

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

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In the Matter of)
)
Guidelines for Evaluating the Environmental)
Effects of Radiofrequency Radiation)

Federal Communications Commission
Office of Secretary

ET Docket No. 93-62

DOCKET FILE COPY ORIGINAL

MOTION TO ACCEPT LATE-FILED COMMENTS

RAM Mobile Data USA Limited Partnership ("RMD"), respectfully requests that its attached comments in the above-captioned matter be made a part of the record even though they are being submitted one business-day late. The delay was caused by an administrative oversight by counsel.

RMD's comments focus on the appropriate scope of the Commission's "covered SMR" definition, which is being used in several proceedings to define the reach of Commission rules. Because of the importance of this issue and the fact that a brief delay in submitting these comments will not prejudice the interests of other parties, RMD asks that the Commission grant this motion for late-filing of its comments.

Respectfully submitted,
RAM MOBILE DATA USA L.P.



By: /s/ W. Kenneth Ferree
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October 9, 1996

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**CONSOLIDATED RESPONSE OF
RAM MOBILE DATA USA LIMITED PARTNERSHIP**

RAM Mobile Data USA Limited Partnership ("RMD"), hereby submits this consolidated response to the petitions for reconsideration filed in the above-referenced proceeding.

RMD operates SMR systems that provide "interconnected"¹ mobile data services that do not offer real-time, two-way switched voice service. As such, its systems currently are excluded from the Commission's definition of "covered SMR" systems for purposes of this and other proceedings.² This exclusion is entirely reasonable. RMD's systems, unlike cellular and broadband PCS voice systems, typically involve relatively short duty-cycle transmissions and do not expose users to RF radiation for extended periods of time. Thus, the considerations prompting the Commission to require routine RF hazard evaluations for "covered SMR" services are inapplicable to data-only SMR systems such as those of RMD.³

Nonetheless, two parties have petitioned the Commission to reconsider its "covered SMR" definition and to amend it in ways that might, inadvertently or not, bring RMD's mobile data systems within the scope of the definition.⁴ For the reasons set forth below, the Commission should reject these suggestions.

¹ RMD's systems are deemed to be interconnected, however, only because of the Commission's expansive definition of "interconnected service," which includes systems that allow customers to interconnect to the public switched network. See In re Implementation of Sections 3(n) and 332 of the Communications Act, 9 FCC Rcd 1411, 1434-35 (1994).

² The Commission also is considering the application of its rules regarding CMRS resale and roaming (CC Docket No. 94-54), enhanced-911 (CC Docket No. 94-102), and number portability (CC Docket No. 95-116) with respect to "covered SMR" services. It is essential, therefore, that the Commission not consider RMD's comments herein in isolation, but rather consider the impact of its "covered SMR" definition to which these comments speak in each of these contexts.

³ In re Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation, ET Docket No. 93-62, Report & Order (rel. Aug. 1, 1996) ("R&O") ¶ 67.

⁴ See Petitions for Reconsideration of the American Mobile Telecommunications Association, Inc. ("AMTA"), and the Personal Communications Industry Association ("PCIA").

DISCUSSION

In the R&O, the Commission determined that only "covered SMR" services would be subject to its new RF evaluation procedures.⁵ "Covered SMR" systems include 800 MHz and 900 MHz SMR licensees that hold geographic area licenses and incumbent wide area SMR licensees that offer real-time, two-way switched voice service that is interconnected with the public switched network.⁶ The Commission has clarified elsewhere that the "covered SMR" definition does not include SMR licensees "offering only data, one-way, or stored voice services on an interconnected basis."⁷ The exclusion of data-only SMR systems from the "covered SMR" definition is based on the recognition that RF emissions from such systems pose less of a health hazard than cellular, broadband PCS, or other two-way, real-time voice communications technologies because of the limited duty-cycle associated with most data transmissions.⁸ In addition, the antennas used in conjunction with RMD's systems generally are mounted outside of vehicles or are otherwise shielded from the user. Thus, the exclusion of data-only SMR systems from the "covered SMR" definition is entirely consistent with the purposes underlying the RF hazards guidelines.

Nonetheless, two of the petitions filed in this proceeding seek amendments to the "covered SMR" definition which, apparently inadvertently, risk bringing mobile data SMR systems within the ambit of the "covered SMR" definition. AMTA, for example, suggests that only those SMR systems that have an "in-network switching facility" should be deemed to be "covered SMRs."⁹ RMD disagrees. The appropriate inquiry, as the Commission recognizes in the R&O, is whether a reasonable cost-benefit analysis, based on the likelihood that the type of system in question will pose a significant health risk to the public, supports coverage of the system for purposes of the RF hazard evaluation requirements. Although the technical configuration of a system may be suggestive of the kind of service that the system provides, it is one step removed from the essential inquiry. Consequently, AMTA's suggested alternative definition, if adopted, would lead to inappropriate inclusions and exclusions from coverage.

PCIA, on the other hand, urges the Commission to abandon its functional approach to the "covered SMR" definition and, instead, to "employ a simple mobile

⁵ R&O ¶¶ 65-67 & Appendix C.

⁶ Id. ¶ 65 & n.78.

⁷ Interconnection and Resale Obligations Pertaining to Commercial Mobile Radio Services, CC Docket No. 94-54 (rel. July 12, 1996) ¶ 19.

⁸ See R&O ¶¶ 65-67.

⁹ AMTA Petition for Reconsideration at 3-8.

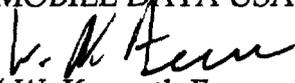
count definition to determine whether an SMR operator is a 'covered SMR provider.'"¹⁰ Although PCIA's suggested alternative definition has the appearance of regulatory simplicity, it advocates the use of an inappropriate criterion to determine coverage. Nothing about the number of subscribers served by a system is relevant to whether the system will expose its users to potentially harmful RF fields. To the contrary, as noted above, data-only SMR systems will pose a minimal RF radiation risk to users, whether there are few or many such users, because of the typically short duration of data transmissions and the fact that most such systems involve vehicle-mounted antennas rather than hand-held devices. Thus, data-SMR systems warrant exclusion from the "covered SMR" definition regardless of the number of mobile units served.

Nonetheless, RMD recognizes that hardship considerations might favor an exemption from covered status for small SMR systems. The Commission should only adopt such an exemption in this context, however, recognizing that it addresses different concerns than those driving the basic limitations on the "covered SMR" definition. A small system exemption should not substitute for the exclusion from coverage of systems providing services that do not pose a significant health hazard to users.

CONCLUSION

For the reasons set forth above, RMD urges the Commission to retain a functional approach to its definition of "covered SMR" services and to continue to exclude from that definition data-only SMR systems. RMD does not, however, object to the addition of a small system exemption to the "covered SMR" definition.

Respectfully submitted,
RAM MOBILE DATA USA LIMITED PARTNERSHIP


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¹⁰ PCIA Petition at 21 (PCIA does not identify what that mobile-count should be); see also AMTA Petition at 8-9 (alternatively, definition should include only systems serving 20,000 or more subscribers).