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

**In the Matter of** )  
 )  
**Promotion of Spectrum Efficient** )  
**Technologies on Certain Part 90** )  
**Frequencies** )

**RM-9332**

**RECEIVED**  
**SEP 17 1998**  
FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

**To: The Commission**

**MOTION TO ACCEPT LATE FILED REPLY COMMENTS**

William R. Miller dba Russ Miller Rental ("Petitioner"), respectfully requests that the Federal Communications Commission ("FCC" or "Commission") Accept the attached untimely Reply Comments in the above-captioned Proceeding. In support of thereof the following is shown:

The American Mobile Telecommunications Association, Inc. ("AMTA") filed a petition for rule making on June 19, 1998. The Public Notice of the Petition was released by the Commission on July 31, 1998.<sup>1</sup> Comments in support of or in opposition to the Petition were filed within 30 days after the Public Notice or by August 30, 1998. Pursuant to FCC Rule Section 1.405(b), replies to the statements in support of or in opposition to the petition had to have been filed no later than 15 days after filing such statements, or by Tuesday, September 15<sup>th</sup>.

<sup>1</sup> Public Notice, Report No. 2288, (rel. July 31, 1998); AMTA, Petition for Rule Making, (filed June 19, 1998)

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Petitioner reviewed and considered the Petition for Rulemaking filed by AMTA and the comments submitted by August 30<sup>th</sup>. On Tuesday, September 15<sup>th</sup> he was in the process of finalizing his replies to these filings when his computer system crashed and remains down. Accordingly, Petitioner was unable to file its Reply Comments timely.

Petitioner submits that a two-day delay in the submission of its pleading does not delay the Commission's consideration of this matter. Nor does it adversely affect any parties which have filed statements in this proceeding.

Accordingly, Petitioner requests that the Commission accept the attached untimely filed Reply Comments.

Respectfully submitted,  
William R. Miller, dba  
Russ Miller Rental

By:   
William R. Miller, Owner

September 16, 1998

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FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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

**To: The Commission**

**REPLY COMMENTS OF RUSS MILLER RENTAL**

Respectfully submitted,  
William R. Miller, dba  
Russ Miller Rental

By:   
William R. Miller, Owner  
3620 Byers Avenue  
Fort Worth, Texas 76107  
(817) 732-7791

**September 16, 1998**

## **I. INTRODUCTION**

Russ Miller Rental is a small SMR operator in the Dallas/Fort Worth, Texas market. It operates ten 800 MHz channels in Fort Worth, six in Sherman, nine in Bowie, three in Wills Point and six in Stephenville, Texas. We have been in the two-way radio business since 1972 and the SMR business since 1984. We are members of AMTA and PCIA. Mr. Miller is a member of the Radio Club of America and is active in several industry trade association committees, including AMTA's Regulatory Forum, Small Business Operator's Council, Facilities Siting Council, and PCIA's AWCET. In addition, Mr. Miller is vice-chairman of AMTA.

## **II. SUMMARY**

Russ Miller Rental supports AMTA's position in the petition for rule making. We believe that, unless given an incentive to migrate to more spectrum efficient technology, most users of two-way radio equipment will not voluntarily convert to a more spectrum efficient operation. The result will be continuing stagnation of the Commission's refarming initiative and a waste of otherwise usable spectrum.

## **III. DISCUSSION**

1. While the Commission took great strides to allow the use of spectrally efficient technology in its Refarming initiative, it did not provide any

incentive for users to convert to such technology. The result has been that the incumbent users have not moved to a more efficient technology, the manufacturers continue to produce the same old equipment or backwards compatible equipment and new users are purchasing inefficient equipment and operating inefficiently, causing even more crowding on these already congested bands. We believe that AMTA's petition has merit and warrants action by the Commission in that it will provide an incentive to move to more spectrally efficient technology. This will in turn allow for at least twice the existing number of users in the same amount of already occupied spectrum.

2. We understand the concern of the Commission and the affected users that the requirements in the petition will result in otherwise unnecessary expenditures for new equipment, modification of current equipment or the acceptance of secondary status. We point out that the reliability and life expectancy of the existing equipment is so great that it can easily last for thirty years. We still service equipment which was made in the late sixties. We also realize, as do most users, that technology is now moving so quickly that while their existing equipment may continue to be serviceable for the next ten to thirty years it, like their old computers which still work fine, are beginning to get in the way of and impede progress. Note the Y2K problems which were never expected to occur due to the expected obsolescence of the equipment.

3. **The release of the full power offset frequencies in the 470 – 512 MHz band, while certainly appreciated, provided little relief as most frequencies were not assignable due to adjacent channel users 20 to 30 miles away operating with inefficient wide band equipment. The same will be true in the 150 and 450 – 470 MHz bands.**
4. **In short, very little is gained by Refarming unless all users in a geographic area on the frequencies on either side of any given frequency convert to more spectrally efficient technology, whether it be simple 12.5 kHz narrowband equipment or some other wideband technology which allows more voice paths per channel. The AMTA petition provides a way to gracefully accomplish this in the congested areas where it is needed. In the smaller markets, users still have the option to convert, but are not required to do so. However, all new systems licensed as of a date certain should be required to operate more spectrally efficient equipment, regardless of their location. Anything less than this just continues to grow the problem instead of being part of the solution.**

**CERTIFICATE OF SERVICE**

I, Linda J. Evans, certify that I have, on this September 17, 1998, caused to be hand delivered a copy of the foregoing to the following:

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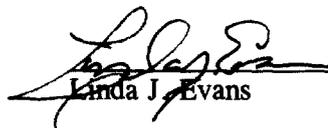
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