DOCKET FILE COPY ORIGINAL

RECEIVED

JUL 18 1997

FCC MAIL ROOM

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Amendment of the Commission's Rules
To Allow Organizational Licensing
in the GMRS

RM-9107

Comments Filed in Response to a
Petition for Rule Making

Filed by: Corwin D. Moore, Jr.
Administrative Coordinator
Personal Radio Steering Group, Inc.
PO Box 2851
Ann Arbor, MI 48106
July 16, 1997

0+11
WT

Table of Contents

Summary

I. Background of the Commenter. 1

II. History of Public Service Team Use of GMRS. 2

III. PST Rules Compliance and Cooperation with Other GMRS Users Has Been Less Than Exemplary. 2

IV. This Lack of PST Rule Compliance and Cooperation Takes Several Specific Forms. 3

IV.1. PST "Net Operations" Are Incompatible with a Shared Assigned-Channel Service. 3

IV.2. PST Net Participants Improperly Demand Exclusive Channel Use. 5

IV.3. PST Operations Frequently Violate Certain Restrictions on Eligible Communications Points. 6

IV.4. PST Compliance with FCC Callsign Identification Requirements is Substantially Lacking. 7

IV.5. Some PSTs Routinely "Lend" Their FCC Callsigns to Other Organizations. 7

V. PRSG Supports Retaining Only Personal Licensing Eligibility from GMRS. 8

VI. The Petition's Claim of Reduced Licensing Effort is Incorrect. 10

VII. The Petition Misunderstands or Misrepresents the Unique Status of the GMRS "675 Channel." 11

VIII. The Petition Improperly Characterizes the Licensing Process as "An Annoyance." 14

IX. The Petitioner Misunderstands or Misrepresent the Current FCC Fee Structure. 15

X. In Conclusion. 16

Summary:

The FCC addressed the issue of GMRS licensing eligibility for public-service teams in a prior rulemaking, and decided against continuing this practice. The Petition presents no new information that was not previously considered. Public service teams today have even more communications alternatives than they had when their eligibility for new or modified GMRS licenses was terminated. The Petition's claim of a lack of appropriate, available or viable alternatives is without merit.

Public service team use of GMRS has a history of non-compliance with certain FCC Rules, and of non-cooperation with other cochannel licensees. Reinstatement of GMRS organizational licensing would inevitably result in further disruptive and violative behavior.

PRSG opposes any change in current GMRS licensing eligibility. There is nothing inherent in the tax-exempt status of non-profit or other civic-minded organizations that makes their routine business and event-related communications compatible with personal and family communications.

GMRS personal licensees can fully participate in team and other organizational and civic communications activities while operating under their own personal licenses. Reinstating GMRS organizational licensing eligibility would compromise the GMRS operator accountability created by the current practice of personal-only licensing.

I. Background of the Commenter.

The Personal Radio Steering Group, Inc. (PRSG) is an all-volunteer, not-for-profit corporation established in 1980 by licensees in the General Mobile Radio Service (GMRS, FCC Part 95A) to provide services to and to serve as an advocate for the GMRS personal-use community. PRSG is the continuation of the GMRS Task Area of the Congressionally-chartered FCC Personal Use Radio Advisory Committee (PURAC, 1976-1978).

The PRSG has published more than 300 different guides to GMRS licensing, technology and operating practices. PRSG's flagship publication, the **GMRS National Repeater Guide**, now in its tenth edition, lists each of the more than 3,500 GMRS repeaters, including information about their sponsors, technical characteristics and operational coverage. The Guide has become the essential reference to this cooperative, non-profit communications network for licensed private individuals. PRSG also works closely with major land mobile equipment manufacturers to disseminate instructional materials for radio purchasers.

The PRSG tracks GMRS applications and grants. We maintain and provide access to the national GMRS licensing database of more than 35,000 stations, in support of the FCC requirement [47 CFR 95.7(a).] that all licensees must cooperate in the selection and use of the available channels. PRSG staff members and volunteers regularly answer questions about GMRS licensing and usage over the Internet and other national computer networks.

II. History of Public Service Team Use of GMRS.

PRSG's principal officers have been personally and extensively involved in local public service team (PST) and public service communications activities since the late 1960s. This involvement has been as GMRS licensees, as then-licensed CB operators, and/or as licensed Amateur Radio Operators. Some PRSG officers have also been active in PST planning and coordination at the regional and national levels.

Persons who are now PRSG officers were the parties directly responsible for bringing GMRS to the PST community in the mid 1970s. The PST community quickly adopted GMRS for its own use. The community further expanded the nature of its GMRS use to fulfill other of its communications needs, even when those expanded uses sometimes exceeded permissible parameters for GMRS operations.

III. PST Rules Compliance and Cooperation with Other GMRS Users Has Been Less Than Exemplary.

PRSG officers, affiliates and many GMRS personal users have recurrently observed that PST compliance with certain FCC rules governing the GMRS has oftentimes been lacking. In particular, PST channel sharing and cooperation with other licensed GMRS users, as required by 47 CFR 95.7, is oftentimes unsatisfactory. Many PSTs want to believe that their particular definition of and engagement in "community welfare communications" should give their routine and business communications precedence over other cochannel

These channel-sharing problems directly parallel those of other non-personal users (especially business and commercial entities), who have been notoriously uncooperative with personal and family GMRS users. The FCC has long cautioned (for instance, in a news release of more than 20 years ago) such non-personal users that they must share with personal and family GMRS licensees, and if unwilling to do so, they should relicense in other, more appropriate non-personal services.

Sadly, a similar warning has become appropriate for some PSTs. The experience of PRSG officers and affiliates has been that the PST operations most likely exhibiting uncooperative channel-sharing behavior are from those organizations whose individual members are not themselves *personally* licensed in the GMRS, and who therefore operate *only* under some team or organizational license.

IV. This Lack of PST Rule Compliance and Cooperation Takes Several Specific Forms.

IV.1. PST "Net Operations" Are Incompatible with a Shared Assigned-Channel Service.

Extended-length communications, whether pertaining solely to intra-organizational activities or amongst multiple individual licensees, are not compatible with the concept of a *shared, assign channel.* Unlike operators in the CB and Amateur Radio Services, GMRS users operating on the primary channels (especially through local repeaters) usually do not have the option of merely switching channels or repeaters to avoid interference or channel

In addition, PST communications are frequently conducted in a "closed tone" environment, where all organization users or event participants employ the same selective-addressing subaudible receiver muting code. These users frequently leave their receivers in a closed or muted condition, rather than monitoring for other cochannel activity as required by FCC Rules at 47 CFR 95.175(a) and (b). PST leaders sometimes argue that such a closed-tone operation is necessary or desirable in order to reduce confusion and distraction during organizational activities.

However, without monitoring for other cochannel communications, persons participating in PST event activities would be unaware when their transmissions would interfere with (and must yield or defer to) on-going communications exchanges. In addition, once a routine PST event-related communications exchange has properly begun, without "open squelch" monitoring the event participants would be unaware of any cochannel emergency activity pertaining an immediate threat to life or property, and to which all other cochannel must immediately must yield, as required by 47 CFR 95.143(a).

Both failures are violations of FCC Rules. Participants in such "closed-tone nets" are clearly violating the requirements for channel sharing and cooperation, a requirement (47 CFR 95.7) that applies to *each* GMRS operator individually and *each* time he or she transmits.

GMRS commercial users make the same argument about the desirability of operating in a "closed tone" environment to minimize confusion and distraction. This uncooperative behavior by commercial users was a major reason that the FCC warned these users about the need to share the channel with personal and family users.

The Petition now requests an expanded licensing eligibility for users and uses with a demonstrable track record of the same kind of improper and violative operating behavior that was a significant factor in limiting eligibility in that prior FCC docket.

IV.2. PST Net Participants Improperly Demand Exclusive Channel Use.

PST participants want to believe that their organizational operations, especially if being conducted in support of what they argue is on behalf of some kind of community welfare, should be given priority over all other cochannel communications. Alternatively, PSTs and other organizational and volunteer communications groups want to argue that their routine, non-emergency communications should somehow qualify as pertaining to "immediate threats to life or property," despite not qualifying under any reasonable definition of "immediacy."

For instance, although communications in support of or requesting the immediate and emergency response from "first responders" (police, fire or ambulance) may *usually* qualify as an emergency pertaining to the *immediate* safety of life or property, more routine communications solely about personnel supervision or assignment in a neighborhood watch program, or pertaining solely to general traffic or non-threatening weather conditions, do *not* qualify as an *immediate* emergency. Some PSTs argue that such routine business and organizational communications must be given priority over other cochannel users.

IV.3. PST Operations Frequently Violate Certain Restrictions on Eligible Communications Points.

GMRS is a *mobile* communications service, and the restrictions in FCC Rules at 47 CFR 95.55(b) and 95.59(b) and (c) prohibiting point-to-point contact are well intended and necessary to keep this service available for truly mobile operations. Under FCC Rules, land stations (base stations and control stations) may not communicate with one another, but only with mobile units.

Some PSTs routinely conduct point-to-point nets (between land stations), wanting to redefine or to elude application of FCC restrictions by pretending that vehicular units remain a "mobile station" under FCC rules even when operated outside of a vehicle. Similarly, some PSTs (and others) want to argue that portable (hand-held) GMRS transceivers still qualify as "mobile units" even when connected to land station-type antennas and land-based power supplies.

In addition to violating FCC rules pertaining to points of communications, such "non-mobile mobile station" operations violate rules regarding frequency stability (+/- 0.00025% for conventional base stations) and the use of excessive power and non-directional antennas (for control stations).

In addition, the experience of PRSG officers and affiliates is that in many areas, PST member compliance with the control station antenna directivity and power reduction requirements at 47 CFR 95.47(b) is minimal or non-existent.

IV.4. PST Compliance with FCC Callsign Identification Requirements is Substantially Lacking.

Some PST leaders have actually encouraged their members *not* to identify by FCC callsign, arguing (incorrectly) that such individual-member compliance is not required or not necessary under FCC Rules. Existing FCC Rules at 47 CFR 95.119(a) are quite clear on this requirement. Any confusion that may have once existed about the need to identify if the communicating base station on the same channel *did* identify was removed from the FCC Rules more than a decade ago!

Some PST leaders have also told their teams that individual mobile station unit identification by FCC callsign was not required if the repeater through which they were communicating identified automatically. This again is incorrect, and recurrent PRSG attempts to encourage changes in PST operations to come into compliance with FCC Rules have been unsuccessful.

IV.5. Some PSTs Routinely "Lend" Their FCC Callsigns to Other Organizations.

Some PSTs want to believe that they have the authority to grant other organizations permission to operate under the PST organizational license. Although such an authority does exist under Part 90 of the FCC Rules (pertaining to commercial, organizational and governmental licensing in the Part 90 radio services), the language of Part 95 Subpart A governing GMRS is much more restrictive. GMRS Rules at 47 CFR 95.109(a) and 95.111

permit such assignment, transfer or expansion of licensing privileges *only* where the FCC has previously and specifically authorized this on the particular license itself, and only to other elements within the same corporate or organizational structure. The FCC has authorized such provision of communications services on fewer than a dozen licensees nationally, and in only one instance to any PST. Under existing rules of licensing eligibility at 47 CFR 95.71(e)(2), no grandfathered PST licensee may be granted such an authority, since this would expand the number of mobile station units.

V. PRSG Supports Retaining Only Personal Licensing Eligibility from GMRS.

PRSG fully supports and encourages GMRS personal licensees to participate in local PST organizational activity. PRSG officers and their GMRS-licensed associates are themselves each extensively involved in such activities contributing to the local community welfare.

Extensive PRSG experience indicates that most personally licensed GMRS users are well aware of the need to share the channel with all other types of users, especially other personal and family users. Personally licensed GMRS operators, in our experience, are less likely than persons operating solely under the authority of some organizational license to demand immediate channel access or usage priority based on some exaggerated claim of message urgency when no *immediate* threat to life or property exists.

PRSG opposes returning licensing eligibility to PST and similar organizations. There is nothing uniquely qualifying an organization nominally entitled to non-profit tax-exempt

status under IRS Rules. This opinion was shared by the Secretary of REACT International, in his personal comments filed to the rulemaking (FCC Docket 87-265) that removed eligibility for organizational licensing in the GMRS.

The Petition proposed no objective or easily implemented standard of organizational eligibility other than non-profit status. Hundreds of thousands of non-profit, nominally "community welfare" and/or ecclesiastic organizations exist. The change in GMRS licensing eligibility, if adopted, would inevitably lead to a deterioration of use and operating civility created by an influx of real or mythical organizations claiming some kind of need for organizational communications, but using GMRS primarily for the routine (even if non-commercial) business of the organization.

For truly short-range communications, the Petition has made no argument why the Family Radio Service (in which no licensing is required) would not suffice. The Petition's suggestion that FRS communications have a range of only a fraction of a mile is refuted by manufacturers descriptions, by actual user experience, and by other REACT organizations even in the Petitioner's same operating area that report an FRS operating range of several miles, and in some cases much further.

Organizations providing disaster relief communications already are eligible in certain other radio services for both their routine business/organizational communications and for truly emergency communications pertaining to the *immediate* threat of life or property. Authorizing such organizations to license and operate in the GMRS, even if only under true emergency situations pertaining to such an *immediate* threat of life or property, would

deny access to other local GMRS licensees whose operations are also restricted by FCC license only to the same channel, and who may well have qualifying emergencies of their own.

VI. The Petition's Claim of Reduced Licensing Effort is Incorrect.

The Petition claims that by re-establishing GMRS licensing eligibility for certain organizations, the FCC's licensing effort can be reduced. Instead, the FCC's administrative burden would *increase*.

The Petition proposes that organizations seeking GMRS licensing authority should initiate certain record-keeping and membership-training activities, but fails to explain how the FCC would or could expand its licensing and enforcement efforts to assure compliance with these requirements.

Citing protection of confidentiality and privacy, PSTs routinely decline to release the names and other identification of their organizational participants. The Petition's claim that peer enforcement by other local GMRS users could be accomplished by the release of such confidential information is most unrealistic. What chance is there that PSTs would comply with such outside requests for membership information when PST compliance with other existing FCC requirements is already so lacking.

Instead, the way to identify individual persons is through the FCC's existing callsign licensing structure. Information about (and accountability for) individual GMRS operation

is then possible through the publically available FCC licensing records. This "individual accountability" was at the heart of the FCC's decision more than a decade ago to permit licensing only of individual persons in the GMRS.

VII. The Petition Misunderstands or Misrepresents the Unique Status of the GMRS "675 Channel."

FCC Rules recognize an enhanced use of the GMRS channel pair 462.675 / 467.675 MHz, the so-called "675 channel." GMRS personal licensees authorized to operate only on one or two of the other seven GMRS primary channels are also permitted to operate on the 675 channel, even though this is not specifically authorized on their licenses. However, this expanded eligibility for 675 operations may only be by mobile station units, and only for the purpose of soliciting or rendering assistance to a traveler or for communications pertaining to the *immediate* safety or life or to the *immediate* protection of property, as described at 47 CFR 95.29(e).

The FCC's special recognition of the use of this channel was based on the wide and continually growing national network of repeaters operated not just by some PSTs, but by many user cooperatives and individual private licensees. The collective desire of these licensees is to provide their local communications resources (especially their repeater stations) to the GMRS traveling public.

Although the vast majority of states now have repeaters on the GMRS 675 channel available for this emergency and traveler assistance use, only in a handful of states (fewer

than a dozen, although including the Petitioner's home state of California) are these repeater services provided primarily by REACT or other tax-exempt or local public service organizations. In the other states, these repeater services are provided instead by local user cooperatives and by private personal and even grandfathered corporate licensees.

The Petitioner's own provincial vision may have lead him to believe or to suggest that the GMRS 675 channel might be "the emergency channel" or "the PST channel." This is *not* the common experience nationally.

PRSG has long recommended that GMRS applicants anticipating establishing new repeater operations should license for, construct and operate their new stations on the 675 channel if no such emergency and traveler assistance operations already exists in their area. Happily we can report that many applicants for new or expanded repeater services have followed these recommendations.

PRSG also recommends that new GMRS applicants should request the 675 channel as one of their two authorized primary operating channels unless the applicant has a compelling need to operate on two of the other seven GMRS primary channels. By including the 675 channel on their licenses, GMRS users are not restricted solely to mobile operations and solely to emergency or traveler assistance on the 675 channel. The 675 channel is the most widely licensed GMRS channel, by a factor of nearly two-to-one over the next most commonly licensed channel.

Identifying 462.675 / 467.675 MHz as "the emergency channel" (as do many manufacturers and retailers of GMRS radios) is incorrect. 675 is a "regular use" channel that is *also* available for emergencies and travelers assistance. This is in contrast to CB Channel 9, which is available *only* for emergencies and travelers assistance. Many new GMRS operators have mistakenly assumed that the GMRS 675 channel is not available for general communications even to those whose licenses authorize operation on that channel specifically.

The Petitioner's reference to the 675 channel as "an emergency repeater pair" perpetuates this confusion, even though he may not have intended this. The 675 channel (462.675 / 467.675 MHz) is a *regular-use* channel, and indeed is the *only* conventional GMRS channel available to those persons whose licenses authorize operation *only* on that particular channel pair.

The Petition is also incorrect to suggest that the GMRS 675 channel might be a special PST channel. Licensing records and reports from PST members around the country (for instance, as summarized in the most recent edition of the PRSG's flagship publication, the GMRS National Repeater Guide) indicate that there are actually more PSTs on channels *other than* 675 than there are PSTs on 675 itself.

Also we must note that it is incorrect to suggest or to characterize the GMRS 675 channel as "the REACT channel." The original PST operation on the GMRS 675 channel that prompted other PSTs, user cooperatives and private licensees to form the national network of emergency and traveler assistance repeaters has never been a REACT affiliate.

The majority of 675 repeaters nationally cooperating with this expanding network of emergency and traveler assistance stations are not associated with REACT, or indeed with *any* local PST.

VIII. The Petition Improperly Characterizes the Licensing Process as "An Annoyance."

The FCC establishes and regulates intended spectrum use through the licensing process. Promotion of the use of GMRS for personal and family communications, and protection of the very limited GMRS spectrum from usurpation by entities or organizations eligible and more appropriately operating in other radio services, was one of the specific purposes of FCC Docket 87-265, which prohibited subsequent organizational licensing.

The Petition's claim that current licensing eligibility creates "an increasing annoyance" to public service organizations reflects his disagreement with the intent of the eligibility changes adopted in that FCC docket. This "annoyance" is *precisely* the intent of the current rules. GMRS is for personal and family communications. Organizations desiring to license and to operate communications facilities to be used for the conduct of their own business (even if that business is not necessarily profit-making, although some of the examples cited by the Petition, such as fund-raising, clearly *are* for the purpose of generating funds) should license (or, if these needs can be met in unlicensed services, should operate) in radio services more appropriate for the nature of such organizational "business."

The Petition apparently wants to define "business" in a very limited sense of commercial enterprise, ignoring that non-profit and other volunteer organizations have their own "business" purpose (even if that business might *not* be one of commercial enterprise).

For disaster relief operations, more appropriate radio services also exist. The frequencies available in these services do not need to be shared with personal and family users.

What the Petition is calling for is reconsideration of the policies implemented in FCC Docket 87-265. That makes this Petition more than 10 years tardy. The Petition has presented no information that is new or that was not considered in that earlier docket.

IX. The Petitioner Misunderstands or Misrepresent the Current FCC Fee Structure.

The Petition recommends a higher fee for organizational licensing, but apparently fails to recognize that under existing rules, the user fee is waived for tax-exempt organizations. The Petition has not proposed eliminating this waiver. Instead it proposes a *surcharge* for tax-exempt organizations. This proposal is meaningless: 2.5 times the current $0 user fee for tax-exempt organizations is still $0.

For the FCC to adopt an accelerated fee structure in this *personal* radio service solely to regulate a type of usage (business and non-emergency communications) of otherwise ineligible and incompatible users would be entirely inappropriate. It would set a dangerous

precedent for other radio services to allow ineligible users and uses to bribe their way in and operate in a manner incompatible with existing licensed users.

X. In Conclusion.

PRSG encourages the FCC to dismiss RM-9107 as being merely duplicative of considerations already made more than a decade ago in Docket 87-265, but presenting no new information.

Local volunteer and non-profit organizations already have other licensed and unlicensed radio services within which they may lawfully and reasonably operate to meet their reasonable communications needs. GMRS personal licensees may already participate in these organizational activities under the existing personal-only licensing structure. The Petition's request for access to GMRS by these organizations would *not* simplify the licensing process, and would create additional licensing burdens for the FCC.

The FCC should recognize that current PST operations are often characterized by behaviors not in compliance with established rules and intentions. Extending eligibility to organizations likely to perpetuate and expand these non-compliant behaviors would be inappropriate.

If the FCC decides to proceed with a rulemaking, PRSG requests that rules create language that makes it a clearer violation that to demand priority access in non-immediate-

emergency conditions is a direct violation of FCC rules. Language should also be considered that places time limits on non-emergency communications.

Also, the Petition suggests that peer enforcement can be facilitated by requiring documentation of and publicizing unit number assignment. This suggests that PST teams and other organizations would make that information available to others, an action nearly unprecedented for PST operations and, based on real-life experience, most unlikely to achieve their voluntary compliance. REACT International won't even release the mailing addresses of its team affiliates themselves, let alone the names of the individual team members.

PRSG therefore requests that the Petition be dismissed.

Certification:

I, Corwin D. Moore Jr., Administrative Coordinator of the Personal Radio Steering Group Inc., hereby certifies that a copy of these Comments Filed in Response to a Petition for Rule Making was mailed by first class mail on Wednesday, July 15, 1997 to the Petitioner at the following address:

Kenneth J. Collier

7510 Rudell Road

Corona, CA 91719

□