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

In the Matter of

Reorganization and Revision of
Parts 1, 2, 21, and 94 of
the Rules to Establish a New
Part 101 Governing Terrestrial
Microwave Fixed Radio Services

WT Docket No. 94-148

DOCKET FILE COPY ORIGINAL

To: The Commission

**COMMENTS ON
PETITIONS FOR RECONSIDERATION**

In the above-captioned Report and Order,¹ the Commission consolidated its rules for private operational ("POFS") and common carrier ("CC") fixed point-to-point terrestrial microwave services ("FS"). Several parties have filed Petitions for Reconsideration of the Part 101 Order.² Alcatel Network Systems, Inc. ("ANS"),³ by its attorney, hereby comments on certain of these Petitions for Reconsideration.

¹The above-captioned Report and Order, 2 Comm. Reg. (P&F) 541 (FCC 96-51) (1996) ("Part 101 Order"), was published in the Federal Register on May 28, 1996. 61 FR 26670.

²The Petitions for Reconsideration were filed by the Fixed Point-to-Point Communications Section, Network Equipment Division of the Telecommunications Industry Association and the National Spectrum Managers Association, Inc. ("TIA/NSMA"); UTC, The Telecommunications Association ("UTC"); Cox & Smith Incorporated; the Association of American Railroads ("AAR"); CAI Wireless Systems, Inc. ("CAI") and Multipoint Networks. These Petitions for Reconsideration appeared on a July 18, 1996, Public Notice. Public Notice, Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings, Rep. No. 2144 (Mimeo No. 64054). This Public Notice was published in the Federal Register on July 24, 1996. 61 FR 38448.

³ANS is a wholly-owned subsidiary of Alcatel Alsthom ("Alcatel"), one of the world's largest corporations (with annual sales in excess of \$30 billion) and the world's largest manufacturer and supplier of telecommunications equipment. In particular, Alcatel is the world's largest independent manufacturer and supplier of microwave radios. Formerly Collins Radio and Rockwell International, ANS, with close to \$1 billion in annual sales, is a world leader in manufacturing microwave and light wave transmission systems. ANS' equipment is used for a wide range of services, including short, medium and long-haul voice, video and data transmission. Its microwave customers include all the Bell Operating Companies, most major independent telephone companies, cellular operators, power and other utility companies, oil companies, railroads, industrial companies, and state and local government agencies.

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As an active participant in developing the TIA/NSMA proposals that constitute the Part 101 technical rules, ANS generally supports the Commission's decisions in the Part 101 Order. Consolidation of the Part 21 and Part 94 rules into a new Part 101 is in the public interest because "they are easier for the public to understand and use . . ."4 and because there is now "one comprehensive new rule part for [the] microwave services, [which] eliminat[es] undue regulatory burdens . . . result[ing] in significant benefits for both the public and the Commission."5 However, as detailed below, issues are raised in certain of the Petitions for Reconsideration that must be addressed:

- In their Petition for Reconsideration, TIA/NSMA propose various changes to the Part 101 rules, which include: (i) ensuring that public listing of POFS applications is provided on a regular basis that is comparable to a formal public notice but does not confer any formal right to protest; (ii) establishing provisions to create a consolidated application form for both POFS and CC applicants and to implement electronic filing; (iii) permitting unlimited 10.6-10.68 GHz band conditional licensing in specified geographic areas; (iv) requiring inclusion of data regarding Automatic Transmitter Power Control ("ATPC") in prior coordination notices ("PCNs"); and (v) correcting various clerical errors. ANS supports adoption of these changes.
- CAI, in its Petition for Reconsideration, requests that POFS users be allowed to use the 10.7-11.7 GHz band to provide the final RF link in the transmission chain of program material. ANS supports this request.
- AAR requests that the Commission revise the definition for POFS to embody the concept of "self service" that was included in the definition under Part 94. It also requests that the Commission clarify certain of its new frequency allocations. ANS supports these requests.

THE COMMISSION MUST GRANT THE TIA/NSMA PETITION FOR RECONSIDERATION

In their Petition for Reconsideration, TIA and NSMA propose certain changes that will complete this consolidation while ensuring that the needs of affected users, manufacturers and coordinators are

⁴Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services, WT Docket No. 94-148, FCC 94-314, Notice of Proposed Rulemaking, 10 FCC Rcd 2508 (1994).

⁵Part 101 Order, 2 Comm. Reg. (P&F) at 545.

accommodated fully. ANS supports the proposals, as specified in the text of the rule changes in Appendix A to the TIA/NSMA Petition for Reconsideration, to the extent noted herein.

A. Public Notice Elimination.

First, TIA/NSMA seek to remedy the Commission's decision to eliminate the 30-day public notice procedure for POFS applications.⁶

Absent the information listed on a public notice, POFS users, frequency coordinators and equipment manufacturers will have no idea what systems are being installed, and thus they will not have the information needed to verify previously coordinated data and to achieve closure of the PCN process.⁷

ANS agrees that POFS users must be protected and must not lose the benefits provided by the 30-day public notice.

TIA/NSMA claim that elimination of a public notice should have been subject to a formal rulemaking to determine if such action was justified. Moreover, TIA/NSMA propose that, if, after the requisite rulemaking, the Commission persists in eliminating the POFS public notice, alternative action must be taken to mitigate the loss of the 30-day public notice. They recommend that the Commission must be required to publish a periodic list of pending POFS applications that would include the same data included in a formal public notice but would not create a formal right to protest an application and thus would not conflict with the statutory change. Instead the list would be used only for informational purposes (*i.e.*, monitoring applications to detect if interference or other problems might exist).⁸

ANS agrees that POFS users must be protected. Requiring a periodic public listing of pending POFS applications, instead of reinstating the formal public notice, should be adequate to provide such

⁶Part 101 Order, 2 Comm. Reg. (P&F) at 559.

⁷TIA/NSMA at 6.

⁸TIA/NSMA at 6-7.

protection. Moreover, such action would contribute to the Commission's goal of establishing parity between POFS and CC applicants and users.

B. Simplified Licensing.

To "expedite implementation of new services and to reduce time-to-market," TIA/NSMA propose consolidating all application forms for FS systems and requiring electronic licensing for such systems within a specified time frame.⁹ They also recommend establishing a formal Industry Advisory Committee to develop recommendations for a consolidated application form, for electronic filing implementation deadlines, and for electronic filing protocols.¹⁰

ANS supports these proposals. Given the available technology for implementing electronic filing procedures, and given the importance of rapidly available FS systems for roll-out of PCS and other wireless systems and for essential public safety and other users, it is incumbent upon the Commission to continue with the advances it has made in its application and processing procedures.

C. 10 GHz Band Conditional Licensing.

In the Part 101 Order, the Commission established conditional licensing authority on both CC and POFS licensees, but it limited such licensing in certain bands. For frequencies allocated to both Government and non-Government users, such authority would not be available for operations: (i) in the 10.6--10.68 GHz band anywhere in the U.S.; (ii) in the 17.7--19.7 GHz band for operations in Colorado, Maryland, Virginia, and the District of Columbia; and (iii) in the 21.2--21.3 GHz band for operations with an ERP greater than 55 dBm. Instead, licensing on these frequencies is subject to prior coordination between the FCC and the National Telecommunications and Information Administration.¹¹ No reason

⁹TIA/NSMA at 7.

¹⁰TIA/NSMA at 7.

¹¹Part 101 Order, 2 Comm. Reg. (P&F) at 551.

is given in the Part 101 Order for why the restriction on conditional licensing in the 10.6--10.68 GHz band is unlimited.

TIA/NSMA proposed modifying the restriction on 10.6-10.68 GHz band conditional licensing:

Given the importance of the 10.6-10.68 GHz band for short haul, low capacity PCS cell site interconnects in urban areas, imposing unnecessary restrictions on conditional licensing would be counter-productive. Thus, the restriction on 10 GHz band conditional licensing should be limited geographically (e.g., to specific areas where Government operations exist).¹²

To remedy this situation,

TIA/NSMA propose that the Commission revise Section 101.31(e) so that conditional licensing in the 10.6-10.68 GHz band is permissible except for the specified areas where Government radio astronomy services are operated. Furthermore, TIA and NSMA propose defining these areas by using the same geographic rectangles set forth in footnote US256 of the Table of Frequency Allocations for the identical locations.¹³

As TIA/NSMA demonstrated, expedited availability of the 10.6-10.68 GHz band for PCS cell site interconnects is essential to ensuring rapid deployment. Their proposal ensures such availability without compromising the needs of co-primary Government users. Thus, ANS strongly supports the TIA/NSMA proposal.

D. Data on ATPC Must Be Included In A PCN.

The Commission, in the Part 101 Order, appropriately authorized the use of ATPC to provide needed operating flexibility for FS users. Unfortunately, it did not go far enough to ensure that the flexibility provided by ATPC is fully available. To ensure that prior coordination accurately reflects the use of ATPC, the Commission required that a PCN include the values for maximum transmit power,

¹²TIA at 7.

¹³TIA/NSMA at 18-19 (footnotes omitted). TIA and NSMA also propose that the Commission revise Section 101.31(e)(1) to include the point-to-point 932-941, 952-960 and 2110-2200 MHz bands as frequencies eligible for conditional licensing. TIA/NSMA at 18 n.36. ANS supports this proposal.

coordinated transmit power and nominal transmit power.¹⁴ but this requirement is not set forth in Section 101.103(d), which prescribes PCN content.¹⁵

TIA and NSMA recommend that the Commission revise Section 101.103(d) to expressly require inclusion of these data in a PCN.¹⁶ ANS agrees because such information is necessary to ensure that the PCN process is accurate.

E. Miscellaneous Changes.

TIA/NSMA propose that the transition period to implement Part 101 must be revised to clarify the duration of applicable grandfathering provisions.¹⁷ In addition, they propose that the minimum channel loading requirements for analog systems, with a bandwidth of 10 MHz or greater, should be 25%, instead of 50%, to provide increased user flexibility.¹⁸ Finally, TIA/NSMA identify apparent clerical errors that must be corrected and certain minor clarifications that must be made.¹⁹ ANS supports adoption of these proposals.

**POFS LICENSEES SHOULD BE ABLE TO USE
THE 11 GHz BAND FOR THE FINAL RF LINK IN
THE CHAIN OF PROGRAM MATERIAL TRANSMISSION**

Under Section 101.603(b)(3), POFS licensees are not permitted to use the 10.7-11.7 GHz band "to provide the final RF link in the chain of transmission of program material" This restriction, which is not applicable to CC users, also was included in Part 94.

¹⁴Part 101 Order, 2 Comm. Reg. (P&F) at 555.

¹⁵TIA/NSMA at 20.

¹⁶TIA/NSMA at 20.

¹⁷TIA/NSMA at 20.

¹⁸TIA/NSMA at 21.

¹⁹TIA/NSMA at 21-23.

CAI proposes deleting the restrictions against POFS licensees using the 11 GHz band.²⁰ It argues that retaining this restriction is unjustified because: (i) it is inconsistent with the goal of Part 101 to establish parity between POFS and CC users; and (ii) it forces POFS licensees to rely upon more expensive, less reliable, and inefficient media (e.g., fiber optic) than CC licensees must use.²¹

ANS supports CAI's proposal. Its adoption would provide wireless cable operators and other multimedia providers sufficient flexibility to select the most efficient, cost-effective approach to completing their delivery networks.

**AAR'S REQUESTS REGARDING REVISION OF THE POFS
DEFINITION AND REGARDING CLARIFICATION OF
CERTAIN FREQUENCY ALLOCATIONS SHOULD BE ADOPTED**

AAR, in its Petition for Reconsideration, seeks revision of the Section 101.4 definitions for "Operational-Fixed Station" and for "Private Operational Fixed Point-to-Point Microwave Service."²² It requests revision of these definitions to "incorporate the essential POFS concept that a station is operated for the sole purpose of the licensee."²³ ANS supports adoption of AAR's proposed revisions because they would ensure that the Commission's definitions accurately reflect the nature of POFS service.

In addition, AAR requests clarification of certain new frequency allocations in Part 101. Specifically, AAR seeks clarification regarding the 1850-1990 MHz, 2130-2150 MHz, and 2180-2200 MHz bands.²⁴ ANS has no objection to this request.

²⁰CAI at 1-2.

²¹CAI at 3, 8.

²²AAR at 5-6.

²³AAR at 6.

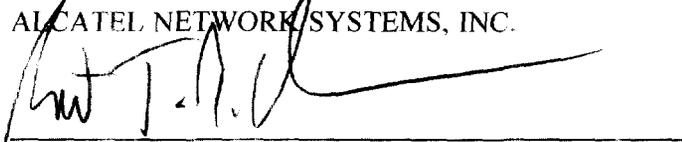
²⁴AAR at 2 n.2.

CONCLUSION

Adoption of Part 101 clearly is appropriate and in the public interest. With adoption of the relatively minor changes discussed herein, the new Part 101 will ensure that FS users, manufacturers and coordinators have the maximum flexibility to continue providing their essential services.

Respectfully submitted,

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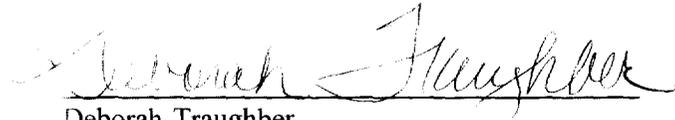
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