

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of

DA 14-1508, Public Notice Seeking Comment on) WT Docket No. 14-180
Need for Flexibility with Respect to Technical Rules in)
Part 22 Pertaining to the Paging and Radiotelephone)
Services, Subparts C & E)

To: Chief, Wireless Telecommunications Bureau

REPLY COMMENTS OF MOBILE RELAY ASSOCIATES

Mobile Relay Associates (“MRA”), by its attorney and pursuant to the Public Notice, *Wireless Telecommunications Bureau Reminds Paging and Radiotelephone Service Licensees of Certain Technical Rules and Seeks Comment on the Need for Technical Flexibility*, DA 14-1508, released October 17, 2014 (“*Request Notice*”), hereby submits its Reply Comments in this proceeding.¹

Summary of the Comments

Every commenter in this proceeding supports clarifying and/or waiving Commission rules as necessary to render the involved Part 22 spectrum as flexible with respect to use as is the adjoining Part 90 spectrum. Several commenters also request that the Commission eliminate outright inconsistencies in its rules, such as the inconsistency between Section 22.7 of the Rules (which expressly permits Part 22 licensees to operate as PMRS) and Section 22.9 of the Rules

¹ MRA filed Comments herein on December 17, 2014, which set forth MRA’s interest in this matter and its support for implementing additional flexibility with respect to Part 22 channels. Those Comments also noted that such flexibility *already exists* with respect to two-way UHF (454/459 MHz auctioned spectrum).

(which does not).² And several commenters request that the Part 22 build-out requirements not be applied to those who use the spectrum for either Public Safety or PMRS purposes.³

MRA Response

MRA agrees with those commenters who seek to have Section 22.9 of the Rules corrected to conform to the substantive policy decision the Commission already made, as reflected in Section 22.7 and the rulemaking decision that amended Section 22.7. Moreover, because the issue – of whether a person holding Part 22 Paging and Radiotelephone Licenses is required to be a common carrier and be interconnected to the public telephone network – has already been resolved (with the answer being “no”) in a rulemaking proceeding following notice and an opportunity for comment, the Bureau can correct Section 22.9 immediately. There is no requirement under the Administrative Procedure Act to conduct a second proceeding on the same subject.

MRA also reiterates its position that the auctioned spectrum already has the requisite flexibility and the Bureau should clarify that this has been, and will continue to be, the case. No commenter disagreed with MRA on this point.

MRA agrees that where, as with MRA, Part 22 auction licenses are being operated as either Public Safety or PMRS, they should not be subject to any build-out or substantial service construction requirements. The licenses are already being put to their highest and best use, as evidenced by their having been purchased for such non-CMRS purposes.

Finally, the total absence of comments opposing flexibility proves that the need for action is immediate, and that the Commission should move expeditiously.

² See, e.g., Blooston Comments, pp.2-5; LMCC Comments, p.4.

³ See, e.g., LMCC Comments, pp.6-8; Pacificorp Comments, pp.6-10; NPSTC Comments, pp. 5-6.

CONCLUSION

The public interest is best served by enabling licensees to deploy more spectrally-efficient technologies in their exclusive Part 22 spectrum where, based on real-world experience on adjoining Part 90 frequencies, we already know with certainty that such deployment would not cause harmful interference to any protected interest. Indeed, by the wording of the Commission's own auction releases, Part 22 auction licensees should be determined to already have such flexibility to deploy spectrally-efficient technologies.

The Bureau should eliminate any ambiguity as to whether Part 22 licenses may be used for PMRS or Public Safety operations. The Bureau should eliminate any build-out or substantial service obligations pertaining to auctioned Part 22 Paging and Radiotelephone spectrum when it is used for either PMRS or Public Safety purposes. The Bureau should move as fast as possible to issue a decision in this matter.

Respectfully submitted,
MOBILE RELAY ASSOCIATES

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