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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)

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An Allocation of Spectrum for the
Private Land Mobile Radio Services)

RM-9267

TO: The Chief, Office of Engineering and Technology

**Reply Comments of the
Industrial Telecommunications Association, Inc.**

The Industrial Telecommunications Association, Inc. ("ITA"), pursuant to section 1.405 of the Commission's rules¹ and the *Order* released June 11, 1998,² and in response to the comments filed in response to the *Public Notice* released April 30, 1998,³ hereby respectfully submits these reply comments to the above captioned petition for rule making.⁴

¹ See 47 C.F.R. § 1.405.

² *Order Granting Motion to Extend Reply Comment Date*, DA 98-1103, released June 11, 1998.

³ *Public Notice*, Office of Public Affairs Reference Operations Division Petitions for Rulemaking Filed, Report No. 2272, released April 30, 1998.

⁴ *Petition for Rule Making Submitted by the Land Mobile Communications Council*, In the Matter of An Allocation of Spectrum for the Private Mobile Radio Services, RM-9267, filed April 22, 1998 ("*Petition*").

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I. Introduction

1. Having filed its own comments, ITA is pleased to have this opportunity to reply to the other comments filed on the Land Mobile Communication Council's Petition for Rule Making requesting an allocation of spectrum for the private mobile radio services. From ITA's review of the many comments filed in this proceeding, there is very little substantive opposition to the issues raised in the petition. With the exception of the amateur radio and the aeronautical communities' limited objection to the reallocation of certain bands identified in the petition, the comments have been almost uniformly supportive.

2. From ITA's perspective, the submission of these many comments is indicative of the need for a public dialogue between the Commission and its constituency of private wireless licensees and applicants. Accordingly, ITA urges the Commission to accept the invitation of the LMCC and the many commenters to its petition to share its own views and thoughts on the private wireless industry. And while ITA believes that a full airing of the views of the participants in this comment period should be part of a *Notice of Proposed Rule Making* or *Notice of Inquiry*, ITA would like to take this opportunity to specifically address a number of the comments filed.

II. ARRL's Opposition

3. The American Radio Relay League ("ARRL") — the national representative of the amateur radio community — filed comments opposing any reallocation of 420-450 MHz and

challenging the petition on procedural grounds.⁵ The ARRL's opposition to a reallocation of 420-450 MHz is understandable. In the current spectrum environment, where more and more entities are pursuing a finite amount of spectrum, existing occupants can become fiercely defensive of what they consider to be "their spectrum." However, from ITA's perspective, this is more indicative of the spectrum shortage that motivated the filing of the petition rather than a fundamental divergence of viewpoints.

4. Because current spectrum management policies have promoted commercial allocations and auctions to the exclusion of nearly all other services and licensing schemes, a spectrum crisis has developed. In the commercial services there is a tremendous surplus of spectrum, while the private services, as well as the amateur community, continue to struggle to sustain both credibility and unfettered access to their existing allocations. From ITA's perspective, the general policy issues raised in the petition should, in fact, be supported by the amateur community. However, the perceived threat to the amateurs' enjoyment of 420-450 MHz has dominated the discussion to this point. While ITA understands the amateurs' opposition to the frequency recommendations made in the petition, a full review of the sharing possibilities in each of the identified bands deserves to be addressed in the context of a *Notice of Proposed Rule Making*. ITA believes that a consensus between the amateur and private communities can be developed during this full airing of all of the relevant policy and spectrum issues raised in the petition.

⁵ Comments of the American Radio Relay League, Incorporated, in Response to Petition for Rule Making, filed June 1, 1998 ("ARRL Comments").

5. While ITA is committed to working toward a consensus with the amateur community, certain statements made by ARRL regarding the “refarming” proceeding⁶ deserve clarification. Specifically, ARRL argues that because the “refarming” proceeding promises spectrum relief for the private wireless community, no demonstration of need can be accurately quantified and the petition is therefore premature.⁷

6. ARRL’s argument does not reflect a full and objective reading of the LMCC petition. The analysis of spectrum need that is included in the petition takes into account the expected benefits of “refarming.”⁸ This analysis reveals an immediate and very critical need for an allocation of spectrum for the private wireless radio services.

7. It is not in dispute that the “refarming” proceeding offers opportunities for the deployment of new spectrally-efficient systems in some of the most heavily congested private wireless spectrum bands. However, the full benefit of “refarming” is predicated on a nationwide migration to narrowband equipment — a transition that will require several years and many billions of dollars in infrastructure investments to be completed. The LMCC petition predicts that this transition is unlikely to provide tangible benefits before 2005.⁹

8. As a Commission-certified frequency advisory committee in the industrial/business pool in the “refarmed” bands, ITA is intimately involved in the transition to narrowband frequencies. And, in contrast to ARRL, ITA can speak from experience regarding the timing

⁶ PR Docket 92-235.

⁷ Comments of the American Radio Relay League, Incorporated in Response to Petition for Rule Making, filed June 1, 1998 (ARRL Comments).

⁸ Petition at Appendix E.

⁹ Petition at Appendix C.

of the realization of the benefits of “refarming.” Because of the need to coordinate narrowband systems without interference to existing 25 kHz systems — coupled with the rather deliberate pace of resolving outstanding regulatory issues — the transition to narrowband has been slow, and the full benefits of “refarming” have yet to materialize. This by no means should suggest that the transition is flawed, but only that “refarming” has always contemplated a gradual transition to spectrum efficiency. The alternative — a forced immediate relocation — would have burdened the private wireless community with literally billions of dollars in lost infrastructure costs. As a consequence, the “refarming” proceeding offers only a limited stopgap to the spectrum shortage, and not a complete solution.

9. ITA would also like to point out that the “refarming” proceeding only applies to certain private allocations below 800 MHz. Nothing in the “refarming” proceeding will provide relief for the congestion problems that the petition highlights in the 800 and 900 MHz bands. In sum, while beneficial, the “refarming” proceeding is far from the universal solution that ARRL only wishes was the case. The petition is timely and should be granted.

III. NTIA’s Comments

10. The National Telecommunications and Information Administration (“NTIA”) filed a letter with the Commission that, from ITA’s perspective, offers the opportunity for meaningful solutions to the spectrum shortage to be explored. While opposed to the reallocation of the bands of spectrum identified in the petition, NTIA is supportive of the ultimate objective of the petition:

[W]e believe that the Commission should consider ways to supplement the spectrum management benefits of competitive bidding with other new approaches

appropriate to private radio services. NTIA supports LMCC's efforts to improve the management of spectrum to support private radio systems within a market-based process, and believes there may be sharing possibilities in frequency bands transferred to the Commission under the Omnibus Budget Reconciliation Act of 1993 (OBRA-93).¹⁰

ITA believes that these comments by NTIA are fully consistent with ITA's own comments filed on the petition.¹¹ Specifically, ITA recommended that the Commission seek authority to license spectrum that has already been reallocated to the Commission via a system of efficiency-based lease fees rather than by auction.¹²

11. From ITA's perspective, making this so-called "auction" spectrum available would not only immediately address the urgent need for additional spectrum for the private mobile radio services but would also ease the concerns that NTIA and the occupants of the identified spectrum have expressed. For example, in addition to the amateurs' opposition, Aeronautical Radio, Inc., filed comments that supported the LMCC's call for additional spectrum but strongly opposed any reallocation of the 960-1215 MHz band that is currently used for aeronautical radionavigation.¹³ If the Commission were to license the non-public safety spectrum at 746-806 MHz for private use, as an alternative to the 960-1215 MHz band, the concerns of the aeronautical community would largely be addressed.

¹⁰ Letter to Mr. Richard M. Smith, Chief, Office of Engineering and Technology, from William T. Hatch, Acting Associate Administrator, Office of Spectrum Management, NTIA, dated June 5, 1998.

¹¹ Comments of the Industrial Telecommunications Association, Inc., filed June 1, 1998 ("ITA Comments").

¹² *Id* at 7.

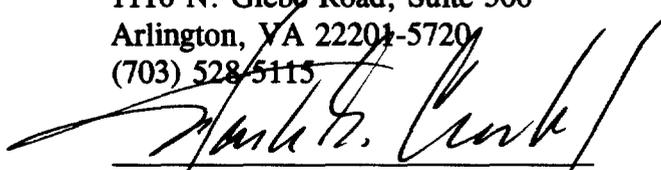
¹³ Comments of Aeronautical Radio, Inc., filed June 1, 1998 ("ARINC Comments").

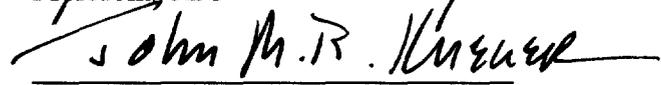
IV. Conclusion

12. As stated above, ITA has encouraged the Commission to open a dialogue with the private wireless community to address the future needs of this vital industry. With the filing of the petition, and the comments and reply comments to this rule making request, the private wireless industry has shared its views with the Commission. Now it is time for the Commission to move forward with a *Notice of Proposed Rule Making* or *Notice of Inquiry* that expresses its own views on the needs and character of the private wireless industry. ITA looks forward to the continuing discussion of these important issues and remains committed to working with the Commission to ensure the long-term success and survival of the private wireless industry.

Respectfully submitted,

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Date: July 16, 1998

CERTIFICATE OF SERVICE

I, Barbara J. Levermann, do hereby certify that on the 16th day of July 1998, I forwarded to the parties listed below a copy of the foregoing Reply Comments of the Industrial Telecommunications Association, Inc., by first-class mail, postage pre-paid:

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