BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Initial Regulatory Flexibility Analysis	)	
	)	
Associated with the Notice of Proposed	)	
Rulemaking for the	)	MD Docket No. 96-186
Assessment and Collection	)	
of Regulatory Fees for	)	
Fiscal Year 1997	)	

To: The Commission

COMMENTS OF THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

Respectfully submitted,

AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.

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March 25, 1997

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in response to the Initial Regulatory Flexibility Analysis associated with the Commission's Notice of Proposed Rulemaking ("NPRM") regarding the assessment and collection of Regulatory Fees for Fiscal Year ("FY") 1997.[1] These Comments seek clarification of certain aspects of the FCC's description of the small entities impacted by the proposed assessment and collection of regulatory fees for fiscal year 1997.

I. INTRODUCTION

1. As explained in its comments in response to the NRPM, AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz band.

2. The Association's members had been classified as private carriers prior to the 1993 amendments to the Communications Act.[2] Pursuant to the Budget Act, the regulatory distinction between private and common carriage was replaced by a Commercial Mobile Radio Service ("CMRS") versus Private Mobile Radio Service ("PMRS") analysis. Private carrier systems considered to meet the CMRS definition of providing interconnected mobile radio services for profit to the public, or to such classes of eligible users as to be effectively available

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[1] Notice of Proposed Rule Making, MD Docket No. 96-186, FCC 97-49, 12 FCC Rcd ___ (rel. March 5, 1997), Attachment A ("IRFA").

[2] Omnibus Budget Reconciliation Act of 1993, Pub. L. No. 103-66, Title VI § 6002(b), 107 Stat. 312, 392 ("Budget Act").

to a substantial portion of the public, were reclassified as CMRS licensees. However, the Budget Act also provided a three-year transition period pursuant to which private carrier licensees authorized prior to August 10, 1993 would continue to be regulated as private carriers, not CMRS, until August 10, 1996.[3] Only those qualified private carriers whose initial licenses in a service were issued after the August 10, 1993 deadline were treated as CMRS prior to expiration of the three-year transition period.

II. COMMENTS

3. The IRFA asserts that "the proposed fees in the NPRM applies to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations."[4] AMTA submits that this is incorrect. The proposed fees in the NPRM applies to a broad range of licensees including both those SMR providers which are Private Mobile Radio Systems ("PMRS") and those which are Commercial Mobile Radio Systems ("CMRS"). For purpose of regulatory fees, the Commission has treated and proposes to continue to treat regulatory fee payments by those SMRs which are PMRS as "small" fees subject to advance payment consistent with the requirements of Section 9(f)(2).[5] In contrast, the regulatory fee payments by those SMRs which are CMRS are treated as "standard" fees, payable in full on an annual basis.[6]

4. The description in the IRFA seems to have its genesis from the definition of

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[3] 47 U.S.C. § 332(c)(6).

[4] IRFA at ¶48.

[5] NPRM at ¶47.

[6] NPRM ¶ 49, Attachment F.

"covered SMR" as articulated in several proceedings.[7] In the proceedings where this distinction is applicable, AMTA has Petitioned for Declaratory Ruling.[8] As explained in its Petition, AMTA maintains that there is a discrepancy between the FCC's policy analysis and the covered SMR provider definition adopted in each of these proceedings. The current covered SMR provider definition does not accurately reflect the distinction articulated in the Orders between SMR systems that were and were not intended to be subject to the rules at issue. The distinction is not applicable here.

5. Thus, the Association asks the FCC to amend the IRFA to reflect that all SMR providers are subject to regulatory fees.

III. CONCLUSION

AMTA recommends that the FCC proceed expeditiously to finalize this proceeding, consistent with the clarifications and recommendations detailed above.

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[7] First Report and Order, CC Docket No. 94-54, 11 FCC Rcd ___ (rel. July 12, 1996) ("Resale Order"); Report and Order, CC Docket No. 94-102, 11 FCC Rcd ___ (rel. July 26, 1996) ("E911 Order"); First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 95-116, 11 FCC Rcd ___ (rel. July 2, 1996) ("Number Portability Order"); and Report and Order, ET Docket No. 93-62, 11 FCC Rcd ___ (rel. Aug. 1, 1996) ("RF Order").

[8] AMTA Petition for Declaratory Ruling, CC Docket No. 94-54 (filed Dec. 16, 1996).

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, McGowan, Nace & Gutierrez, hereby certify that I have, on this 25th day of March, 1997, directed to be hand carried, a copy of the foregoing Comments to the following:

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