

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



MAR - 1 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )  
)  
Amendment of Part 90 of the )  
Commission's Rules to Facilitate )  
Future Development of SMR Systems )  
in the 800 MHz Frequency Band )  
)  
Implementation of Sections 3(n) )  
and 332 of the Communications Act -- )  
Regulatory Treatment of Mobile Services )  
)  
Implementation of Section 309(j) )  
of the Communications Act -- )  
Competitive Bidding )  
800 MHz SMR )

PR Docket No. 93-144  
RM-8117, RM-8030  
RM-8029

GN Docket No. 93-252

PP Docket No. 93-253

DOCKET FILE COPY ORIGINAL

**REPLY COMMENTS OF MOTOROLA, INC.**

Motorola, Inc., (Motorola) hereby submits this reply to the opening comments filed February 15, 1996, in response to the Commission's *Second Further Notice of Proposed Rule Making* in the above-captioned docket.<sup>1</sup>

As discussed below, Motorola urges the Commission to remain attuned to the critical spectrum needs of non-commercial mobile radio service (CMRS) licensees operating on the 230 channels that are the subject of this rule making (hereinafter "the 230 channels") as the agency formulates rules and policies to implement geographic

---

<sup>1</sup> Amendment of Part 90 of the Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, Implementation of Sections 3(n) and 332 of the Communications Act -- Regulatory Treatment of Mobile Services, Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, FCC Docket No. 95-501 (Dec. 15, 1995) (First Report and Order, Eighth Report and Order, and Second Further Notice of Proposed Rule Making) [hereinafter

licensing in this spectrum. In addition, Motorola supports those commenters, including the Joint Reply Comments of SMR WON, AMTA, and Nextel, who urge the Commission to enact a procedure that will permit incumbent licensees in the 230 channels to convert their existing authorizations to EA licenses prior to any auction of the 230 channels. In Motorola's view, the availability of such a process will serve the public interest by enabling the continued operation of incumbent licensees in the 230 channels while facilitating the implementation of commercial mobile radio service wide-area SMR systems.

**I. The Commission Must Recognize the Critical Spectrum Needs of Non-Commercial Mobile Radio Licensees and Ensure that Its Rules and Policies Protect the Viability of Non-Commercial Mobile Radio Service Eligibles.**

In developing a geographic licensing scheme for the 230 channels, Motorola urges the Commission to take into account the critical spectrum needs of non-commercial mobile radio systems operating on these channels. In what was the General Category -- now reallocated by the Commission to SMR/CMRS offerings -- several thousand non-CMRS licensees operate multi-site communications systems. Incumbent licensees on these channels -- both CMRS and *non*-CMRS -- must have their systems adequately protected. Additionally, non-CMRS incumbents must have sufficient spectrum to expand.

For example, a company such as Boeing contributes substantially to a positive balance of payments for the United States Government. Commission action that

seriously limits or eliminates the amount of spectrum available to meet Boeing's needs for internal communications requirements risks jeopardy to much more in our national well being than the profits of the company and its shareholders. The Commission cannot and should not lose sight of the broad impact its policies are likely to have on the national industrial output and it must ensure sufficient spectrum for the unique requirements of public safety entities, railroad and other mass transit operators, and critical industries.

The use of non-commercial internal communications systems allows eligible licensees in critical utility, railroad, public safety, industrial, and business segments of local, regional, and national economies to design non-commercial internal networks that satisfy their unique requirements for safety of operations, reliability, coverage, security, system configuration, and pre-emption of non-priority communications in times of crisis. In many cases, the requirements of non-commercial users simply cannot be satisfied by third party CMRS offerings and must be provided through independent, internal systems.<sup>2</sup>

---

<sup>2</sup> For example, Duke Power Company explained in its comments that some of its communications needs, such as emergency operations, systems service, and restoration activity, cannot be satisfied by a commercial system because of the necessity for high reliability. See Comments of Duke Power Company, PR Docket No. 93-144, at 11 (filed Feb. 15, 1996). Other private companies similarly require high reliability communications systems to ensure the safety of their business operations. See Comments of U.S. Sugar Corp., PR Docket No. 93-144, at 13; Comments of Entergy Services, Inc., PR Docket No. 93-144, at 6 (filed Feb. 15, 1996).

Consequently, the Commission should take appropriate steps to ensure that the geographic licensing scheme for the 230 channels adequately accommodates current and future demands of non-CMRS incumbents operating in this spectrum. Although the Commission has demonstrated an awareness of the needs of non-CMRS users by discontinuing further inter-category sharing of the Pool channels by SMRs,<sup>3</sup> it must also take into account that the Pool channels are already *heavily* utilized. To help satisfy the needs of non-CMRS licensees, Motorola urges the Commission to give these entities access to new spectrum to meet their future demands<sup>4</sup> and to allow non-CMRS incumbents to continue their existing operations.

**II. Motorola Supports the Adoption of a Settlement Process That Will Allow Lower Channel Incumbents To Secure Geographic Licenses on Their Existing Frequencies on a Channel-By-Channel, Pre-Auction Basis.**

The action taken by the Commission in this proceeding is the latest in a series of steps aimed at establishing a framework for the implementation of geographic area licensing of 800 MHz SMR systems. In the *First Report and Order*, the Commission adopted final technical and operational rules for wide-area, geographic licensees in the upper 200 SMR channels and delineated the rights of incumbent SMR licensees

---

<sup>3</sup> See *First Report and Order*, *Eighth Report and Order*, and *Second Further Notice*, at ¶ 141.

<sup>4</sup> See Coalition of Private Users of Emerging Multimedia Technologies, Petition for Rule Making (filed Dec. 23, 1993) ("COPE Petition"); see also NTIA Special Publication 95-34, Land Mobile Planning Options (Oct. 19, 1995); NTIA TM 94-160, National Land Mobile Spectrum Requirements (Jan. 1994).

operating on these frequencies.<sup>5</sup> In the *Eighth Report and Order*, the Commission adopted competitive bidding rules to be used to auction the upper 200 channels.<sup>6</sup> Finally, in the *Second Further Notice of Proposed Rule Making*, the Commission has proposed to license the 230 channels on a geographic basis, with mutually exclusive applications being resolved through the use of auctions.<sup>7</sup>

Several commenters responding to the proposed geographic licensing plan for the 230 channels suggest that the Commission will promote the most effective use of these channels by authorizing a pre-auction, channel-by-channel, EA-by-EA settlement process for the 230 channels. EA auctions would occur only after existing incumbent licensees on the 230 channels, including retunees from the upper 200 channels, have had an opportunity to "settle" their channels. If there is a single licensee on a channel throughout the EA, that licensee would be able to apply to the Commission and be awarded an EA license. If there are several licensees on a single channel throughout the EA, they would receive a single EA license for that channel under any agreed-upon business arrangement. Non-settling channels in the Lower 80 would be auctioned in 5-channel blocks; those in the General Category would be auctioned in three 50-channel

---

<sup>5</sup> *First Report and Order, Eighth Report and Order, and Second Further Notice*, at ¶¶ 9-142.

<sup>6</sup> *Id.* at ¶¶ 143-256.

<sup>7</sup> *Id.* at ¶¶ 257-403.

blocks.<sup>8</sup> Motorola agrees that the use of this process will serve the public interest by enabling the continued operation of incumbent licensees in the 230 channels while facilitating the implementation of CMRS wide-area SMR systems. Accordingly, Motorola urges the Commission to provide for such a procedure.

### **III. Conclusion**

As the Commission formulates a geographic licensing scheme for the 230 channels, Motorola urges the agency to remain responsive to the critical spectrum needs of non-CMRS entities. In addition, Motorola supports the Commission's ongoing efforts to revise its rules and policies to provide a framework for the development of wide-area, multi-channel SMR systems. As discussed above, Motorola believes that the successful implementation of such systems will be expedited if the Commission adopts the industry proposal set forth in the Joint Reply Comments of SMR WON, AMTA, and Nextel, for allowing incumbent licensees in the

---

<sup>8</sup> See Joint Reply Comments of SMR WON, AMTA, and Nextel Communications, Inc., PR Docket No. 93-144 (filed March 1, 1996). See also Comments of AMTA, PR Docket No. 93-144, at 19-20 (filed Feb. 15, 1996); Comments of Nextel, PR Docket No. 93-144, at 12-13 (filed Feb. 15, 1996); Comments of SMR WON, PR Docket No. 93-144, at 9-12 (filed Feb. 15, 1996).

impacted 230 channels to convert their existing authorizations to an EA license prior to any auction of this spectrum.

Respectfully submitted,

Motorola, Inc.

By: Mary E. Brooner  
Mary E. Brooner  
Manager, Wireless Regulatory  
Policies  
Corporate Government Relations  
1350 I Street, N.W.  
Suite 400  
Washington, D.C. 20005  
(202) 371-6900

Dated: March 1, 1996

## **CERTIFICATE OF SERVICE**

I, Robin Walker, hereby certify that on this 1st day of March, 1996, I caused true copies of the foregoing to be delivered to the following persons via hand delivery:

**Chairman Reed E. Hundt**  
Federal Communications Commission  
Suite 814  
1919 M Street, N.W.  
Washington, D.C. 20554

**Commissioner James H. Quello**  
Federal Communications Commission  
Suite 802  
1919 M Street, N.W.  
Washington, D.C. 20554

**Commissioner Andrew C. Barrett**  
Federal Communications Commission  
Suite 826  
1919 M Street, N.W.  
Washington, D.C. 20554

**Commissioner Rachelle B. Chong**  
Federal Communications Commission  
Suite 844  
1919 M Street, N.W.  
Washington, D.C. 20554

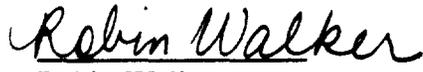
**Commissioner Susan Ness**  
Federal Communications Commission  
Suite 832  
1919 M Street, N.W.  
Washington, D.C. 20554

**Michele Farquhar, Acting Chief**  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Room 5002  
2025 M Street, N.W.  
Washington, D.C. 20554

Rosalind K. Allen  
Associate Bureau Chief  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Room 5002  
2025 M Street, N.W.  
Washington, D.C. 20554

David Furth, Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau  
Federal Communications Commission  
Room 7002  
2025 M Street, N.W.  
Washington, D.C. 20554

Gregory Rosston  
Deputy Chief Economist  
Office of Plans and Policy  
Federal Communications Commission  
Room 822  
1919 M Street, N.W.  
Washington, D.C. 20554

  
Robin Walker