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EX PARTE OR LATE FILED

November 12, 1996

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Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY
William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Rm. 222
Washington, D.C. 20554

RE: EX PARTE FILING
DEFINITION OF "COVERED SMR PROVIDER"
CC DOCKET NO. 94-54
CC DOCKET NO. 94-102
CC DOCKET NO. 95-116
ET DOCKET NO. 93-62

Dear Mr. Caton:

On behalf of the American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), and in accordance with Section 1.1206(a)(2) of the Federal Communications Commission Rules and Regulations, we hereby submit the attached letter which is being delivered simultaneously to: Michele Farquhar, Chief, Wireless Telecommunications Bureau; Jackie Chorney, Legal Advisor to Chairman Hundt; Rudolfo Baca, Legal Advisor to Commissioner Quello; Suzanne Toller, Legal Advisor to Commissioner Chong and David Siddall, Legal Advisor to Commissioner Ness. Two copies of this letter and its attachment are being filed herewith for each of the above-identified proceedings.

THE AMERICAN MOBILE
TELECOMMUNICATIONS ASSOCIATION, INC.

By: Elizabeth R. Sachs
Its Attorney

No. of Copies rec'd 0+4
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Enclosures

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VIA HAND DELIVERY

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

RE: EX PARTE FILING
DEFINITION OF "COVERED SMR PROVIDER"
CC DOCKET NO. 94-54
CC DOCKET NO. 94-102
CC DOCKET NO. 95-116
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Dear Ms. Farquhar:

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.1206(a)(1) of the Federal Communications Commission ("FCC" or "Commission"), submits this ex parte communication in the above-referenced proceedings. Copies of this presentation are being filed simultaneously with the Office of the Secretary.

I. BACKGROUND

Each of the above-referenced proceedings defines regulatory obligations and/or technical requirements imposed on the Commercial Mobile Radio Service ("CMRS") industry. They specify, respectively, what resale and roaming obligations, 911 and E911 requirements, number portability requirements and radiofrequency emission guidelines are applicable to CMRS operators, and distinguish, for these purposes, between two categories of CMRS licensees. The first category includes cellular, broadband PCS and so-called "covered SMR providers". The

second consists of all CMRS licensees not included in the first category, including SMR providers that do not satisfy the covered SMR definition. Licensees in the first category are subject to certain obligations in each of the regulatory areas addressed in these proceedings, while those in the second generally are exempt from those responsibilities.

All of the proceedings include essentially identical definitions of "covered SMR providers" and use similar reasoning for differentiating them from SMR licensees not so categorized. For example, in the Commission's CMRS resale decision, the FCC explained that it intended to distinguish between those SMR providers that "have significant potential to compete directly with cellular and broadband PCS providers in the near term."[1] By contrast, the FCC made clear that it did not intend to impose the same obligations on "local SMR licensees offering mainly dispatch services to specialized customers in a non-cellular system configuration, as well as licensees offering only data, one-way, or stored voice services on an interconnected basis."[2]

AMTA agrees with the Commission's reasoning, and supports the line of demarcation within the SMR community articulated in the Orders. However, the Association does not agree that the covered SMR provider definition adopted in the proceedings accurately reflects the FCC's policy distinction. AMTA has filed Petitions for Reconsideration or Comments on this point in each of the proceedings above. Those pleadings noted that the covered SMR provider definition was significantly more encompassing than the language of the Order itself. They explained that the definition would include numerous SMR licensees whose system configurations are incapable of providing, and are not intended to provide, competition to cellular or broadband PCS offerings. Instead, the Association recommended adoption of an alternative definition that attempted to identify key factors that define cellular, broadband PCS and cellular/PCS-competitive SMR systems. AMTA also advised the FCC that it intended to continue to refine its proposed language.

Since filing its pleadings, the Association has had additional discussions regarding this matter internally, with other members of the SMR and CMRS industries, and with Commission staff. AMTA continues to believe that the functional distinction between cellular/PCS-competitive and other SMR systems is that the former include "intelligent" in-network switching capability that permits interconnected calls to be handed off automatically and seamlessly between base stations. This enables subscribers to maintain a telephone conversation as they move throughout the coverage area and are handed automatically from cell to cell. By contrast, the traditional, local SMR provider may offer access to more than a single base station, but

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[1] First Report and Order, CC Docket No. 94-54, 3 CR 895 at ¶ 18.

[2] Id. at ¶ 19.

manual intervention is required to switch from one transmitter to another which precludes seamless transmission handoff. Although both types of systems may permit customers to have interconnected communications throughout a geographic area, the services are readily distinguishable from the subscriber's perspective.

AMTA believes that the refined covered SMR provider definition attached hereto accurately reflects the fundamental distinction between traditional and cellular/PCS-competitive SMR systems. Thus, it is fully consistent with the policies articulated by the Commission in distinguishing between covered and non-covered SMR providers, and, therefore, with the public interest considerations described by the Commission in its Orders.

The Association urges the Commission to adopt the covered SMR provider definition proposed herein, and would be pleased to discuss this matter further at your convenience.

THE AMERICAN MOBILE
TELECOMMUNICATIONS ASSOCIATION, INC.

By: Elizabeth R. Sachs
Its Attorney

Enclosure

cc: William F. Caton, Acting Secretary
Jackie Chorney, Legal Advisor to Chairman Hundt
Rudolfo Baca, Legal Advisor to Commissioner Quello
Suzanne Toller, Legal Advisor to Commissioner Chong
David Siddall, Legal Advisor to Commissioner Ness

PROPOSED DEFINITION FOR COVERED SMR SERVICES

Modify definitions -

§20.3

Incumbent Wide Area SMR Licensees. Licensees who have obtained extended implementation authorizations in the 800 MHz or 900 MHz service, either by waiver or under Section 90.629 of these rules, and who offer real-time, two-way interconnected voice service using multiple base stations and an intelligent in-network switching facility that permits automatic, seamless interconnected call handoff among base stations.

§ 20.12(a)

This Section is applicable only to providers of Broadband Personal Communications Services (Part 24, Subpart E of this chapter), providers of Cellular Radio Telephone Service (Part 22, Subpart H of this chapter), providers of Specialized Mobile Radio Services in the 800 MHz and 900 MHz bands that hold geographic licenses (included in Part 90, Subpart S of this chapter) and who offer real-time, two-way interconnected voice service using multiple base stations and an intelligent in-network switching facility that permits automatic, seamless interconnected call handoff among base stations.