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January 9, 1997

William F. Caton
Acting Secretary
Federal Communication Commission
1919 M. Street, N.W.
Washington, DC 20554

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Ref: Presentation to Ex Parte Filing to PR Docket 92-257 (and the following FNPRM 95-177).

Commentators: Mr. Skip Muckelrath on behalf of: West Pac Corp., Ross Engineering, Inc., and Los Angeles County Fire Dept. (Lifeguard Division).

Dear Mr. Caton,

The commentator's are requesting that the Commission proceed with a final ruling on the dockets, PR 92-257 & FNPRM 95-177 and that it becomes a Report & Order. However, we are requesting specific and provisional changes prior to the final rule making. Two copies of this Ex Parte are submitted for your record.

Those provisions to be reviewed are related to the sixteen frequencies listed as part of Part 90 spectrum to be shared by Maritime users. Those frequencies are as follows: 159.500, 159.525, 159.550, 159.575, 159.600, 159.625, 159.650, 159.675, 161.375, 161.400, 161.425, 161.450, 161.475, 161.500, 161.525, 161.550.

We believe that new evidence and compounding circumstances should now be considered prior to a final decision regarding the best utilization of that spectrum in all or in part. This new evidence has become more clear in recent months; however, it comes after the closing dates for comments and replies to the dockets.

These considerations could be included to produce options and flexibility within a final Report & Order. If these provisions become incorporated, they could produce benefit to numerous entities within both Land Mobile and Maritime radio services.

The sixteen (16) frequencies listed fall within the channel bands that are tabled in Part 90 under 90.89 (Motor Carrier Service) and 90.91 (Railroad Radio Service). Six of the listed frequencies are actual channel centers; 159.525, 159.600, 159.675 are under 90.89 and 161.400, 161.475, 161.550 are under 90.91. The remaining ten are not assigned as specific channel centers. PR 92-257 and FNPRM 95-177 have designated the use of those frequencies on a shared but secondary basis to the primary users assigned.

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Today and on an increasing basis, user groups charged with Public Safety responsibilities are consolidating their Agencies and resources into centralized management and operations. These events are occurring Nationally, and are concurrent with regulatory frequency restructuring action by the FCC.

The principal motivation behind consolidation of service provider operations is due to budgetary considerations, and the primary asset to be consolidated by these users is communication systems. An equally important goal of their consolidations is to improve response time and outcome of emergency operations. Our understanding is that the FCC is seeking to provide improved spectrum utilization between radio service operations by consolidation and reappropriation of frequencies.

Pursuant to recently published regulatory dockets, the final report by PSWAC and numerous discussions and letters issued by prominent persons, *interoperability of radio systems* remains as the central issue to be resolved. Our position is that *interoperability must be achieved between interservice groups* as well as within a specific group's communication system.

Consider that Public Safety operations near major waterways need to become interoperable with Maritime and Land Based radio systems. Those operations could include a variety of entities, including Lifeguards, Haz Mat teams, Search and Rescue, Parks and Recreation, Wildlife Depts., State Ferry Boats, Fire Depts. and others.

The Commission has already ruled to eliminate license requirements for most Maritime radio operators. Also, many marine radios in operation that were supplied previously are capable of being programmed to use unauthorized frequencies. Today, it is not safe to consider maritime spectrum under Part 80 for Public Safety applications in most geographical regions.

Additionally, Report & Order and FNPRM 95-255 (released June 23, 1995) provided no clear evidence regarding spectrum allocation for interoperability between interservice and consolidated Public Safety entities. Within the regulatory dockets, the Commission has sought to achieve interoperability and promote rapid migration to narrowband (12.5 Kz bandwidth) radio operations. The Commentator's viewpoint is that interoperability can and *should be produced at the level of existing radio* structures whenever possible.

Included in PSWAC's final report was the suggestion that a set of frequencies be allocated to become Nationally common for use by interservice Public Safety users in order to insure interoperability. As stated herein, agencies are consolidating assets for budgetary reasons. These same users are seeking new communication systems or upgrades that would provide modern features and improved spectrum efficiency.

Many, if not most of these users groups can not afford to replace multiple systems within a consolidated agency, neither are they prepared to pay for proprietary and exclusive protocols or channel access. These groups need a path for migration to spectrum efficient technologies and narrowband (12.5 Kz) operations that produces no adverse affects within current systems, either as intra or interservice.

The vast majority of the effected user groups already utilize and maintain VHF/FM radio systems in the band of 150 to 174 MHz. The sixteen frequencies tabled in the dockets 92-257 (and 95-177) are most conducive for utilization to Part 90 and Part 80 interservice and consolidated system operations.

With certain provisions incorporated, this spectrum could achieve the required purposes with minimum incurred conflict. Conditions and provisions to be incorporated for use of those frequencies would include:

1. License applications would be supported by a regional and current database that includes other users on close adjacent frequencies.
2. It would not be implied that all sixteen frequencies would be available in any specific region.
3. We agree with the FCC that these sixteen frequencies should be made available on a secondary basis nationwide, if assigned and in use.
4. We believe that regionally these channels should be made available on a primary basis to these consolidated Public Safety users, when a frequency is not assigned.
5. License applications would require that documentation be provided stating that the utilization of these frequencies is for consolidated or interservice Public Safety operations.
6. Operations on all sixteen frequencies would require equipment to support 11.25 Kz emissions, and adjacent channel separations would be more than 12.5 Kz bandwidth apart.
7. VHF/FM narrowband could be achieved by reducing FM deviation.
8. Equipment to be utilized would be required to be interoperable between 25 Kz bandwidth and 12.5 Kz bandwidth operations.

Also, consider that the original PR Docket 92-257 offered utilization of these frequencies by Public Correspondence entities providing commercial services, primarily ship to shore telephone interconnect.

Those providers would probably agree that these frequencies are not the best spectrum to be utilized within their applications. Furthermore, Public Correspondence (Maritime) would probably prefer that they be allowed to utilize frequencies at 12.5 Kz bandwidth that are "interstitial" to their existing channel centers at 25 Kz bandwidth, since they will have to provide service to Foreign Flag vessels. Internationally, the Maritime Mobile has already approved recommendation ITU-R M.1084 which provides for 12.5 Kz channels with the current maritime spectrum allocation.

The first Report & Order following PR 92-257, FCC 95-178, released May 26, 1995 contained provisions that authorized private land mobile sharing of certain maritime VHF frequencies. FNPRM 95-177, released May 25, 1995, would provide reciprocal sharing provisions.

The maritime community has demonstrated a willingness to share spectrum. Maritime radio service also faces new challenges to provide additional and important services, within the framework of an already burdened spectrum allocation and is anticipating relief.

Marine radio producers have developed and deployed spectrum efficient technologies with modern capabilities, and produced interoperable signaling techniques utilized within the world radio community, i.e., Digital Selective Calling, NBFM, AIS, Voice-less VTS, Automated PSTN Interconnect and Data Messaging.

DSC technology (with its embellishments) could have significant applications and benefits within private land mobile radio services. Where applied, that spectrum could become more efficient and provide increase to the number of users per frequency.

Also, consider that many of the entities being consolidated within Public Safety operations are presently utilizing other frequency bands. Some bands, i.e. Low Band, present disruptive interference probability to other systems, both to related and unrelated users. These entities need to migrate to VHF/FM High Band operations already common to their consolidated wide area systems.

Favorable regulatory action by the FCC could produce beneficial results for multiple entities, including the users, citizens and the FCC.

Examples of benefits are:

1. As migration towards those frequencies occurs, other valuable spectrum would become available for reappropriation.
2. Achieving narrowband (12.5 Kz) operational ability by reducing FM deviation is cost effective.
3. Interservice and consolidated agencies would have increased motivation to incorporate spectrum efficient technology since they would be upgrading one wide area system versus multiple systems.
4. These actions remain as "technology neutral" and do not preclude any specific producers of radio technology, and capability for migration to improved technology(s) is not precluded.
5. Current VHF/FM systems can incorporate these specific frequencies within existing radios, whether they operate under Part 90 or Part 80 applications, without creating adverse or disruptive affects.
6. Pressure on Maritime spectrum would be relieved for its most important services.

7. This meets the goal of the Commission to enhance competition in the mobile radio market.
8. This action would facilitate the Commission's need to streamline processing for frequency sharing arrangements between these entities.

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Sincerely yours,

Skip Muckelrath

cc: R. Norsworthy, Capt. T. Viren