ORIGINAL

DOCKET FILE COPY ORIGINAL

REGION-20 PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE

RECEIVED

DEC 19 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
The Development of Operational,	)	
Technical and Spectrum Requirements	)	**WT Docket No. 96-86**
For Meeting Federal, State and Local	)	
Public Safety Agency Communications	)	
Requirements Through the Year 2010	)	

COMMENTS

Submitted by:

Region-20 Public Safety Review Committee
Legislative/Regulatory Affairs Committee
Dr. Michael C. Trahos, D.O., NCE, CET - Chairman
4600 King Street, Suite 6K
Alexandria, Virginia 22302-1213

December 19, 1997

0+4

REGION-20 PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE

TABLE OF CONTENTS

	ITEM		PARAGRAPH
I.	INTRODUCTION		1 - 3
II.	COMMENTS		4 - 30
	A.	Reimbursement of RPC Administrative Costs	4 - 6
	B.	Commission Lack of Enforcement of 47 CFR 90.205, 90.621(g) and 90.635	7 - 9
	C.	Eligibility of Interoperability and General Use Channels	10 - 13
	D.	Channel Spacing and Bandwidth Limitations	14 - 15
	E.	806-821 MHz Transition to 12.5 KHz Channels	16 - 18
	F.	Permitting RPCs to Submit Separate 764 MHz Regional Plans	19 - 24
	G.	Channel Requirements	25 - 27
	H.	System Design With Minimal Coverage Areas	28 - 30
III.	CONCLUSION		31

PRESIDENT (CY '94)
ALEXANDRIA MEDICAL SOCIETY, INC.

ASSISTANT CLINICAL PROFESSO
GEORGETOWN UNIVERSITY SCHOOL OF MEDICIN

MICHAEL C. TRAHOS, D.O.
GENERAL MEDICINE/FAMILY PRACTICE

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
The Development of Operational,	)	
Technical and Spectrum Requirements	)	WT Docket No. 96-86
For Meeting Federal, State and Local	)	
Public Safety Agency Communication	)	
Requirements Through the Year 2010	)	

COMMENTS

Submitted by:

Region-20 Public Safety Review Committee
Legislative/Regulatory Affairs Committee
Dr. Michael C. Trahos, D.O., NCE, CET - Chairman
4600 King Street, Suite 6K
Alexandria, Virginia 22302-1213

Date: December 19, 1997

I. INTRODUCTION

1. Before the Federal Communications Commission (Commission) is a **Second Notice of Proposed Rule Making (NOTICE)** concerning multiple proposals relating to public safety communications in the 764-776/794-806 MHz band (764 MHz band).

REGION-20 PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE

2. Pursuant to the authority given by the Commission under the *NPSPAC Report and Order*[1], the Region-20 Public Safety Planning Committee was created to address the future communications needs and concerns of the PSRS users for Region-20. The obligations of that Committee included the submission to the Commission of a Region-20 Public Safety Radio Communications Plan (Region-20 Plan)[2] and establishment of a Region-20 Public Safety Review Committee (Committee) to oversee its implementation.

3. This Committee, representing the PSRS/governmental constituents for Region-20, hereby submits the following **COMMENTS** in response to this **NOTICE**, addressing those issues of concern and their effects upon Region-20 and its constituency.

---

[1] REPORT AND ORDER, General Docket No. 87-112, FCC 87-359, November 24, 1987, 3 FCC Rcd, at 905, Para. 4 (*NPSPAC Report and Order*).

[2] WASHINGTON, D.C. METROPOLITAN AREA - REGION-20, General Docket No. 90-7, DA 90-28, January 17, 1990.

II. COMMENTS

A. Reimbursement of RPC Administrative Costs

4. Region-20 concurs with the Commission's proposal of retaining the existing regional planning committees (RPCs) and having them intra-regionally allocate the new 764 MHz band.[3] However, throughout this **NOTICE**, the Commission has failed to recognize that the benefits provided by the RPCs of continuity, expertise and the minimizing of administrative burden upon the end users of this spectrum[4] does not come without a price!

5. For the past 10 years many members of Region-20, serving on the various committees needed to allocate the 821-824/866-869 MHz band (821 MHz band), have provided legal & technical expertise and administrative services without financial compensation. Furthermore, and in many instances, these services have been provided at a significant loss of individual financial income revenue.

6. Region-20 firmly believes that the Commission must permit the RPCs to directly and separately obtain reimbursement for its administrative costs, independent of the license processing fees assessed by the designated Public Safety Pool Frequency Coordinator(s), from each and every future 764 MHz and 821 MHz band applicant. Commission rejection of allowing RPCs to recoup their administrative costs on a "not-for-profit" basis will result in decrease willingness, on the part of the public safety comunity, to serve on these enormously time consuming and personally financially burdensome committees.

---

[3] SECOND NOTICE OF PROPOSED RULE MAKING, WT Docket No. 96-86, FCC 97-373, at Para. 115.

[4] Ibid.

B. Commission Lack of Enforcement of 47 CFR 90.205, 90.621(g) and 90.635

7. The Commission seeks comment on what power & antenna height limitations[5] and base station protection criteria[6] should be specified for 764 MHz applicants. Region-20 questions the need to establish such specifications when the Commission fails to enforce the existing rules.

8. Currently before the Commission is a **MOTION FOR EMERGENCY INJUNCTIVE STAY (MOTION)**, filed by Region-20, against the State of Delaware for violation of 47 CFR 90.205, 90.621(g) and 90.635[7] (*see* Exhibits A & B). Region-20 filed the **MOTION** on December 12, 1996 and Reply Comments in response to the State of Delaware opposition to the **MOTION** on December 27, 1996.

9. One full year has passed and the Commission has failed to enforce the existing power & antenna height limitation and base station protection criteria against a licensee who has clearly violated the current rules. If the Commission is unwilling to take prompt and expeditious action against violators of these rules, then there exists no reason to keep, let alone create new, power & antenna height and base station protection criteria rules and regulations![8]

---

[5] NOTICE, at para. 164.

[6] Ibid., at para. 166.

[7] MOTION FOR EMERGENCY INJUNCTIVE STAY, GN Docket No. 89-573, December 12, 1996, and REPLY COMMENTS FILED IN RESPONSE TO OPPOSITION TO MOTION FOR EMERGENCY INJUNCTIVE STAY, GN Docket No. 89-573, December 27, 1996 (*see* Exhibits A & B).

[8] LETTER, Steven H. Souder, Chairman - Region-20 RPRC to Kathryn Hosford, FCC Public Safety Liaison Officer, Public Safety and Private Wireless Division, January 2, 1997 (*see* Exhibit C).

C. Eligibility of Interoperability and General Use Channels

10. The Commission has been directed by Congress to assign the 764 MHz band to public safety service eligibles as defined by statute.[9] The Commission seeks comment for under which circumstances non-governmental providers should have access to the interoperability channels[10] and for its tentative conclusion of allowing the RPCs to "specify precisely which groups within the broad categories of the statutory definition they suggest should receive (general use) frequencies within their regions."[11]

11. Region-20 concurs with the Commission's intent of broadening the eligibility for interoperability channels to include non-governmental providers.[12] Region-20 further believes that this eligibility for the interoperability and general use channels should also include Special Emergency Radio Service (SERS) eligibles who are involved in the direct rendition and delivery of medical and emergency services to the public. The question of which SERS eligibles should have access to such channels has already been addressed in different public safety proceedings.

12. On January 18, 1996, the Commission granted a Petition for Reconsideration[13] of the *EMRS Report and Order*[14] which expanded the eligibility for interoperability channels at 220 MHz

---

[9] COMMUNICATIONS ACT, 47 U.S.C $ 337(f)(1), as amended by the Balanced Budget Act of 1997, $ 3004.

[10] NOTICE, at Para. 89.

[11] Ibid., at Para. 120.

[12] Ibid., at Paras. 88 & 91.

[13] PETITION FOR RECONSIDERATION, PR Docket No. 91-72, Michael C. Trahos, D.O., NCE, CET, April 2, 1993. *See* Public Notice, Report No. 1936, April 27, 1993.

[14] REPORT AND ORDER, PR Docket No. 91-72, FCC 93-32, January 14, 1993, Paras. 12-14 .

from Public Safety Radio Service (PSRS) only, to PSRS and those SERS eligibles involved in the direct rendition and delivery of medical services to the public in emergency situations.[15] As a result of that proceeding the Commission modified Section 90.720 (a) to:

> "permit individuals eligible to be licensed under Sections 90.35 (medical services), 90.37 (rescue organizations, 90.41 (disaster relief organizations), and 90.45 (beach patrols) to be authorized to operate mobile and portable units on the 10 public safety channels, without separate authorization,"[16]

and modified Section 90.720 (b) to "allow such individuals to obtain authorization for base/mobile and base/portable operations on these channels."[17]

13. Region-20 firmly urges the Commission, pursuant to the recently modified[18] 47 CFR 90.720, to adopted eligibility rules for the 764 MHz interoperability and general use channels as those adopted in the *EMRS Reconsideration Order* and reaffirmed in the *220 MHz Third Report and Order*. Adoption of such eligibility rules will ensure that "interoperability plans are reasonable, effective, and fair."[19]

---

[15] MEMORANDUM OPINION AND ORDER, PR Docket No. 91-71, 11 FCC Rcd 1708 (1996) (*EMRS Reconsideration Order)*

[16] THIRD REPORT AND ORDER, PR Docket No. 89-552, FCC 97-57, February 19, 1997, at Para. 67 (*220 MHz Third Report and Order).*

[17] Ibid.

[18] SECOND REPORT AND ORDER, PR Docket No. 92-235, FCC 97-61, February 20, 1997, at Page 263

[19] NOTICE, at Para. 93.

D. Channel Spacing and Bandwidth Limitations

14. Maximum spectrum efficiency of the 764 MHz band will require appropriate channel spacing and bandwidth limitations. Lack thereof will result in decreased frequency reuse and the reduced ability to short-space public safety systems.

15. If the authorized bandwidth were less than the channel spacing, then RPCs would not have to worry about adjacent channel licensees. This would have the significant beneficial result of increasing the number of frequencies available for reuse and the ability to more closely short-space co-channel systems. Only with the authorized bandwidth less that the channel spacing will maximum spectrum efficiency and frequency reuse be obtainable in the new 764 MHz band.

E. 806-821 MHz Transition to 12.5 KHz Channels

16. The Commission seeks comment as to whether the 806-821 MHz band (806 MHz band) should undergo 12.5 KHz channelization. Region-20 believes that not only should a gradual mandatory transition to 12.5 KHz channels occur, but that the Commission should permit existing 806 MHz band public safety users to split their existing 25 KHz channels to allow maximum utilization of their existing license authorizations.

17. As noted in paragraph 15 *supra*, if the authorized bandwidth were less than the channel spacing, then adjacent channel system protection requirements would be not be required. So long as equipment authorized to operate with a bandwidth of 11.25 KHz maintained emission masks pursuant to 47 CFR 90.210(d), then existing 806 MHz licensees could safety split their existing 25 KHz channels, double their existing capacity, and cause no harmful interference to adjacent licensees.

18. Should a channel spacing of 12.5 KHz with an authorized bandwidth of 11.25 KHz ultimately be adopted for this 764 MHz band then Region-20 strongly urges that, in the Report and Order to this proceeding, the Commission concurrently adopt rules that permit current and future 806 MHz public safety licensees to split their existing 25 KHz authorizations into 12.5 KHz channels utilizing 11.25 KHz bandwidth authorized equipment with emission masks pursuant to 47 CFR 90.210(d). In so doing, the Commission would double the capacity of existing 806 MHz public safety licensees, thereby decreasing their demand for addition spectrum in the 764 MHz band.

F. Permitting RPCs to Submit Separate 764 MHz Regional Plans

19. The Commission is seeking comment regarding the proposal that the RPCs must incorporate the 764 MHz band into their existing 821 MHz Regional Plans.[20] Region-20 believes that due to the complexity of the proposed rules for the 764 MHz band, incorporation of this new 24 MHz allocation into existing Regional Plans may be ill advised, confusing, and counter productive.

20. Throughout the **NOTICE** the Commission is proposing eligibility, technical and administrative rules for the 764 MHz band that, in most instances, significantly differ from the current allocation rules used by the RPCs to allocate the 821 MHz band. Region-20 has found that applicants find the current 821 MHz technical and administrative rules, which are incorporated into the current Regional Plans, often difficult to interpret and understand. Commission mandate that the future 764 MHz band, with their significantly different allocation rules, be incorporated into existing 821 MHz Regional Plans will definitely result in considerable confusion in the allocation process for both applicants and RPCs alike.

21. The Commission notes that Regional Plans require periodic modification.[21] What the **NOTICE** fails to state is that some requests for Regional Plan changes can take an inordinate amount of time before the Commission adopts the requested modifications.

---

[20] NOTICE, at Para. 115.

[21] Ibid., at Para. 119.

REGION-20 PUBLIC SAFETY LEGISLATIVE/REGULATORY AFFAIRS COMMITTEE

22. On November 25, 1994, Region-20 submitted a **PETITION TO AMEND** its Regional Plan.[22] Three years have now passed and despite numerous written communications[23] and fulfillment of all additional requests[24], the Commission still has not adopted the modifications requested by this Committee. This has resulted in a Region-20 Plan "freeze", with this Committee being unable to process any new applications for these past three years, in a Region that is among the most active in the Nation.

23. Region-20's case in paragraph 24 *supra* may be considered unusual. However, it exemplifies the reason why the Commission should not mandate the 764 MHz allocation into existing 821 MHz Regional Plans. Restated, if the 764 MHz band allocations were mandated to be incorporated into existing 821 MHz Regional Plans and a RPC petition to amend the 821 MHz portion of its Regional Plan became inordinately "tied-up" in the Commission approval process, this would result in the entire Regional Plan being placed "on-hold". RPCs would be unable to process any 764 MHz or 821 MHz application until such time the 821 MHz modifications were approved by the Commission.

---

[22] PETITION TO AMEND REGION-20 PUBLIC SAFETY COMMUNICATIONS PLAN, GN Docket No. 90-7, November 25, 1994.

[23] *See* LETTER AND WRITTEN EX PARTE PRESENTATION, GN Docket 90-7, January 11, 1996; ADDENDUM TO PETITION TO AMEND REGION-20 PUBLIC SAFETY COMMUNICATIONS PLAN, GN Docket No. 90-7, January 25, 1996; REPLY COMMENTS IN RESPONSE TO ADDENDUM, GN Docket No. 90-7, March 22, 1996; WRITTEN EX PARTE PRESENTATION: POLICY STATEMENT - REGION-20 SAFETY INTER-REGIONAL COORDINATION, GN Dockets 90-7 & 89-573, January 15, 1997; REPLY COMMENTS IN RESPONSE TO LETTER OF MAY 14, 1997, GN Docket No. 90-7, May 27, 1997.

[24] WRITE EX PARTE PRESENTATION: RESPONSE STATEMENTS, GN Docket Nos. 90-7 & 89-573, January 30, 1997 and May 14, 1997

24. To circumvent this scenario, the Commission should permit RPCs to submit separate and independent Regional Plans for the 764 MHz band for adoption. These independent 764 MHz Regional Plans would incorporate all the proposed new and unique technical and administrative allocation rules, including any modifications to RPC geographic boundaries.[25] By having two separate Regional Plans to work from, RPCs and applicants would experience less confusion and increased efficiency in the allocation process. Furthermore, RPCs would be able to request periodic modifications of one plan without affecting the continued allocation process of the second plan.

---

[25] NOTICE, at Paras. 113 - 115.

G. Channel Requirements

25. The Commission seeks comments as to which approach would best address "the issue of *how many* of each type of channel --- *e.g.*, voice, data image/HSD, or video --- should be designated for assignment."[26] Of the three proposals brought forth, Region-20 supports "Approach 3"[27] as the best option.

26. Region-20 believes that the Commission should establish and adopt a minimum band plan. This plan should incorporate a minimum public domain system architecture, which will afford RPCs sufficient flexibility to accommodate the technical & operational requirements of prospective and current licensees, as relating to current, emerging & future technologies.

27. Pursuant to paragraph 15 *supra*, Region-20 believes that the entire 764 MHz band should be channel spaced at 12.5 KHz increments with an authorized bandwidth of 11.25 KHz. Approach 3 would allow RPCs to "aggregate" and "disaggregate" the 12.5 KHz channels to best serve the *intra*-regional needs of the public safety entities, thereby maximizing spectrum efficiency.

---

[26] Ibid., at Para. 140.

[27] Ibid., at Para. 147.

H. System Design With Minimal Coverage Areas

28. On January 15, 1997, Region-20 submitted a **WRITTEN EX PARTE PRESENTATION (EX PARTE)** concerning its policy regarding *inter*-regional coordination (*see* Exhibit D).[28] This document noted that this Committee had adopted a policy, as part of its 821 MHz allocation process, that systems be designed based upon signal strength contours for the actual service area required/permitted, unlike other RPCs that designed systems based upon fixed base station millage separation criteria.

29. This Committee is pleased that the Commission is proposing to adopt the principles of system design as elaborated in Region-20's **EX PARTE** of January 15, 1997. Region-20 supports the requirement that all RPCs, as one of the minimal elements in future 764 MHz Regional Plans, are to provide:

> "A detailed description of how the plan put the spectrum to the best possible use by requiring system design with minimum coverage areas, by assigning frequencies so that maximum frequency reuse and offset channel use may be made, ..."[29]

30. Region-20 further believes that the Commission must additionally require that minimum coverage area signal strength contour design be applicable to systems that cross into adjacent regions. Without such a mandated requirement, harmful and deleterious *inter*-regional system interference will definitely occur.

---

[28] WRITTEN EX PARTE PRESENTATION: POLICY STATEMENT - REGION-20 PUBLIC SAFETY INTER-REGIONAL COORDINATION, GN Docket Nos. 90-7 & 89-573, January 15, 1997

[29] NOTICE, at Para. 117

III. CONCLUSION

31. Region-20 hereby submits the preceding constructive **COMMENTS** in response to this **NOTICE**. Incorporation of the principles expressed *supra* into the final 764MHz Report and Order to this proceeding would be appreciated by this Committee and its constituency, and is in the *public interest*.

Respectfully submitted,

Michael C. Trahos

Dr. Michael C. Trahos, D.O., NCE, CET
Chairman - Region-20 Public Safety RPRC's
Legislative/Regulatory Affairs Committee

Stephen H. Souder

Mr. Stephen H. Souder
Chairman - Region-20 Public Safety RPRC

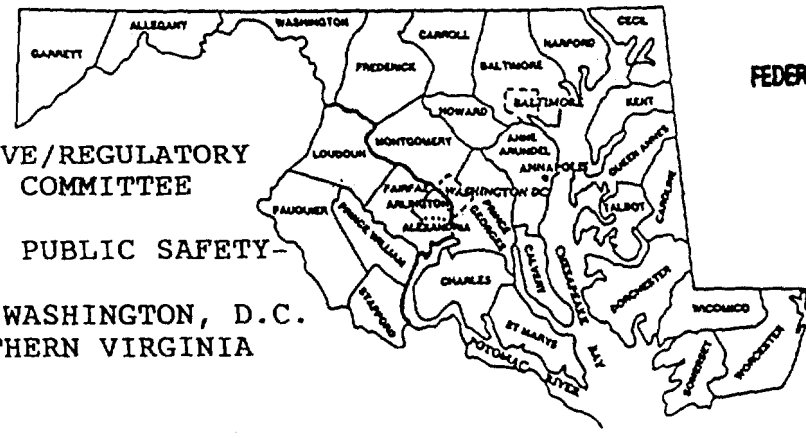
MCT/mct
Exhibits (A - D)

EXHIBIT A

RECEIVED

DEC 12 1996

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY



LEGISLATIVE/REGULATORY
AFFAIRS COMMITTEE

-REGION-20 PUBLIC SAFETY-

MARYLAND, WASHINGTON, D.C.
AND NORTHERN VIRGINIA

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	GN Docket No. 89-573
	)	File No. 9505503540 (WPIQ-290)
State of Delaware	)	File No. 9505503541 (WPIQ-294)
Station License Authorizations	)	File No. 9512D010528 (WPIZ-596)

MOTION FOR EMERGENCY INJUNCTIVE STAY

Submitted by:

Region-20 Public Safety Review Committee
Legislative/Regulatory Affairs Committee
Dr. Michael C. Trahos, D.O., NCE, CET - Chairman
4600 King Street, Suite 4E
Alexandria, Virginia 22302-1213

December 12, 1996

TABLE OF CONTENTS

TITLE	PARAGRAPHS
I. INTRODUCTION AND EXECUTIVE SUMMARY	1-3
II. MOTION FOR EMERGENCY INJUNCTIVE STAY	4-18
A. MOTION WILL PREVAIL ON THE MERITS	4-11
B. PETITIONER WILL SUFFER IRREPARABLE HARM IF A STAY IS NOT GRANTED	12-13
C. PARTIES SUBJECT TO STAY WILL NOT BE HARMED IF A STAY IS GRANTED	14-15
D. PUBLIC INTEREST FAVORS A GRANT FOR STAY	16-18
III. CONCLUSION	19-21
IV. FOOTNOTES	PAGE 9

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	GN Docket No. 89-573
	)	File No. 9505503540 (WPIQ-290)
State of Delaware	)	File No. 9505503541 (WPIQ-294)
Station License Authorizations	)	File No. 9512D010528 (WPIZ-596)

MOTION FOR EMERGENCY INJUNCTIVE STAY

Submitted by: Region-20 Public Safety Review Committee
Legislative/Regulatory Affairs Committee
Dr. Michael C. Trahos, D.O., NCE, CET - Chairman
4600 King Street, Suite 4E
Alexandria, Virginia 22302-1213

Date: December 13, 1996

I. INTRODUCTION AND EXECUTIVE SUMMARY

1. Before the Federal Communications Commission (Commission) is a MOTION FOR EMERGENCY INJUNCTIVE STAY (**MOTION**), filed pursuant to 47 CFR 1.41, , 1.42, 1.43, 1.44(e), 1.45(d) and 1.298(a) of the Commission's Rules.

2. Pursuant to the authority given by the Commission under the Report and Order in General Docket No. 87-112 1/, the Region-20 Public Safety Planning Committee was created to address the future communications needs and concerns of the PSRS users for Region-20. The obligations of that Committee included the submission to the Commission of a Region-20 Public Safety Radio Communications Plan (Region-20 Plan) 2/ and establishment of a Region-20 Public Safety Review Committee (Committee) to oversee its implementation.

3. This Committee, representing the PSRS/governmental constituents for Region-20, hereby submits the following **MOTION** requesting the Commission invoke an EMERGENCY INJUNCTIVE STAY on the State of Delaware (Delaware) statewide radio station license authorizations, WPIQ-290, WPIQ-294 & WPIZ-596, prohibiting further construction and implementation of said radio system. This injunction shall continue until such time that Delaware files and is granted a Effective Radiated Power (ERP)/Antenna Height reduction modification of all transmitter sites of said license authorizations, so as to completely comply with 47 CFR 90.621(g) of the Commission's rules, the "three (3) mile outside of boundary" 40 dBu contour limitation requirements of the Region-28 Plan (GN Docket No. 89-573), and adjacent region concurrence requirements pursuant to the Report and Orders in GN Docket No. 87-112, GN Docket No. 89-573 and GN Docket No. 90-7.

II. MOTION FOR EMERGENCY INJUNCTIVE STAY

A. MOTION WILL PREVAIL ON THE MERITS

4. On July 11, 1996, a meeting of the Mid-Eastern Chapter of the Associated Public Safety Communications Officials (Mid-Eastern APCO) was convened. At this meeting, the State of Delaware (Delaware) announced their new statewide 800 MHz radio system.

5. Review of the Delaware system literature, published by Motorola, Inc. (Motorola), revealed that the various licensed Delaware transmitters were in very close proximity to Region-20's boundary. Further informal discussions at this meeting revealed that Delaware would probably need to adjust, with possible increases in, the effective radiated power (ERP) of their licensed transmitters to achieve their desired coverage patterns.

6. Region-20 research of the Delaware system, based upon valid Commission licensing data, reveals that the individual and combined sites 40 dBu contours significantly exceed the "three (3) mile outside of boundary" limitation of the Region-28 Plan.3/ On July 31, 1996, Region-20 sent a formal letter to Region-28 requesting specific details regarding this matter.4/

7. On August 29, 1996, Region-28 sent a response to Region-20. In this letter, Region-28 admits that Delaware has not notified anyone that their "proposed 40 dBu contours would exceed

the three (3) mile boundary."5/ It is further stated that Delaware had contracted with Motorola for system's engineering and that it is Motorola's responsibility to obtain any inter-regional waivers necessary after the licensed system is constructed and tested.6/

8. The Delaware system, as currently licensed, is in clear violation of 47 CFR 90.621(g) of the Commission's rules, the "three (3) mile outside of boundary" rule of the Region-28 Plan and the adjacent inter-region pre-licensure concurrence requirements pursuant to the Report and Orders in GN Docket No. 87-112 (National Plan), GN Docket No. 89-573 (Region-28 Plan) and GN Docket No. 90-7 (Region-20 Plan). Delaware's system upon completion as licensed will cause harmful interference to Region-20.

9. It is Commission policy to hold each licensee responsible to comply with the Commission's rules, even if that licensee has contracted with another entity to perform licensee services. [Deregulation Land Mobile Radio, 69 FCC 2d, 1617 n. 3 (1978)]. A licensee may not delegate its obligation to comply with the Commission's rules to another entity. [Review of Liability of MTD, 6 FCC Rcd 34; 68 RR 2d 989 (1991)]. Furthermore, a licensee's failure to acquaint oneself with the legal requirements relating to the operation of radio transmitters does not excuse the violation of the Commission rules. [Triad Broadcasting Company, Inc., 96 FCC 2d 1235, 1242 (1984)]

10. Region-28 claims that Region-20 has already given inter-regional concurrence to their licensed system.7/ This is not true for the supposed Region-20 letter to Region-28 of September 15, 1989 does not specifically give pre-licensure approval to Delaware to exceed the "three (3) mile out of boundary" rule into Region-20.

11. Region-20 has shown, to a firm degree of legal certainty, that Delaware has violated the Commission's rules by obtaining wide-area radio station licenses, with harmful inter-regional radiated signal emissions, with incomplete due process. The merits of this case, as elaborated above, do prevail and completely support the prompt Commission grant of this **MOTION.**

B. PETITIONER WILL SUFFER IRREPARABLE HARM IF A STAY IS NOT GRANTED

12. As noted in paragraph 6 & 8 supra, the currently licensed Delaware system will emanate 40 dBu signal strength contours far into Region-20. These signal contours easily extend into eastern Maryland and as far west as the Chesapeake Bay, a distance $\geq$ 50 miles from the Delaware State line.8/

13. The Delaware system unauthorized emissions into Region-20 will clearly cause co-channel harmful interference to current

and/or future Region-20 licensed facilities. Such emissions, if allowed to occur without Commission intervention, will cause irreparable harm to Region-20 public safety entities in the affected areas.

C. PARTIES SUBJECT TO THE STAY WILL NOT BE HARMED IF A STAY IS GRANTED

14. Pursuant to Region-28's letter to Region-20 of August 29, 1996, Delaware is still in the construction phase of their system and it is not yet operational.9/ Furthermore, pursuant to a published article in The News Journal, Wilmington, Delaware dated July 27, 1996, the residents of Weldin Ridge, the community about Delaware's licensed Talley Road site, applied for court orders to halt construction of that tower site.10/ The same article states that the Governor of Delaware had ordered that an alternative site be found for Talley Road.

15. Due to Delaware's system having not reached full construction/operation, evidence of impending intra-state court challenges and probable future Delaware license modifications to move their Tally Road site, Delaware will not be harmed if the Commission grants this **MOTION**.