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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)	
)	
Amendment of Part 90 of the)	
Commission's Rules To Provide)	
for the Use of the 220-222 MHz Band)	PR Docket No. 89-552
by the Private Land Mobile)	
Radio Service)	
Implementation of Sections 3(n) and 332)	
of the Communications Act)	GN Docket No. 93-252
)	
Regulatory Treatment of Mobile Services)	
Implementation of Section 309(j) of the)	
Communications Act -- Competitive)	PP Docket No. 93-253
Bidding)	

PETITION FOR PARTIAL RECONSIDERATION

The Personal Communications Industry Association ("PCIA"), through counsel and pursuant to Section 1.106 of the Commission's Rules, 47 C.F.R. §1.106, hereby respectfully requests partial reconsideration of the Commission's Third Report and Order in the above-captioned proceeding.¹

I. **BACKGROUND**

PCIA has participated in all phases of this 220 MHz proceeding, including PCIA's participation (then, as the National Association of Business and Educational Radio, Inc.) supporting the initial allocation of this band for narrowband systems.

¹Third Report and Order; Fifth Notice of Proposed Rule Making, PR Docket No. 89-552, 62 FR 18536 (April 3, 1997).

PCIA supports most of the decisions by the Commission in the Third Report and Order. However, there is at least one area in which PCIA believes that the Commission's new rules need refinement in order to ensure non-interference to licensees, while at the same time permitting systems in the band to flourish.

II. PETITION FOR RECONSIDERATION

PCIA is extremely concerned with the Commission's decision to require 220 MHz Phase I incumbent licensees to modify their authorizations to reflect the system's actual ERP, and the Commission's decision to only protect such licensees from co-channel systems based on the licensed ERP.² This rule change, which was never proposed or discussed in any previous 220 MHz document, is a radical, unwarranted departure from previous Part 90 Commission policy and must be reversed.

In the past, when the Commission has used the so-called "R-6602" curves to determine minimum separations for co-channel systems, the Commission has protected exclusive Part 90 systems from co-channel based on the maximum allowable ERP for the station's composite HAAT.³ The Commission's change for 220 MHz incumbent licensees represents a significant reduction in the protection afforded these licensees, based on the false premise in the Third Report and Order that the incumbent did not initially

²Third Report and Order at para. 174.

³See, 47 C.F.R. §90.621(b)(4).

seek to serve the additional area.⁴

The Commission is incorrect that licensees are seeking to be protected for areas that they do not serve. In PR Docket No. 90-34, the land mobile industry closely reviewed the Commission's so-called "short-spacing" rules and determined that additional protection was needed for 800 MHz and 900 MHz beyond the 10 dB signal difference which had previously been a part of the Commission's Rules. At that time, the industry determined (and the Commission agreed) that there needed to be a minimum of 18 dB signal difference between the desired and undesired signals for "routine" short-spacing in order to prevent co-channel interference.⁵

In this proceeding, the Commission has decided to go back to the 10 dB signal difference, thereby going back to a rule which the Commission previously found did not adequately protect co-channel licensees. This new rule was adopted even though licensees and manufacturers have demonstrated that 220 MHz systems "in the real world" cover areas in excess of the Commission's initial prediction. Yet, in the current 800 MHz proceeding, the Commission has indicated to the industry that it intends to protect incumbent licensees' 17 dBu F(50,50) contour, giving such licensees an additional 5 dB of protection. There is no valid rationale to

⁴Id.

⁵Report and Order, PR Docket No. 90-34, 6 FCC Rcd 4929 (1991).

treat incumbent 220 MHz licensees differently from incumbent 800 MHz licensees.

Even more disconcerting is, by changing its position from PR Docket No. 90-34 that incumbent stations should be protected for maximum permissible ERP, the Commission has even further reduced co-channel protection for incumbent licensees. The maximum facility protection in this proceeding does not protect incumbent licensees for areas which they do not cover, it protects licensees for areas that they do cover.

The true impact on incumbent licensees will be in their ability to modify their transmitter sites when necessary. The Commission has now mandated for 220 MHz incumbent licensees what 800 MHz incumbent licensees have repeatedly pointed out to the Commission is the biggest problem with "overlay" licensing, the inability to move. By protection of maximum facilities, incumbent licensees in both bands have some limited ability to modify their transmitter locations in the event of tower problems through the creative use of changed ERP and antenna heights, all without changing the area which the co-channel licensee needed to protect. These problems range from the deconstruction of the tower, a large increase in lease fees, the construction of a significant obstacle (like a building) next to the site, intermodulation interference at the site resulting from many licensees at the same site, etc. Incumbent 220 MHz licensees will now be at the mercy of tower owners, who will be able to raise lease fees at will, regardless of

the marketplace, because the licensee will be unable to move.

PCIA does not believe that the Commission intended this result, and PCIA respectfully requests that the Commission revisit this issue.

III. CONCLUSION

WHEREFORE, the premises considered, it is respectfully requested that the Commission RECONSIDER its rules and regulations as adopted in the Third Report and Order consistent with the views expressed herein.

Respectfully submitted,

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