

BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matter of)
)
 Replacement of Part 90 by Part 88)
 to Revise the Private Land Mobile)
 Radio Services and Modify the)
 Policies Governing Them)
)
 and)
)
 Examination of Exclusivity and)
 Frequency Assignments Policies of)
 the Private Land Mobile Services)

PR Docket No. 92-235

TO: The Commission

**PETITION FOR CLARIFICATION OR, IN THE ALTERNATIVE,
FOR DECLARATORY RULING**

Manufacturers Radio Frequency Advisory Committee, Inc.
 ("MRFAC"), by its counsel, hereby seeks clarification or, in the
 alternative, a declaratory ruling of the terms under which low
 power UHF applicants may continue to secure licenses for
 spectrally-efficient 25 kHz equipment.

INTRODUCTION

Radio communications and, more specifically, private
 radio, is vital to the success of U.S. manufacturing. Private
 radio enhances productivity, and plays an important role in worker

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safety. It is central to the improved global competitiveness of the industry.

One of the ways in which radio enhances industrial productivity is in the realm of remote control of devices such as overhead cranes capable of lifting massive loads, railroad locomotives used to switch freight cars, and gantry cranes used for loading/unloading container ships, to name just a few applications. There are tens of thousands of radio remote control units in use around the country. Taken as a whole, low power remote control units materially improve efficiency and worker safety.

As discussed below, however, there is a significant ambiguity affecting the continued ability of manufacturers to use spectrally-efficient, wideband UHF equipment.

DISCUSSION

The Report and Order and Further Notice of Proposed Rule Making (FCC 95-255, released June 23, 1995; hereinafter "Report and Order") indicates that, while newly-created channels are generally reserved for narrowband equipment, applicants and licensees are also entitled to aggregate channels and use wideband (25 kHz) equipment as long as the spectrum efficiency is equivalent to narrowband. Id. at paras. 24, 26-27 ("in order to accommodate the wide variety of licensees and their varied uses of

PLMR, we will allow the use of wideband equivalent technologies, e.g. TDMA, across an aggregation of narrowband channels"); see also id. at para. 80. In the case of equipment designed for data, the Commission has specified a standard of 0.768 bps/Hz which equates to 4800 bps for a 6.25 kHz channel, or 19.2 bps for a 25 kHz channel. Id. at para. 97.

At the same time, however, the Report and Order states:

"Only equipment designed to operate with a channel bandwidth of 12.5 kHz or less may be used on any of the channels 12.5 kHz removed^{70/} from any existing channel and only equipment designed to operate with a channel bandwidth of 6.25 kHz or less may be used on any of the channels 6.25 kHz removed from any existing channel."

70/ Users currently licensed for 25 kHz operation on any of the low power offset channels will continue to be licensed for such operation until they decide to transition to narrowband equipment.

Id. at para. 27 (emphasis added). Moreover, the rules prescribe that newly-created channels (those available for licensing after August 16, 1996) will not be licensed for an authorized bandwidth in excess of 11.25 kHz (in the case of 12.5 kHz channels) or 6 kHz (in the case of 6.25 kHz channels). See, e.g., Second Report and Order, FCC 97-61, released March 12, 1997 at p. 199 (limitations 30 and 33).

By virtue of the underscored language and the frequency limitations, it appears that only existing licensees can continue to use 25 kHz equipment at UHF; new licensees, or at least new systems, operating on any of the "new" channels at UHF, would be restricted to narrowband gear. However, this reading conflicts with the dispensation for wideband gear referenced previously. There is, in other words, an ambiguity. The Commission should clarify the matter as suggested below.

New licensees should be able to use wideband equipment with efficiency equivalent to narrowband, as should existing licensees adding new plants or facilities whether under their current licenses or otherwise.¹

To limit new licenses to 12.5 kHz equipment would in effect exclude certain types of technology which may be every bit as efficient as equipment 12.5 kHz or less in bandwidth. It would represent a departure from the Commission's effort to remain technology-neutral in the implementation of re-farming solutions. Report and Order at para. 29. It would unnecessarily hamper licensees who have accumulated supplies of spares for spectrum-efficient 25 kHz gear. And it would preclude licensees from using

¹ It is understood that, notwithstanding the Report and Order, Gettysburg has continued to issue 25 kHz licenses.

low power, wideband channels for controlling multiple devices (e.g. cranes) with technology such as TDMA. None of this would be consistent with re-farming principles which, from the very beginning, contemplated allowing licensees to stack channels so as to achieve certain throughputs.²

CONCLUSION

Accordingly, for the foregoing reasons the Commission should clarify the Report and Order in the respects noted above; or, alternatively, issue a declaratory ruling to this effect.³

Respectfully submitted,

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² MRFAC envisions that most, if not all, low power use would be accommodated on frequencies to be designated for this purpose (a matter under active consideration by the Land Mobile Communications Council).

³ Given the complexity of the new environment created by refarming, some issues have only emerged with clarity in recent times. While this Petition is not being filed within the period for petitions for reconsideration of the Reports and Orders, the Commission has the discretion to issue a clarification or declaratory ruling at any time.

CERTIFICATE OF SERVICE

I, Joseph C. Fezie, a secretary at Arter & Hadden, do hereby certify that on this 27th day of May, 1997, a copy of the attached "Petition for Clarification or, in the Alternative, for Declaratory Ruling" has been sent, United States mail, first class postage prepaid, to the following individuals:

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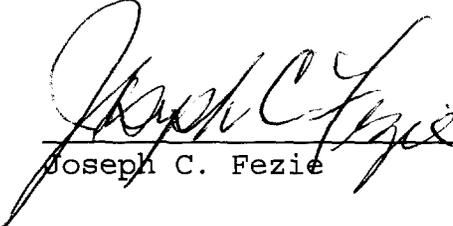
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