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ORIGINAL

Before the

FEDERAL COMMUNICATIONS COMMISSION

Washington, DC 20054

RECEIVED

MAR 18 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 )  
 )  
 Idaho Communications )  
 Limited Partnership )  
 )  
 Robert E. Dettle )  
 )  
 Mobex Idaho, Inc. )  
 )  
 Applications for Extended )  
 Implementation of Wide Area )  
 Construction )  
 )  
 North Carolina )  
 Communications, Inc.; )  
 )  
 )  
 Applications for New SMR Wide )  
 Area Facilities and Extended )  
 Implementation )  
 )

PR Docket No. 93-144

File Nos. 675140, 680138,  
680191, 680192, 680193

File Nos. 666364, 680188

File Nos. 651991, 651994,  
651995

To: The Commission

PETITION FOR CLARIFICATION AND RECONSIDERATION

No. of Copies rec'd 044  
List ABCDE

Idaho Communications Limited Partnership (ICLP), Mobex Idaho, Inc., North Carolina Communications, Inc., (NCCI), and Robert Dettle ("Petitioners"), by counsel and pursuant to Section 1.106 of the Commission's rules, hereby requests clarification and reconsideration, to the extent necessary, of the First Report and Order in PR Docket No 93-144, released December 15, 1995, and published in the Federal Register on February 15, 1996.

Petitioners also seek clarification and reconsideration of the Wireless Telecommunications Bureau's Public Notice released just days ago, March 14, 1996, apparently in response to inquiries from licensees about the uncertain status of the October 31, 1995, SMR license grants and the fact that licenses have not yet been issued.<sup>1/</sup> Petitioners are directly affected by the Order and Public Notice, and have standing to seek clarification and reconsideration.

I. Facts Presented.

On or about December 17, 1993, NCCI filed, for itself and its managed facilities, applications and an associated "Request for Extended Implementation Authorization"<sup>2/</sup> to upgrade

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<sup>1/</sup> Public Notice, "Wireless Telecommunications Bureau Provides Guidance to 800 Mhz SMR applicants Granted Authorizations on October 31, 1995", DA 96-362, (March 14, 1996) attached hereto as Attachment A.

<sup>2/</sup> "Request for Extended Implementation Authorization for Wide Area Digital Specialized Mobile Radio ("SMR") Network comprised of 800 Mhz facilities licensed under call signs: WNRU279,  
(continued...)

its existing SMR System in North Carolina. Similarly, on August 8, 1994, ICLP filed a "Request for Extended Construction and Rule Waivers" in connection with the above referenced applications for itself and managed licenses which comprised its system. These requests for extended implementation were specifically referenced and incorporated by reference in the applications. Representative references to the requests in the applications are attached as Attachment B. Incorporated within these applications were requests for extended five-year construction.<sup>3/</sup>

The applications listed in the caption to this Petition were granted on October 31, 1995.<sup>4/</sup> Pursuant to the Communications Act and relevant Commission rules, these grants became final and unappealable on December 1, 1995. Petitioners received no Petitions for Reconsideration or other appeals concerning these grants.

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<sup>2/</sup>(...continued)

WNBC858, WPAX766, WNPS667, WPAV284, WNPU562, WNPS663, WPBV356, WQT600, WPAC378, WNRU238, WPBA729, WNRU215".

<sup>3/</sup> Through a series of assignments of licenses and management agreements prior to grant of the applications, Mobex Idaho and Mobex North Carolina, respectively, are successors in interest to SMR Systems these applications and now granted licenses relate to. The Licensing Division has been requested to update its records to reflect the previously granted assignment applications.

<sup>4/</sup> See, Public Notice, "Wireless Bureau Vacates and Supersedes Grants to SMRS Announced by March 17, 1995 Public Notice", released October 31, 1995. (The text of that Public Notice, and the relevant pages announcing the grants to Petitioners are attached hereto as Attachment C).

On December 15, 1995, the Commission adopted and released its First Report and Order in PR Docket 93-144<sup>5/</sup>. Among other things, the Commission decided the following:

With respect to requests for extended implementation authority currently pending before the Bureau, we hereby deny these requests.<sup>6/</sup>

Petitioners seek clarification and, to the extent necessary, reconsideration of this Order and the March 14, 1996 Public Notice, as they relate to the applications previously granted.

## II. Argument

- A. The Applications for Extended Implementation Authority Granted October 31, 1995, Were Not Pending On December 15, 1995, the Adoption Date of the First Report and Order.

Petitioners filed the granted applications for the purpose of constructing a wide area enhanced SMR system over a period of time. This purpose was clearly set out in the applications and accompanying material. The Commission's decision at Paragraph 114 of the First Report and Order in Docket 93-144 applies only to "currently pending" requests for extended

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<sup>5/</sup> FCC 95-501 (released December 15, 1995) (hereinafter "First Report and Order").

<sup>6/</sup> First Report and Order, ¶ 114 at slip op., p. 64 (December 15, 1995).

implementation authority. The above referenced applications were granted on October 31, 1995, and became final and unappealable on or about December 1, 1995. 47 CFR §§ 1.106 and 1.108. Under these sections, the opposing parties or, the Commission on its own motion, must reconsider an action within 30 days of Public Notice, i.e., October 31, 1995.<sup>7/</sup> Therefore, these extended implementation requests, as to the granted channels, were not "currently pending" on December 15, 1995, when the Commission adopted the First Report and Order in this Docket.

The applications were for extended implementation authority. No limitation on the grant was contained in the Commission's October 31, 1995 Public Notice.<sup>8/</sup> By granting the applications unconditionally, the Commission granted Petitioner's applications in whole, not in part, on October 31, 1995, and Petitioners received extended implementation authority.

The March 14, 1996, Public Notice for the first time, some four and one half months after the construction period apparently commenced, and three months after the First Report and Order, apparently sets out the Wireless Telecommunications Bureau's view generally that construction of the October 31,

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<sup>7/</sup> Grant of the licenses in question also became final because the Commission, by December 11, 1995, did not on its own motion order the records of the licensing proceedings before it for review. 47 C.F.R. § 1.117.

<sup>8/</sup> See Attachment C hereto.

1995, license grants must be completed by October 31, 1996, even though licenses authorizing that construction have not yet issued:

"...licensees may commence construction prior to receiving individual authorizations (Form 574L) from the Bureau's Licensing Division. See 47 CFR §§ 1.4 and 90.167.<sup>2/</sup>

In essence, the effect of the Public Notice is to reduce the construction period generally applicable from a minimum of 12 months to 7 and 1/2 (seven and a half) months. The Bureau delayed the issuance of licenses following the October 31, 1995 Public Notice. The Bureau waited until months after the adoption of the First Report and Order to assert that no extended implementation grants were made on October 31, 1995.

As a result, Petitioners are in the precarious position of a) having lawfully received 5-year extended construction grants as requested in their applications; b) not having any licenses issued; and c) in jeopardy of having to construct and place in operation these channels in approximately seven month's time, i.e., by October 31, 1996, based on a delayed Bureau interpretation of an inapplicable Commission Order.

However, the staff position as expressed in the March 14, 1996, Public Notice does not apply to Petitioners' situations. Extended implementation authority was granted on

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<sup>2/</sup> Public Notice, March 14, 1996.

October 31, 1995, when the applications were granted.

Petitioners' requests for extended implementation authority for these channels were not "currently pending" on December 15, 1995. The requests had been granted on October 31, 1995, and had become final and unappealable.

B. Fundamental Fairness Requires That Similarly Situated Licensees Be Afforded Similar Competitive Opportunities for Extended Implementation of Emerging Technology Systems.

Over the years, the Commission has granted scores of waivers and extended implementation requests to SMR and other licensees proposing to construct wide area enhanced technology systems, thereby giving those systems significant competitive advantages in the marketplace. See Fleet Call, Inc. 6 FCC Rcd. 1533 (1991); Powerspectrum, 8 FCC Rcd 4452 (1993); see Nextel Communications, Inc., 10 FCC Rcd 3361 (1995), reconsideration, 10 FCC Rcd 10450 (1995); see also Dial Page, Inc., DA 95-2379, (released November 22, 1995). See also former section 90.629 of the rules regarding "Extended Implementation". Petitioners' requests met the requirements of the rules and the previous waivers. Petitioners' requests were filed long before the Commission's proposal to "cease accepting" new requests for extended implementation authority.<sup>21</sup> Petitioner's systems are

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<sup>21</sup> The Further Notice of Proposed Rule Making in this Docket was adopted October 20, 1994 and released November 4, 1994. See 10 FCC Rcd. 7970 (1994). While the Commission originally  
(continued...)

within well defined geographic areas where they presently operate, would promote new service to the public through channel re-use within the Petitioners' existing footprint, and protect Petitioners' systems against further encroachment through anti-competitive "short spacing" by competitor licensees.

It is not enough for the Commission to claim that it did not consider Petitioners' requests for wide area implementation at the time it granted the licenses. Such a position would be contrary to the Commission's responsibilities to review applications prior to grant. The Commission had more than adequate time to review the applications, having completed one round of grants in February, 1995, only to conditionally and then permanently rescind those grants while it studied the applications and their interrelationships again for another six months, i.e., through October 31, 1995. The Commission is deemed to be familiar with the contents of the applications it granted, since the applications clearly on their face referenced the simultaneously filed requests for extended implementation.<sup>8/</sup>

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<sup>7/</sup>(...continued)

proposed that SMR systems "licensed after August 9, 1994 will not be eligible for extended implementation," see 10 FCC Rcd at 8029, the final rule adopted by the Commission denies extended implementation eligibility to SMR systems only after the "effective date" of these rules, which is March 18, 1996. Petitioners' applications, including its requests for extended implementation authority, were granted prior to the effective date of these rules, i.e., on October 31, 1995.

<sup>8/</sup> As a result of preferred Commission practice and custom, the extended implementation requests and discussion, set out in  
(continued...)

Under the circumstances, it can only be concluded that the Commission granted Petitioners' applications in full; such grants became final, and Petitioners' requests for extended implementation were granted also on October 31, 1995.

C. Under the Circumstances, Petitioners Would Be Entitled to Further Relief From An October 31, 1996 Construction Deadline.

Should the Commission, on adoption of a reconsideration order sometime in the summer or fall of 1996, take the position that it had denied the Petitioners' requests for extended implementation in the December 15, 1995, First Report and Order, Petitioners would be placed in severe jeopardy. Almost five months already has gone by without Petitioners having direct notice that their specific requests for extended implementation, which it believes were granted previously, were in fact later denied! By the time a reconsideration order is issued, the October 31, "deadline" for constructing and placing in operation these stations will be fast approaching, leaving Petitioners with insufficient time to make realistic financing plans and placing construction orders.

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<sup>3/</sup>(...continued)  
pleading form, was filed simultaneously with the applications which incorporated the request by reference. This avoided unnecessary and excessive attachment of voluminous, repetitive statements to each affected application. The Wireless Telecommunications Bureau's Licensing Division would then group the applications and extended implementation requests together upon receipt.

Petitioners notified the Commission in filing these applications that construction would be complex, innovative, and involve greater than one year. The very uncertain construction deadline situation has complicated Petitioners' planning even further, reduced its marketplace flexibility, and potentially increased its construction costs.

Apparently the Commission takes the position that it impliedly, but not specifically, and without notice, deferred consideration of Petitioners' extended implementation requests on October 31, 1995, even while it granted Petitioners the authority to construct the frequencies. The Commission then apparently takes the position that it later denied, by implication, but not specifically, Petitioner's extended implementation requests on December 15, 1995. Under the circumstances, the Commission should grant Petitioners further time to construct. Specifically, the Commission should grant Petitioners two years from the effective date of its Reconsideration Order, consistent with its modification of other, previously granted extended implementation orders<sup>2/</sup>

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<sup>2/</sup> See First Report and Order at Paragraph 112. Petitioners are entitled to such relief, because their applications were granted and became final prior to adoption of the First Report and Order, and were therefore previously authorized within the context of Paragraphs 110-112 of that Order, and are entitled to similar relief.

WHEREFORE, the premises considered, Petitioners respectfully request that the Commission clarify and reconsider its First Report and Order to the extent necessary herein.

Respectfully submitted,

Idaho Communications L.P.  
Robert E. Dettle  
Mobex Idaho, Inc.  
North Carolina Communications, Inc.

By: Susan E. Cosentino for  
Raymond J. Kimball  
Their Attorney

Dated: March 18, 1996

Ross & Hardies  
888 16th St NW  
Washington, DC 20006  
(202) 296-8600

**ATTACHMENT A**



# PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION  
1919 M STREET, N.W.  
WASHINGTON, D.C. 20554

DA 96-362

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News Media Information (202) 418-0500. Recorded listing of releases and texts (202) 418-2222

March 14, 1996

## WIRELESS TELECOMMUNICATIONS BUREAU PROVIDES GUIDANCE TO 800 MHZ SMR APPLICANTS GRANTED AUTHORIZATIONS ON OCTOBER 31, 1995

On October 31, 1995, the Wireless Telecommunications Bureau ("Bureau") issued a Public Notice announcing the grant of approximately 6,300 licenses for 800 MHz SMR Business, Industrial/Land Transportation, and General category channels, from approximately 40,000 applications received between November 8, 1993 and August 10, 1994. Public Notice, Mimeo Number 60472. In response to numerous inquiries from grantees, the Bureau provides the following clarification with respect to the status of these licenses:

1. The license grants identified in the October 31, 1995 Public Notice were effective on that date. See 47 C.F.R. §§ 1.4 and 90.143. Consequently, licensees may commence construction prior to receiving individual authorizations (Form 574L) from the Bureau's Licensing Division. See 47 C.F.R. §§ 1.4 and 90.167. Individual licenses will be issued and call signs assigned to the licensees in the Public Notice at a later date.
2. Grants will not be stayed by petitions for reconsideration (See 47 C.F.R. § 1.103) and are subject to any action taken by the Bureau pursuant to its review. See 47 C.F.R. § 1.106.
3. Licensees also must comply with the Commission's rules requiring construction and commencement of operations within one year, based on the October 31, 1995 grant date See 47 C.F.R. § 90.167. Thus licensees must complete construction and commence operations by October 31, 1996.
4. Licensees who commence operations prior to receiving a call sign may use a temporary identification until they receive a license and call sign from the Bureau's Licensing Division. The temporary identification shall consist of "WT" plus the licensee's local phone number. See 47 C.F.R. § 2.302.

For further information contact Michael Hamra, Wireless Telecommunications Bureau at (202) 418-0620.

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R

**ATTACHMENT B**

**Representative Application Samples  
Re: Wide Area Filings**

**Idaho Communications LP**

**North Carolina Communications, Inc.**

**(Note: - Partial copies attached to the Petition. Complete copies are on file in WTB Licensing Division, Gettysburg, PA under relevant file numbers.)**

1515

ROSS & HARDIES  
888 SIXTEENTH ST. NW.  
WASHINGTON, DC 20006

CITIBANK OF PCC / MELL  
CITIBANK F.S.B. 1-800-926-1067  
P.O. BOX 18967  
WASHINGTON, DC 20036-0967

15-7011904  
2540

August 5, 19 94

PAY One hundred twenty five and 00 cents----- DOLLARS \$ 125.00

Federal Communications Commission  
800 Megahertz Services  
P.O. Box 358750  
Pittsburgh, PA 15251-5750

TO  
THE  
ORDER  
OF

*John A. Howell*

⑈001515⑈ ⑆254070116⑆ ⑈6655 8646⑈

REPLACEMENT SERVICE AVAILABLE



### APPLICATION FOR PRIVATE LAND MOBILE AND GENERAL MOBILE RADIO SERVICES

IMPORTANT NOTICE: ALL applicants MUST include the PROPER FEE with their application and MUST FILE those applications at the PROPER LOCATION. Refer to the current fee publication or contact the Consumer Assistance Branch, Federal Communications Commission, Gettysburg, PA 17325-7245 Phone (717) 337-1212

COMMISSION USE ONLY: Page No. of

1. Frequencies (MHz)	2. Station Class	3. No. of Units	4. Emission Designator	5. Output Power	6. E.R.P.	7. A.A.T	8. Ground Elevation	9. Ant. Hgt. To Top	10. Antenna Latitude	11. Antenna Longitude	12. Number of Mobiles By Category:
See Exh. A	FB2C	15	2OKOF3E/ 2OKOG7W/ 2OKOF2D	60	140	1567	7150	85	45-00-00N	116-08-09W	2547 Vehicular 637 Portable Aircraft Marine Pagers
806-821	MO	3183	2OKOF2D/ 2OKOF3E/ 2OKOG7W								13. Area of Operation for Mobiles, Temporary, or Itinerant Stations is 70 miles radius of station A. or is _____ miles radius of coordinates: Lat _____ Long _____ County _____ State _____

14. Station Address or Geographic Location: Top of Brundage Mountain  
 15. City: Brundage  
 16. County: Valley  
 17. St. ID  
 If not, please check ONE:  
 Countywide  
 Statewide  
 Nationwide  
 Other

18. Location of Primary Control Point (Include telephone number) and location of all Radio Control Stations with antenna under 20 ft. GMRs ONLY: List small control station locations and "FBA" followed by small base locations with antennas under 20 ft. (See instructions.)  
 300 E. 35th Street  
 Boise, ID 83711  
 (208) 343-2936

19. Freq. Advisory Comm. No:  
 20. Radio Service: YX

21. Applicant/Licensee Name (See Instructions):  
 Idaho Communications Limited Partnership

22. Mailing Address (Number & Street, P.O. Box or Rt. No):  
 ATTN: Richard D. Young  
 ADDRESS: 300 E. 35th Street

23. City: Boise  
 24. State: ID  
 25. ZIP Code: 83711

26. Will antenna be mounted on a structure with an existing antenna? If yes, give call sign and radio service of existing licensee.

No	Yes	Call Sign	Radio Service
	X	KRW556	IF

27. Provide description of the structure on which your antenna is mounted and the height above ground to the top of the structure. (See antenna figures 1-3 on reverse for samples.)

Structure Type	Structure Height Above Ground	Aircraft Landing Area Name	Distance (Miles)	Direction
Tower	70 Ft.	New Meadows	7.0	SE

28. Give the name of the nearest aircraft landing area, and the distance and direction to the nearest runway.

29. Has notice of construction or alteration been filed with the FAA? If yes, give the date filed, the name under which filed, and the FAA office where filed.

No	Yes	Date Filed	Name Under Which Filed	FAA Office Where Filed
X				

30. Applicant Classification:  Individual  Partnership  
 Association  Corporation  Govt. Entity

31. Eligibility (Describe Activity):  
 Applicant will provide on a commercial basis mobile relay facilities only to those eligible under Part 90 of the FCC's rule. Applicant will employ INTERCONNECT in accordance with FCC Rules & Regulations 90.603

32. Application is for (check one):  New Station  Modification  Assignment  Reinstatement  Renewal

33. Does application include the complete system?  Yes  No

34. Would a commission grant of your application be an action which may have a significant environmental effect as defined by Section 1.1301 of the Commission's Rules? If you answer yes, submit the statement as required by Sections 1.1308 and 1.1311.  Yes  No

35. Specification of item(s) modified, if applicable:  
 See Item #4, Remarks

36. If other than new station, list call sign(s) of existing station(s) to be modified, combined or reinstated.

37. Individual completing this application form(s):  
 John E. Dettra, Jr.  
 Telephone No. 202 965-4664

38. Supplemental Information for Trunked and Conventional Systems 806-824/851-869 MHz and 869-901/935-940 MHz frequency bands

Indicate Type of Applicant:  a) Independent  b) Commercial (SMRS entrepreneur)  
 c) Community Repeater (Owner)  
 d) SMRS user (Show SMRS licensee name and call sign and allocate your mobile loadings)

Type of system: (Check One)  
 a) Conventional. Specify the number of mobile units to be placed in operation at the time of the grant:  
 b) Trunked. Specify the number of trunked channels requested: 15

Frequency Band Requested: (Check One)  a) 851-869 MHz  b) 935-940 MHz

CERTIFICATION

1) If application is for a Land Mobile Service license, applicant certifies that a current copy of the requested radio service's rules will be obtained. Contact the United States Government Printing Office, Washington, DC 20402 (202) 783-3238.  
 2) Applicant waives any claim to the use of any particular frequency regardless of prior use by licensee or otherwise.  
 3) Applicant will have unlimited access to the radio equipment and will control access to exclude unauthorized persons.  
 4) Neither applicant nor any member thereof is a foreign government or representative thereof.  
 5) Applicant certifies that all statements made in this application and attachments are true, complete, correct and made in good faith.  
 6) Applicant certifies that the signature is that of the individual, or partner, or officer or duly authorized employee of a corporation, or officer who is a member of a partnership association, or appropriate elected or appointed official on behalf of a governmental entity.

By checking "Yes", the applicant certifies that, in the case of an individual applicant, he or she is not subject to a denial of federal benefits that includes FCC benefits pursuant to Sec. 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. Sec 862, or, in the case of a non-individual applicant (e.g. corporation, partnership or other person or association), no party to the application is subject to a denial of federal benefits, that includes FCC benefits, pursuant to that section. For the definition of these purposes, see 47 C.F.R. Sec. 1.2002(b).

Does applicant so certify?  YES  NO

WILLFUL FALSE STATEMENTS MADE ON THIS FORM ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT. U.S. CODE TITLE 18, SEC 1001

Typed/Printed Name: Richard D. Young Telephone No. (208) 343-2936  
 Date: 7/21/94

Public reporting burden for this collection of information is estimated to range from fifteen minutes to six hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this collection of information, including suggestions for reducing the burden to Federal Communications Commission, Records Management Division, AMD-PIRS, Washington, DC 20554, and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Paperwork Reduction Project (3060-0128), Washington, DC 20503.

NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND THE PAPERWORK REDUCTION ACT OF 1980

The solicitation of personal information requested in this form is authorized by the Communications Act of 1934, as amended. The Commission will use the information provided in this form to determine whether grant of this application is in the public interest. In reaching that determination, or for law enforcement purposes, it may become necessary to refer personal information contained in this form to another government agency. In addition, all information provided in this form, as well as the form itself, will be available for public inspection. If information requested on the form is not provided, processing of the application may be delayed or the application may be returned without action pursuant to Commission Rules. The foregoing notice is required by the Privacy Act of 1974, 5 U.S.C. Section 522a(e)(3).



- V = antenna
- a = height above ground to tip of proposed antenna (item 9)
- b = height above ground to top of supporting structure (item 27)
- c = ground elevation above mean sea level (item 8)

For these figures, items 8, 9 and 27 would be completed as follows (See samples below):

	Item 8	Item 9	Item 27	
	Ground Elevation	Antenna Height To Tip	Structure Type	Structure Height Above Ground
Figure #1	50	20	Pole	10
Figure #2	50	80	Tower	150
Figure #3	50	65	Building	40

Use this space for additional information or remarks:

Remarks: See "Request for Extended Construction and Rule Waivers" filed by Idaho Communications Limited Partnership. Aggregate six month average loading shown in Questions 3, 12.

Idaho Communications Limited Partnership  
Exhibit A

Item 1. Frequencies

861.13750  
862.13750  
863.13750  
864.13750  
865.13750

861.63750  
862.63750  
863.63750  
864.63750  
865.63750

856.66250  
857.66250  
858.66250  
859.66250  
860.66250

**TERRY J. ROMINE, P.A.**

Attorney at Law  
Suite 402  
22 West Jefferson Street  
Rockville, Maryland 20850  
301/340-3304

Admitted In  
MD, DC & IL

Telefax  
301/340-3308

December 17, 1993

VIA FEDERAL EXPRESS

Federal Communications Commission  
800 MHz Services  
Post Office Box 358235  
Pittsburgh, PA 15251-5235

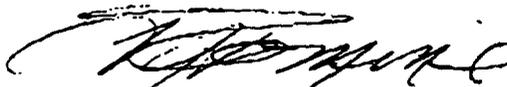
Re: North Carolina Communications, Inc.  
Request for Wide-Area Specialized Mobile Radio  
("SMR") Network in the Central North Carolina  
and Request for An Extended Implementation  
Period

Dear Sir or Madam:

Enclosed, on behalf of North Carolina, Inc., are eleven FCC Form 574 applications requesting that the Commission authorize new 800 MHz SMR facilities to facilitate the conversion of currently constructed and operational SMR stations to a wide-area SMR Network in the central North Carolina area. Attached to each application is a check in the amount of \$35.00 made payable to the "FCC" to cover the requisite filing fees. Also enclosed is a Request for Extended Implementation which asks the Commission to grant additional time to construct the newly-authorized facilities thereby converting the existing analog systems to a digital mode.

Should there be any questions regarding the applications or associated Request, please contact this office.

Very truly yours,



Terry J. Romine

Enclosures

cc: North Carolina Communications, Inc.

**TERRY J. ROMINE, P.A.**

Attorney at Law  
Suite 402  
22 West Jefferson Street  
Rockville, Maryland 20850  
301/340-3304

Admitted in  
MD, DC & IL

Telefax  
301/340-3308

December 17, 1993

Federal Communications Commission  
800 MHz Services  
P.O. Box 358235  
Pittsburgh, PA 15251-5235

Attn: Terry L. Fishel, Chief  
Land Mobile Branch  
Gettysburg, PA 17325-7245

Re: Request for Extended Implementation Authorization for  
Wide Area Digital Specialized Mobile Radio ("SMR")  
Network comprised of 800 MHz facilities licensed under  
call signs: WNRU279, WNBC858, WPAX766, WNPS667,  
WPAV284, WNPUS62, WNPS663, WPBV356, WQT600, WPAC378,  
WNRU238, WPBA729, WNRU215

Dear Mr. Fishel:

North Carolina Communications, Inc. ("NC Comm"), pursuant to Section 90.629 of the Commission's Rules,<sup>1</sup> respectfully requests an extended implementation period of five years in which it may implement the modifications contemplated by this filing and the applications filed contemporaneously herewith.<sup>2</sup>

North Carolina Communications, Inc., is the largest home-owned communications facility in the Fayetteville area, which has served Cumberland and the surrounding counties for over 25 years. The company has over 100 years combined experience in sales and service of mobile communications.

North Carolina Communications operates eleven SMR trunked telephone interconnect systems, either licensed to or managed by NC Comm, with coverage in every major metropolitan area in North Carolina. In addition, NC Comm has a cooperative arrangement with other SMR operators state wide which allows communications both locally and long distance. In order to continue its tremendous growth and remain competitive, North Carolina Communications seeks to convert its analog Specialized Mobile Radio ("SMR") network and

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<sup>1</sup> 47 C.F.R. Section 90.629.

<sup>2</sup> The original applications are attached hereto as Exhibit 6.

Federal Communications Commission  
December 17, 1993  
Page 2

comprised of thirteen stations located at eleven (11) constructed operational sites to a wide-area, digital wide-area network. NC Comm and its managed facilities are currently authorized to operate SMR systems in an analog mode throughout central and eastern North Carolina, which is considered a wait-list area.<sup>3</sup> Through this filing, NC Comm proposes an advanced-technology, digital, wide-area SMR network to better serve its region.

NC Comm believes that the grant of this request is consistent with the Commission's intent in amending Section 90.629 providing extended implementation schedules for such wide area systems. The planned conversion of analog SMR systems to digital systems and the development and implementation of the sites necessary to connect the various markets will require in excess of one year to fund, purchase, construct and place in operation. Moreover, grant of the relief sought by NC Comm by this request will permit NC Comm to meet the ever-increasing demand for advanced mobile communications with roaming capabilities utilizing smaller, lightweight and more compact portable radios.

The Commission has recognized that multiple base stations can comprise a single system, as proposed herein.<sup>4</sup> Further, in the Fleet Call proceeding,<sup>5</sup> the Commission held that "aggregate loading" of a system made up of multiple base stations satisfied the requirements of Section 90.627 and therefore if the aggregate loading of such a system were sufficient, no waiver of Section

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<sup>3</sup> See Public Notice (No. 40474), Private Radio 800 MHz Radio Systems Application Waiting List, dated November 18, 1993, pp 10-11, 63-64.

<sup>4</sup> See Letter dated December 23, 1992, from Chief, Private Radio Bureau, Federal Communications Commission to David E. Weisman, Esquire. See also Letter dated May 12, 1989, from Chief, Land Mobile and Microwave Division, Federal Communications Commission to Robyn G. Neitert, Esquire, attorney for Millicom Radio Telephone Company, Inc.; Memorandum Opinion and Order, In re Request of American Mobile Data Communications, Inc., 4 FCC Rcd 3802 (1989); Report and Order In re Request of PowerSpectrum, Inc., July 17, 1993.

<sup>5</sup> See Memorandum Report and Order, In re Request of Fleet Call, Inc., 6 FCC Rcd 1533 (1991).

Federal Communications Commission  
December 17, 1993  
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90.627 was necessary.<sup>6</sup> In this case, NC Comm requests that the integrated central and eastern North Carolina wide area system be considered loaded and compliant with the Commission's Rules. Accompanying this letter, as Exhibit 3, is a certification of mobile loading for the proposed system. This certification demonstrates that the aggregate loading for the system is Fifteen Hundred Thirty (1530) mobile units, which equates to a minimum of seventy (70) mobile units per the twenty-one (21) discrete channels included in this request.

NC Comm requests extended implementation in order to better serve its customers. Without grant of extended implementation relief, the construction and operation of this complex, integrated system will be severely constrained thereby inhibiting full service to the public in North Carolina. Grant of this request will meet the Commission's goals of ensuring efficient utilization of radio spectrum as well as fostering competition in the wireless mobile radio service industry in the area.

Attached hereto as Exhibit 6 are the FCC Form 574 applications the grant of which will initiate the implementation of the North Carolina Wide Area SMR Network contemplated in this Request.

Should questions arise in connection with this request, please contact this office.

Very truly yours,

NORTH CAROLINA COMMUNICATIONS, INC.

By:   
Terry J. Romine  
Its Counsel

cc: North Carolina Communications, Inc.

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<sup>6</sup> Additionally, the Commission implicitly recognized that re-use of currently authorized frequencies did not require relief from Section 90.621(a)(1)(iii) and (iv) of the Commission's rules (there is no limit to the number of channels that may be trunked, but a maximum of twenty channels will be assigned at one time and an SMR licensee may be assigned a maximum of five channels at one time.)

**EXHIBIT 1**

**NORTH CAROLINA COMMUNICATIONS, INC.  
WIDE-AREA SMR NETWORK  
AND EXTENDED IMPLEMENTATION REQUEST**

**INCLUDED FREQUENCIES/CALL SIGNS**

**DISCRETE FREQUENCIES INCLUDED**

**WNRU279**  
861.51250  
862.51250  
863.51250  
864.51250  
865.51250

**WNBC858**  
861.96250  
862.96250

**WPAX766**  
861.91250

**WNPS667**  
863.66250  
864.66250  
865.66250

**WPAV284**  
862.86250

**WNPU562**  
858.51250

**WNPS663**  
863.41250

**WPBV356**  
861.56250

**WQT600**  
862.21250

**WPAC378**  
856.51250

**WNRU238**  
861.48750

**WPBA729**  
861.08750  
862.08750

**WNRU215**  
864.73750