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April 26, 1996

HAND-DELIVERED

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

RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

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Re: Ex Parte Presentation in PR Docket No. 89-552;
GN Docket No. 93-252 and PP Docket No. 93-253

Dear Mr. Secretary:

On April 26, 1996, the undersigned, on behalf of SEA Inc., made oral and written ex parte presentations to William E. Kennard, General Counsel. The oral presentation consisted of a summary of the comments and reply comments of SEA Inc. filed in response to the Third Notice of Proposed Rule Making in the above-referenced proceeding, released August 28, 1995; and the written presentation consisted of the two pages enclosed herewith.

In accordance with Section 1.1206 of the Commission's Rules, an original and one copy of this letter and the enclosures are being filed with your office.

Any questions concerning this matter, should be directed to the undersigned.

Sincerely,



Thomas J. Keller
Counsel for SEA Inc.

Enclosures

cc (w/enc.): William E. Kennard

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THE COMMISSION SHOULD NOT OPEN UP THE 220 MHZ SERVICE TO OTHER TECHNOLOGIES

- 1) The Commission's proposal to abandon the 5 kHz channel width restriction for the 220 MHz service was not based on any comments of interested parties, but on the mistaken assumption that the goal of the 220 MHz reallocation was to achieve "spectrum efficiency" by means of any type of technology.
- 2) In fact, the purpose in reallocating the 220-222 MHz band from amateur service to land mobile service was to promote the development of spectrally efficient narrowband (i.e., 5 kHz) technologies and to give them "a reasonable opportunity to gain full acceptance in the marketplace."
- 3) The Commission's experience showed that the only way to give narrowband a fair test in the marketplace was to create a portion of spectrum reserved exclusively for narrowband technology.
- 4) Relying in good faith on the Commission's prior pronouncements (see attached), manufacturers poured millions of dollars into research and development of narrowband (5 kHz) technology. Because of the long delays in licensing the 220 MHz service, manufacturers have had no opportunity to recoup their enormous research and development investments.
- 5) In view of the foregoing, manufacturers are entitled to a reasonable opportunity to gain marketplace acceptance of this technology. See, Nat'l Assoc. of Indep. Tel. Producers & Distrib. v. F.C.C., 502 F.2 249, 255 (D.C. Cir. 1974).

Attachment: "Prior FCC Pronouncements"

PRIOR FCC PRONOUNCEMENTS ON NARROWBAND AT 220 MHZ

Since 1983, the Commission has repeatedly assured the public, the Congress and the Court of Appeals that the 220-222 MHz band will be used for narrowband technology:

- 1) 1983 Report on "Future Private Land Mobile Telecommunications Requirements" recommended narrowband, i.e., "5 kHz channeling" for this band.
- 2) 1987 NPRM: Reallocation of this band will "provide an opportunity for the further development of narrowband technologies."
- 3) 1988 Allocation Order: "The public interest will be served by providing dedicated spectrum for the development of narrowband spectrum efficient technologies," which "must be afforded a reasonable opportunity to gain full acceptance in the marketplace."
- 4) 1989 Reconsideration of Allocation Order: Reallocation of 220-222 MHz band is necessary to encourage development of narrowband technologies because other land mobile bands "would not allow narrowband technologies to develop fully due to current use and channeling plans."
- 5) 1989 NPRM proposing service rules: Reallocation of the 220-222 MHz band was done "with the intention of affording spectrally efficient narrowband technology an opportunity to develop and gain acceptance in the marketplace."
- 6) Hearing Before House Committee on Government Operations on May 11, 1989: Purpose of reallocating of the band from amateur service to land mobile service was to promote development of "narrowband" land mobile radio technology.
- 7) In 1990, in its brief in ARRL v. FCC, the Commission told the court that it had reallocated the 220-222 MHz band from amateur to land mobile for the specific purpose of encouraging the development of "narrowband" land mobile radio technology.
- 8) 1991 Report and Order adopting channel plan and service rules: The purpose of the reallocation was "to encourage the development of narrowband technology in underused spectrum;" also, requiring each channel to be an "individual 5 kHz channel" was justified as "consistent with the reasoning for making this allocation available."
- 9) In 1993, in its brief in Evans v. FCC, the Commission told the court that spectrum in the 220-222 MHz band had been reallocated "for the exclusive use of narrowband operations," and to promote "the development of narrowband technology..."