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FEDERAL COMMUNICATIONS COMMISSION
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February 22, 1996

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

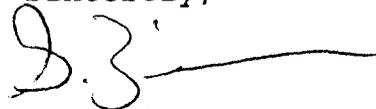
DOCKET FILE COPY ORIGINAL

Dear Mr. Caton:

On Thursday, February 21, the Association of American Railroads submitted Supplemental Reply Comments in PR Docket No. 92-235 which mistakenly omitted three attachments. Please accept a new copy of the Supplemental Reply Comments with the necessary attachments for inclusion in the docket file.

If there are any questions regarding this matter, please contact the undersigned.

Sincerely,



Sari Zimmerman

Attachment

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
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Replacement of Part 90)
by Part 88 to Revise the)
Private Land Mobile)
Services and Modify the)
Policies Governing Them)
)
and)
)
Examination of Exclusivity)
and Frequency Assignment)
Policies of the Private)
Land Mobile Radio Services)

PR Docket No. 92-235

To: The Commission

**Supplemental Reply Comments of
The Association of American Railroads**

The Association of American Railroads (AAR), by its undersigned counsel and pursuant to Section 1.415 of the Rules of the Federal Communications Commission (FCC), hereby submits this supplemental reply in the above-captioned proceeding. This supplemental reply addresses statements made regarding railroad use of radio frequencies in the joint reply comments submitted by the Personal Communications Industry Association, Industrial Telecommunications Association, Alliance of Motion Picture and Television Producers, Newspaper Association of America and the Telephone Maintenance Frequency Advisory Committee ("PCIA/ITA").^{1/}

PCIA/ITA, in an attempt to show that separate service allocations are no longer appropriate, stated that at the time the FCC allocated frequencies for the Railroad Radio

^{1/} Reply Comments of PCIA/ITA in PR Docket No. 92-235 (filed January 16, 1996).

Service in 1949, there were 131 major railroads in operation in the country.^{2/} PCIA/ITA went on to suggest that, because the number of major railroads in operation has decreased, the Railroad Radio Service is now a "historical anomal[y]" and reflects "outdated allocation philosophies."^{3/}

This suggestion is misleading in several ways. First, while the railroads may originally have planned their frequency assignment on the assumption that each would have exclusive use of a designated frequency, that is clearly not the case today. As AAR demonstrated in its comments, railroads routinely travel over tracks operated by other railroad companies.^{4/} These track arrangements make the sharing of frequencies among railroads a necessity and add to the complexity of railroad frequency coordination.

Second, the correlation that PCIA/ITA attempted to draw between the number of "major" railroads and the need for frequencies is flawed. Today over 500 railroads rely on radio communications in the daily operation of their business. This figure, which includes 12 Class I railroad systems, 32 regional railroads and 487 "short line" or local railroads, dwarfs the railroad radio usage that existed in 1949.^{5/} In addition, there is a very large number of local and regional transit companies such as Washington Metro, New York Port

^{2/} Id. at 5. By "major" PCIA/ITA appear to be referring to Class I railroads. See General Mobile Radio Service, 13 FCC 1190, 1203 (1949). Railroads are divided into classifications based on their operating revenue, as adjusted annually for inflation. For example, for 1994, the revenue threshold for Class I railroads was \$255.9 million or more; Class II railroads had revenues of \$20.5 million to \$255.8 million; and Class III railroads had revenues of less than \$20.5 million. Railroad Facts: 1995 Edition, Association of American Railroads at 3.

^{3/} PCIA/ITA at 5.

^{4/} Comments of AAR in PR Docket No. 92-235 (filed November 20, 1995) at 20.

^{5/} Railroad Facts: 1995 Edition at 3.

Authority, Southeast Pennsylvania Transit Authority and Virginia Rail Express, which also use frequencies allotted to the Railroad Radio Service. In short, PCIA/ITA completely ignored this significant increase in the overall use of railroad radio communications since 1949.

Third, PCIA/ITA's conclusion that "[t]he inequities in the existing allocation tables are the result of historical anomalies and outdated allocation philosophies," is clearly not true for the railroads. The statement ignores not only the increase in the overall number of railroads that currently use radio, but also, and most importantly, it ignores the critical safety considerations that led to the creation of the Railroad Radio Service in the first place. As the FCC itself stated in 1949,

a properly engineered railroad radio service would contribute to the safety of life and property, both in preventing rail accidents and in reducing the seriousness of injury and damage after accidents, by permitting the prompt summoning of aid.^{6/}

The continuing vitality and force of this allocation rationale was documented in pleadings filed by AAR in this proceeding as well as in the filings submitted by the Federal Railroad Administration (FRA), the National Transportation Safety Board (NTSB), the Railway Association of Canada (RAC)^{7/}, as well as the numerous pleadings by various railroads. Indeed, the rail industry's need for reliable radio communications is even more imperative today than in 1949 due to the heightened demand for rail transportation, increased number of railroads and transit authorities using Railroad Radio Service frequencies, higher train speeds, and the increased density of rail operations.

^{6/} General Mobile Radio Service, 13 FCC at 1200 (emphasis added).

^{7/} See attached copies of submissions by NTSB, FRA and RAC.

Today the railroads rely minute-to-minute on mobile radio for a broad range of safety applications. Dispatch-to-train communications to ensure safe separation distances between trains are a classic example of the constant nature of railroad safety-related radio use. Indeed, many railroad safety-related radio applications, such as defect detectors, slave locomotive control and end-of-train devices, to name just a few, did not exist when the Railroad Radio Service was first created. All of these applications require extremely reliable communications in order to fulfill their safety role. Preservation of the Railroad Radio Service, therefore, continues to be of paramount importance to the public interest.

Respectfully submitted,

ASSOCIATION OF AMERICAN RAILROADS

By: 

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February 21, 1996

CERTIFICATE OF SERVICE

I, Bridget Y. Monroe, hereby certify that on this 21th day of February, 1996, copies of the foregoing "Supplemental Reply Comments of the Association of American Railroads" were mailed, first class postage prepaid to the following:

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