

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
) RM-9332
Promotion of Spectrum Efficient)
Technologies on Certain Part 90 Frequencies)

To: The Commission

STATEMENT IN OPPOSITION TO
PETITION FOR RULEMAKING

SCANA Communications, Inc. ("SCANA"), through its undersigned counsel and pursuant to Section 1.405 of the Rules and Regulations of the Federal Communications Commission ("FCC"), 47 C.F.R. §1.405, hereby submits this Statement in Opposition to the Petition for Rulemaking filed with the Commission on June 19, 1998 by the American Mobile Telecommunications Association, Inc. ("AMTA").¹

Introduction

SCANA Communications, Inc. is a subsidiary of SCANA Corporation, whose principal subsidiary, South Carolina Electric and Gas ("SCE&G"), is the state's largest utility. It provides electric service to more than 502,000 customers in the central, southern, and southwestern

¹ This Petition appeared on a Commission Public Notice dated July 31, 1998, Report No. 2288, mimeo 84760.

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portions of the state of South Carolina. SCE&G is the state's largest retail supplier of natural gas as well, with more than 250,000 customers throughout a 19,000 square-mile service area.

In order to provide the State of South Carolina and various local public safety entities with reliable and efficient mobile communications capabilities, SCANA Communications, Inc. has implemented a non-profit, cost-shared trunked land mobile radio system in the 806-821/851-866 MHz band covering a large geographic area of South Carolina. This shared system is operated on a joint non-profit basis with the State of South Carolina on Public Safety channels and on Industrial/Land Transportation channels licensed to SCANA.²

This system was planned as a result of the extensive damage caused by Hurricane Hugo in 1989 and is designed to provide, on a non-profit basis, seamless and reliable wireless communications to public safety agencies. Specifically, the system is designed to facilitate the coordination of public safety responses to natural disasters affecting multiple jurisdictions, such as hurricanes and tornadoes. During natural disasters, public safety agencies need to communicate and coordinate with utility repair crews. Accordingly, wireless communications are of the utmost importance, particularly since severe weather can incapacitate wireline communications. SCANA has designed the system to meet the increasing communications requirements of all users and to handle its extensive customer service dispatch operations. Currently, the system has approximately 6,000 mobile, portable, and control units, and 21 base station sites.

² See In the Matter of State of South Carolina and SCANA Communications, Inc., Order, 13 FCC Rcd 8787 (September 30, 1997).

AMTA's petition requests that the Commission launch dramatic and fundamental rule changes that would essentially overturn the agency's apparently settled rules and policies promulgated in the PR Docket No. 92-235 proceeding concerning refarming of the spectrum bands below 800 MHz. In addition to imposing narrowband equipment changeover deadlines on licensees in the 450 MHz band, AMTA's requested initiative would mandate conversion to narrowband 12.5 kHz equipment for licensees of Industrial/Land Transportation and Business channels in the 800 MHz band. AMTA's initiative would, however, exempt licensees in the Public Safety category from this narrowbanding mandate. AMTA's proposal would require the subject classes of Part 90 licensees, both below and above 800 MHz, to migrate to narrowband equipment or accept secondary status on their channels.

Discussion

AMTA's petition, if implemented, would have a drastic impact on 800 MHz licensees such as SCANA, mandating the imposition of costs and introducing operational and logistical complexities that could destroy the reliability and efficiency of SCANA's system. AMTA's initiative would dramatically increase system costs, as standard 800 MHz equipment operating at 25 kHz channelization would have to be changed over to narrowband 12.5 kHz equipment.

Being part of a joint system employing I/LT and Public Safety category channels, SCANA would find itself further negatively impacted by AMTA's initiative. AMTA would only subject non-Public Safety licensees to mandatory narrowbanding. Hence, SCANA would be placed in the position of operating a bifurcated system where Industrial/Land Transportation channels would be subject to mandatory narrowbanding, while Public Safety category channels would not. In addition to the imposition of high costs due to mandatory narrowbanding, the

operation of a bifurcated system, where some users are narrowbanded and some are not, would destroy the seamless nature of the SCANA system.

While it is technically possible that a dual-channelization 800 MHz radio can be produced, it is the commercial SMR market that will determine whether such a radio is ever manufactured in volume by RF equipment manufacturers. SCANA urges that the Commission recognize the inequity of imposing narrowbanding on non-commercial systems, when it is the commercial SMR market, operating on auctioned spectrum in competition with other commercial mobile radio service providers such as cellular and PCS, that will in the long-run provide an answer to the question of whether dual-channeled 800 MHz radios will be available in the marketplace. The imposition of narrowbanding may increase spectrum efficiency in a theoretical world, but it would do so by seriously degrading the efficiency and cost-effectiveness of currently operating private systems.

The operation of the SCANA system would also be crippled by the primary status/secondary status "incentive" mechanism that AMTA's initiative would introduce. AMTA would impose secondary status on those licensees that fail to adhere to the narrowbanding schedule. AMTA fails to understand that for a joint utility/public safety radio operation such as SCANA's, secondary status would be a death sentence rather than an incentive structure. Quite simply, altering the primary status, exclusive-use operational nature of the 800 MHz band – a regulatory regime that has caused operations in that band to flourish over the past twenty years – would destroy the usefulness and reliability that makes 800 MHz trunked operation the preferred system architecture for wide-area systems, such as SCANA's.

SCANA urges the Commission to reject accepting AMTA's invitation to embark on the path of overturning regulatory structures and policies that have already been vigorously debated, and that have been decided well over three years ago. For example, since the inception of the refarming proceeding, the Commission has repeatedly emphasized that the bands above 512 MHz were not at issue with respect to being "refarmed."³ Further, the refarming proceeding demonstrated that the Commission at first fully examined, and then deliberately rejected in response to the comments received, a detailed proposal to mandate narrowbanding in the bands below 800 MHz.⁴

The 1995 refarming decision gave licensees and users in the bands below 800 MHz the option to convert to narrowband channels. Only RF equipment manufacturers were required, through operation of the type acceptance rules, to produce narrowband equipment when launching new products for the below 800 MHz market. SCANA urges the Commission to reject AMTA's initiative as a three-year-old late-filed petition for reconsideration of the rules promulgated in the refarming proceeding.⁵

³ See Notice of Proposed Rule Making, PR Docket No. 92-235, FCC 92-469, released November 6, 1992, at ¶¶ 1-2. See Report and Order and Further Notice of Proposed Rule Making, FCC 95-255, released June 23, 1995, at note 2 where it states: "Since the changes do not affect the private mobile services above 800 MHz, we refer to these frequency bands as 'below 800 MHz' or 'refarming bands' for convenience."

⁴ The FCC proposed reducing the frequency deviation of existing equipment by January 1, 1996 with licensees being required to replace their existing systems with new narrowband equipment and shift their frequencies to align with the new channeling plan.

⁵ As recently as 18 months ago, on February 14, 1997, petitions for reconsideration were filed against the rules promulgated by the Commission in the course of the Memorandum Opinion and Order addressing the 24 petitions for reconsideration and/or clarification filed against the June 1995 Report and Order in the refarming proceeding. AMTA was not among the parties petitioning for reconsideration of the Report and Order. See Memorandum Opinion and Order (MO&O), PR Docket No. 92-235, FCC 96-492, released December 30, 1996, at p.49. Nor

Licensees such as SCANA established operations in the 800 MHz band in reliance on the exclusive-use, stable regulatory structure that has characterized that band. Also, licensees have operated facilities in the 450 MHz band relying, these past three years, on Commission decisions that narrowbanding would be an optional, rather than mandatory process, in the bands below 800 MHz. AMTA's initiative, if translated into a notice of proposed rule making, would remove these foundations and degrade and likely destroy the effectiveness, economy and reliability of these critical mobile communications systems.

Conclusion

SCANA urges the Commission to deny the AMTA petition. The Commission must not commence an end-run around the seven-year old refarming proceeding. The continued viability and effectiveness of the SCANA joint-use system depends on the stability of the 800 MHz

was AMTA among the parties petitioning for reconsideration of the MO&O. See Public Notice, Petitions for Reconsideration in Rulemaking Proceedings, Report No. 2178, released March 6, 1997.

regulatory structure that makes exclusive-use channels available for trunked operations on a primary basis, using available 25 kHz equipment.

WHEREFORE, THE PREMISES CONSIDERED, SCANA Communications, Inc. requests that the Commission deny AMTA's Petition for Rulemaking.

Respectfully submitted,

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Dated: August 31, 1998

Certificate of Service

I, Cecilia Gornak, a secretary at the law firm McDermott, Will & Emery, do hereby certify that I have mailed copies of the foregoing Statement in Opposition to RM-9332 to:

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by first class mail, postage prepaid, this 31st day of August, 1998.


Cecilia Gornak