

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

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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)
for the Private Land Mobile Radio Service)
)
Implementation of Sections 3(n) and 332 of)
the Communications Act)
)
Regulatory Treatment of Mobile Services)
)
Implementation of Section 309(j) of the)
Communications Act - Competitive Bidding)

PR Docket No. 89-552
RM-8506

GN Docket No. 93-252

PP Docket No. 93-253

**INFORMAL COMMENTS IN SUPPORT
OF PETITIONS FOR RECONSIDERATION**

Small Business in Telecommunications (SBT) hereby provides these comments in an effort to fully demonstrate to the Commission that its 220-222 MHz SMR licensee/members and those members who are interested in becoming 220-222 MHz SMR licensees, following participation in any future auction, will require co-channel separation standards that are different than those adopted by the Commission in its Third Report And Order (Order). SBT notes that the Commission has received requests for reconsideration of its Order that urge the Commission to make the necessary changes in its standards to accommodate operators¹ and, by these comments, SBT wishes to support those requests for the improved future operation of 220-222 MHz systems.

¹ See, Petitions For Reconsideration filed by American Mobile Telecommunications Association, Inc. (AMTA) and Police Emergency Radio Services, Inc. (Police Radio) ("petitioners").

SBT is a nationwide, non-profit association of small business operators, devoted to assuring the continued vitality and competitiveness of small businesses serving the telecommunications marketplace. SBT members do not fall into a single service category, and include operators of systems that provide paging, microwave, SMR, private carrier, common carrier, resale and a host of other services, including manufacturing of devices and site operation. Unlike other associations, SBT focuses solely on the competitive effect of the Commission's actions in an effort to produce equitable and reasonable opportunities for small businesses. Accordingly, SBT is interested in the Commission's future actions to protect and preserve the operational capacity of 220-222 MHz SMR systems, to assure that existing systems are able to serve reliably the market for which fixed investment has been made, and to assure that future, geographic-licensed systems can be operated in harmony with Phase I operators.

Although SBT has not commented in this proceeding in the past, due in large part to its creation over one year ago, after this proceeding was long underway, these informal comments in support of the petitioners, Police Radio and AMTA, are offered in an effort to demonstrate to the Commission that a large segment of interested persons are, together, urging the Commission's reconsideration of these issues.

Accordingly, SBT hereby expresses its support for the following changes in the Commission's Rules adopted by its Order in this proceeding:

Contour: A reliable service contour which is represented by a 28 dBu contour, in lieu of the 38 dBu contour adopted by the Commission, is proper. Such change is necessary to reflect the real, rather than the theoretical, operation of these systems and the coverage which is likely to be provided by normal operations. To maintain the present 38 dBu standard would create opportunities for unintentional harmful interference which might require the expending of scarce Commission's resources in deciding the actions to be taken by competing operators to remedy the problem. It appears prudent, therefore, to avoid the creation of the conflict in the first instance by setting an appropriate standard that will prevent future conflict by assuring harmonious operation.

Modification

of Licensing: SBT cannot discern the purpose behind the Commission's position on minor modification of licenses for the operation of 220-222 MHz SMR systems. The agency's position cannot be reconciled with the dynamics of the marketplace or the logical operation of radio systems. In no other area of its regulation has the Commission taken such a harsh approach to existing licensees. On balance, it appears that the Commission is expressing far more concern for future, speculative licensees which might someday purchase an authorization at auction and later construct a system, than those persons who have already invested in the operation of 220-222 MHz licenses and systems, to serve the public. What the

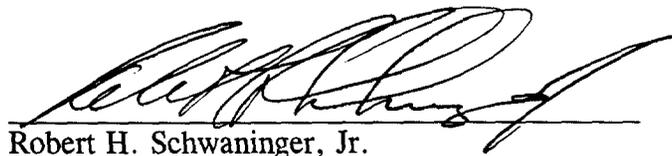
Commission appears to be overlooking its obligation to protect the interests, investments, and legal position of known persons with tangible investments. If the matter was before a court of law, with the Commission as judge, no party with standing could show up on the other side. No entity has been identified as an auction participant whose alleged interests would require the agency's protection. And no such person has invested a nickel in developing, constructing, and investing in the future of this spectrum. Accordingly, it is incumbent on the Commission to protect those entities which have standing, borne from each's individual investment and operation in accord with the Commission's Rules, rather than a phantom participant in auction.

The two positions outlined above and supported by the petitioners recognize the reality of the marketplace. The marketplace demands co-channel protection rules which allow operators to provide service and construct new systems in a manner which will promote equitable operations among licensed operators. The value of investment in these systems requires protection from needless harmful interference. Phase I operators require the ability to modify and redesign licensed systems in a manner which demonstrates good system design, the potential of catastrophic losses of site availability, and necessary changes to respond to actual coverage requirements. To foreclose operators from making minor modifications to improve the operation of existing systems, in an effort to promote revenue generation through auction of white space, is a bad bargain.

For the foregoing reasons, SBT urges the Commission to seriously consider and act favorably on the petitioners' requests. Nothing contained within those requests could be deemed anything but an industry's hope for remedies that reflect the actual operational characteristics of these systems and the reality of the marketplace in delivering service to the public.

Respectfully submitted,

SMALL BUSINESS IN TELECOMMUNICATIONS



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