz
Lagorio Communications
Thomas Luczak
Madera Radio Dispatch, Inc.
Motorola, Inc.
Nextel Communications, Inc.
OneComm Corporation
Personal Communications Industry Association
John H. Phipps d/b/a Porta-Phone (Phipps)
Pittencrief Communications, Inc.
Polar Communications Mutual Aid Corporation (Polar)
Pro-Tec Mobile Communications, Inc.
Qualicom Systems, Inc. (Qualicom)
Racom, Inc. et al.
Racom, Inc.
Parkinson Electronics Company, Inc.
Banks Tower Communications, Ltd.
Speed-Net

Peacock's Radio and Wild's Computer Service, Inc.
Mobile Relays, Inc.
Rayfield Communications, Inc.
North Sight Communications, Inc.
Tri-Communications, Inc.
Morris Communications, Inc.
Fred Burg d/b/a Fred Burg Communications
Beam Radio, inc.
Savin and Hill Company (Participation withdrawn by attorney letter dated 3/23/95)
Skyline Communications, Inc.
James W. Bayne d/b/a Bayne Systems
Bert Carver
Mobile Radio Dispatch, Inc.
Radiowave Communications, Inc.
Anderson Communications, Inc.
Ten-Four Communications, Inc.
Russ Miller Rental
SMR WON
The Southern Company
Spectrum Resources, Inc.
Supreme Radio Communications, Inc.
Telecellular de Puerto Rico, Inc.
T & K Communications, Inc.
Triangle Communications, Inc.
U.S. Small Business Administration
United States Sugar Corporation
UTC
Voice Link Communications (Voice Link)

LIST OF EX PARTE COMMENTERS

American Mobile Telecommunications Association, Inc. (filed Feb. 23, 1995)
American Mobile Telecommunications Association, Inc. (filed Sept. 29, 1995)
Auto-Comm Engineering Corporation (filed Feb. 10, 1995)
Auto-Comm Engineering Corporation (filed Sept. 27, 1995)
California Trunking (filed Oct. 3, 1995)
Federal Express Corporation (filed Sept. 29, 1995) (FedEx)
Fresno Mobile Radio, Inc. (filed Oct. 3, 1995)
 Ernst Concrete & Supply Company
 Columbia Communications, Inc., of Kennewick, WA
 Communicom of York, PA
Future Communications USA, Inc. (filed Oct. 3, 1995)
Group of 66 (filed Sept. 29, 1995) (Group of 66)
 Fresno Mobile Radio, Inc.
 Madera Radio Dispatch, Inc.
 Applied Technology Group, Inc.
 G & K Rentals of Bakersfield
 Alpha Radio Service of Bakersfield
 Cumulous Communications Corporation of Fresno
 McGee Communications Electronics, Inc.
 Ray's Radio, Inc.
 Eden Communications, Inc.
 X. W. Corporation d/b/a John Mitchell Company
 Mobile U.H.F., Inc. of Garden Grove
 A-1-A Security & Communications of Westminster
 Anderson Communications Corporation of Palm Desert
 Wise Electronics, Inc.
 Communications Licensing Consultant
 Radio Link Company
 Silke Communications, Inc.
 Pro Tec Mobile Communications, Inc.
 Gila Electronics of Yuma
 Durham Communications, Inc.
 GSC Electric & Communications
 Specialty Communications
 Omni Range Communications
 Bran-Dex Wireline Services, Inc.
 Communications Center, Inc. of Pierre, South Dakota
 Dakota Electronics
 Dave Fant Company d/b/a Oklahoma Radio Systems
 Leon's Radio, Inc.
 CommNet Communications Network, Inc.
 Communications Center, Inc. of Covington, Louisiana
 Viking Communications, Inc.
 Communications Electronics

Air Communications of Central Wisconsin, Inc.
JSM Systems, Inc.
4X Corporation of Appleton, Wisconsin
Supreme Radio Communications, Inc.
Craig Antenna Service
DeltaCom, Inc.
Electronic Communications Company
Midcom Service
General Communications Company
Johnson Repeater Company
Kay Communication
State Systems Radio, Inc.
Mobile Communications Corporation
Domer Communications, Inc.
E. A. Henson
Donald R. Nelsch d/b/a Donnel Communications
Memphis 3rd Mobile Associates
Robert J. Fetterman d/b/a R.F. Communications
LMR International, Inc.
Mid Atlantic Communications, Inc.
LandAir Communications & Electronics, Inc.
Business Autophones, Inc.
Valley Communications of Union Hall, Virginia
Specialty Electronics Systems Company, Inc.
Piedmont Electronics Company
VA-KY Communications
CoastCom, Inc.
Communications Service Center
T & K Communications, Inc.
Genesee Business Radio Systems, Inc.
Allstate Mobile Communications Corporation
JPJ Electronic Communications, Inc.
Furman Communications, Inc.
Utility Communications, Inc.
Industrial Communications & Electronics, Inc. (filed Sept. 29, 1995)
Industrial Telecommunications Association, Inc. (filed Oct. 2, 1995)
Joint Utilities (filed Sept. 29, 1995) (Joint Utilities)
Baltimore Gas & Electric Company
Central & South West Services, Inc.
Consumers Power Company
Delmarva Power Company
Entergy Services, Inc.
Indianapolis Power and Light Company
Omaha Public Power District
Union Electric Company
Leflore Communications, Inc. (filed Nov. 1, 1994) (Leflore)

Louisville Two-Way Radio (filed Sept. 29, 1995) (Louisville)
Cynthia McGee (filed March 7, 1995)
Motorola, Inc. (filed Sept. 29, 1995)
Nextel Communications, Inc. (filed Sept. 29, 1995)
Personal Communications Industry Association (filed Sept. 29, 1995)
Pittencrief Communications, Inc. (filed by Sept. 29, 1995)
Sea Coast Communications, Inc. (filed by Sept. 29, 1995)
Sierra Electronics (filed by April 19, 1995)
SMR Operators (filed Sept. 29, 1995) (SMR Operators)
 Leflore Communications, Inc.
 Bert Carver
 Banks Tower Communications, Ltd.
SMR Operators 3 (filed Oct. 3, 1995) (SMR Operators 3)
 XW Communications, Inc.
 B & C Communications, Inc.
 Mobile Communications Service of Miami, Inc.
 Nielsen Communications, Inc.
The Southern Company (filed Sept. 29, 1995)
Voice Link Communications (filed Oct. 2, 1995)
 Graybill Electronics, Inc.
Wiztronics, Inc. (filed Sept. 28, 1995)

SEPARATE STATEMENT

OF

COMMISSIONER ANDREW C. BARRETT

Re: Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band

By this Order, the Commission has made some difficult decisions involving the future of 800 MHz Specialized Mobile Radio ("SMR") service. Throughout this proceeding, I have been concerned about the impact of any Commission action on the small business incumbents. I commend the Wireless Telecommunications Bureau's (the "Bureau") efforts to include the SMR industry in the decision-making process so as to make certain that the concerns of industry players, and in particular, incumbents were heard and addressed by the Commission.

Technological advances have given SMR providers the ability to compete against cellular and personal communications services (PCS) competitors through wide service areas. While I have always believed that there is much good that is derived from small businesses in the marketplace, I have also believed that the consumer should have the opportunity to receive the most innovative services possible. In this case, I believe that the Commission has managed to develop a way by which small SMR providers will be able to compete in the auction for licenses in the upper 10 MHz through the use of installment payment provisions. Moreover, I believe that the Commission's proposal for the lower eighty (80) and General Category channels will provide smaller incumbents with the opportunity to also provide enhanced services as well. Thus, I support this Order because of the significant input that has been received from the industry as reflected in the delicate balance which has been struck between the Commission's objectives for nurturing an environment for the development of enhanced services and the incumbents' needs so that they may continue to provide many of the traditional SMR services.

To that end, I welcome the opportunity to review the comments with regard to the definition of comparable facilities, which I believe will be critical to the proper relocation of the incumbents. And as a result of this Order, I look forward to the further growth of the SMR industry as a direct competitor to cellular service and PCS.