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

MAR 17 1992

Federal Communications Commission  
Office of the Secretary

In the Matter of )  
Request by )  
PRONET INC. )  
For Grant of Pioneer's Preference )  
for its Electronic Tracking System )  
To: The Commission

File No. PP-23  
RM No. 7784

ORIGINAL  
FILE

**REPLY COMMENTS**

Pursuant to Section 1.402 of the Commission's Rules,<sup>1</sup> ProNet Inc. ("ProNet"), by its attorney, hereby replies to the Comments filed in the above-captioned proceeding.

ProNet's wholly-owned subsidiary, Electronic Tracking Systems, Inc., operates state-of-the-art Electronic Tracking Systems ("ETS") under experimental authority in 17 metropolitan areas, including Orange County, California, San Francisco, and Dallas. ETS assists local, state and federal law enforcement agencies with criminal tracking operations.<sup>2</sup>

On July 30, 1991, ProNet filed its Request for Pioneer's Preference regarding ETS ("Request").<sup>3</sup> A Pioneer's Preference will be granted to an entity developing an innovative

<sup>1</sup> 47 C.F.R. Section 1.402 (1992).

<sup>2</sup> ETS uses a mini "tag" transmitter secreted in bundles of currency, jewelry or other valuables. When a "tagged" valuable is stolen, the transmitter is activated and law enforcement authorities use receivers to track the criminal.

<sup>3</sup> On July 30, 1991, ProNet filed a companion Petition for Rulemaking (RM No. 7784) to allocate spectrum in the 216-220 MHz band for permanent provision of ETS and to amend the Commission's Rules to authorize ETS on a permanent basis in the Business Radio Service.

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proposal for establishing a new, licensable service.<sup>4</sup> In its Request, ProNet demonstrates that ETS deserves a Pioneer's Preference because:

- its unique application of low-power radiolocation technology adds functionality and provides for different uses of the spectrum;
- its low ERP maximizes spectrum use and facilitates spectrum sharing; and
- its effectiveness in reducing and deterring crime lowers public and private sector security, law enforcement and judicial costs.<sup>5</sup>

ETS is exactly the kind of innovative use of the spectrum that grant of a Pioneer's Preference should encourage and reward. Grant of ProNet's Request should be automatic. ETS' use of the spectrum is singular. Crime is reduced, consumer costs are lowered, and existing spectrum users are unaffected.

Support for grant of the Request, by the numerous parties filing comments in the above-captioned proceeding, is unanimous. Well over 30 public and private sector parties declared that ETS is an indispensable law enforcement tool, that it is a unique and sophisticated technological advancement, and that its loss would be catastrophic.<sup>6</sup>

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<sup>4</sup> Establishment of Procedures to Provide a Preference to Applicants Proposing an Allocation for New Services, 6 FCC Rcd 3488, 3492 (1991) ("Pioneer's Preference"), modified, Memorandum Opinion and Order, FCC 92-57 (released February 26, 1992).

<sup>5</sup> Request at 14-20. To qualify as "innovative," a proposal must bring "out the capabilities or possibilities of the technology or service" or it must bring "them to a more advanced or effective state." Pioneer's Preference, 6 FCC Rcd at 3494. Technologies that add functionality, provide for a different use of the spectrum or technical characteristics for the service, yield efficiencies in spectrum use, improve spectrum sharing, or reduce costs to the public are considered "innovative" under this standard. Id.

<sup>6</sup> Comments were filed by 3 FBI offices, 24 police departments, 5 financial institutions, the Federal Reserve Bank, and 2 merchants.

Prompting this overwhelming support is ETS' unparalleled effectiveness at reducing crime, increasing recovery of stolen goods, and obtaining convictions.<sup>7</sup> Illustrative of this success is the comment by the Supervisor of the FBI (Atlanta) Violent Crimes, Major Offender Squad:

The Violent Crimes Major Offender Squad in the Atlanta Office of the FBI represents the squad which deals primarily with violations of the Federal Bank Robbery Statute. I am the supervisor of this squad and began a relationship with ProNet, Incorporated, in early 1991 when Mike E. Markwood of ProNet, Incorporated, gave a demonstration presentation of the ProNet Tracking System and its effects on the bank robbery problem. Subsequent to this demonstration, I contacted my contemporaries, that is, other FBI supervisors in charge of bank robbery squads in several other cities, and was informed by them that the installation of the ProNet Tracking System resulted in a drastic reduction of bank robbery violations in the territories in which the system was installed. In many cases bank robberies were cut in half which is an astounding accomplishment. Efforts are currently on the way with my full support for ProNet to sell to the banking community in the Atlanta, Georgia, area. With this tracking system, it will enable the quick apprehension of violators of the Bank Robbery Statute.<sup>8</sup>

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<sup>7</sup> ETS is such a success that, for the first time, the FBI will use the tracking devices in its own vehicles. In San Juan, Puerto Rico, a Bank Robbery Task Force, consisting of the local FBI office, the Puerto Rico National Police and ProNet, has been established. During the second quarter of 1992, ETS tracking devices will be installed in the FBI vehicles.

<sup>8</sup> Empirical data support the FBI's enthusiastic support for ETS. Based upon statistics compiled by the FBI and various local law enforcement agencies in 10 cities where ETS has been installed, the number of bank robberies has been reduced by nearly 50% in the past three years. See Attachment A. In stark contrast, cities where ETS is not available have experienced a 173% increase in bank robberies during the same period. See Attachment B.

Similar testimonials are made by the rest of the parties, including two other FBI offices. For example, the City of Bellingham Police Department states:

This system has provided law enforcement with the opportunity to take a precise, accurate and immediate response to those situations where ETS is applied. It allows responding personnel to offer themselves time to prepare mentally and physically for the imminent confrontation with an armed subject. In addition, the responding personnel are capable of recovering items of evidence such as property and/or cash monies.

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At this time we are planning to expand the system to include additional local and federal law enforcement agencies. We have found that there are numerous applications for this system within the scope of law enforcement and criminal investigative efforts.

Moreover, numerous parties attest to specific examples of ETS facilitating the prompt recovery of stolen goods and the safe arrest and ultimate conviction of the perpetrators.<sup>9</sup>

#### **ETS IS UNIQUE AND INNOVATIVE**

The parties to this proceeding consistently characterize ETS as a unique and innovative use of the spectrum. As detailed in the following excerpts from these comments, there is no other application of the radio spectrum comparable to ETS:

- The City of Brea Chief of Police.  
I am unaware of another system that is available for jewelry stores or financial institutions to use that allows law enforcement to track a suspect once a robbery has occurred. To my knowledge, ProNet is the only company that provides this type of service.

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<sup>9</sup> See comments filed by Best Products Co., Inc.; Washoe County Sheriff's Office; First Interstate Bank of Oregon, N.A.; Las Vegas Metropolitan Police Department; City of Phoenix Police Department; City and County of San Francisco Police Department; City of San Clemente Police Department; PriMerit Bank; Houston Police Department; Dallas Police Department; and City of Brea Police Department.

- **City of Huntington Beach, California Police Department.**  
The Huntington Beach Police Department supports the grant of a pioneer's preference to ProNet because it offers a unique crime-fighting tool that is unavailable through any other media. [A]rrests would [be difficult] without a system such as ETS because of incomplete descriptions of vehicles and suspects as well as a specific direction of travel. The ETS system allows police officers to capture a signal and track it to a point of arrest. Because suspects are captured shortly after the crime is committed and with the stolen property in their possession, subsequent prosecution is enhanced and almost a certainty.
- **Las Vegas Metropolitan Police Department.**  
In my opinion this is the only technology ever to have this much impact on the capture of robbery suspects. This is the major reason our apprehension rate is the or among the highest in the nation.
- **Sacramento County Sheriff's Department.**  
The innovative technology involved with the Electronic Tracking System has been imperative to the success of the Sacramento County Sheriff's Department with regard for protecting lives, and apprehending criminals throughout Sacramento County.
- **Service Merchandise**  
We believe this technology to be the most innovative and promising tool available to reduce a very serious and expensive form of crime which exposes our employees and customers to the threat of bodily harm.
- **City of Los Alamitos Police Department.**  
We consider ETS to be a unique and innovative technology and are not aware of anything comparable on the market as of yet.
- **Best Products Co., Inc.**  
ETS is a unique and innovative device, the only one of its kind available to the retail industry. Without it, our losses would be much higher.<sup>10</sup>

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<sup>10</sup> See also comments by City of Fountain Valley Police Department; City of Santa Ana Police Department; County of Orange General Services Agency Communications Division; City of Irvine Police Department; and City of Buena Park Police Department.

**FAILURE TO AUTHORIZE ETS ON A PERMANENT BASIS AND GRANT PRONET A PIONEER'S PREFERENCE WOULD BE DEVASTATING TO LAW ENFORCEMENT**

Unless the Commission grants ProNet's Petition and its Request, the continued availability of ETS is uncertain. Without a permanent spectrum allocation, corresponding uncertainty will deter investment in the technology and commitment to the service. Concern about such loss and the negative impact that it would have on crime fighting activities was manifest among the parties:

- **Multco Credit Union.**  
In the state with the highest rate of bank robbery in the nation [Oregon], this type of service provided by ProNet is quite close to a matter of life and death.
- **Police Department for City and County of San Francisco.**  
The impact ... would be putting us back to the dark ages, if PRONET was unable to provide us with the tools that they now provide.
- **City of San Clemente Police Department.**  
If the ETS is not provided permanent spectrum and is not granted a Pioneer's Preference ... it will greatly hamper our ability for apprehension and conviction of career criminals.
- **NationsBank.**  
NationsBank would lose a significant bank robbery prevention tool if the FCC actions were not favorable towards granting ProNet's request for a Pioneer's Preference. Loss of this valuable service would ... be detrimental to reducing the incidence of violent crime in our communities.
- **City of Houston Police Department.**  
The Houston Police Department supports the grant of a Pioneer's Preference (and rulemaking) to ProNet, because the E.T.S. system is a vital tool to this department. The ProNet System provides the City of Houston with a "high tech" crime fighting aid, at minimal cost, that the city might not otherwise be able to obtain on its own. If ProNet is not granted this Pioneer's Preference it could have a negative impact on this department's ability to combat our ever increasing incidence of violent crime.

- **City of Bellingham Police Department.**  
We feel that if ETS is not provided with permanent spectrum and is not granted a Pioneer's Preference, and the system is lost to us, we will have taken a step backward in our technological efforts. We will be forced to return to a situation [where] we are depending on blind luck or the perpetrator's ineptitude to make the capture instead of being able to rely on electronic technology that is proven to be effective.
- **Washoe County Sheriff's Office.**  
[I]n the event that ETS is not provided permanent spectrum and granted a Pioneer's Preference, a worthy technological law enforcement tool will be lost from our investigative arsenal.

The record in this proceeding totally supports grant of the Request. No controversy exists. ETS is an innovative, unique, and publicly beneficial use of the spectrum. Law enforcement agencies, financial institutions, and merchants all support this grant unequivocally. Now is the time for the Commission to fulfill its statutory public interest mandate and support this crime-fighting tool.

WHEREFORE, for the foregoing reasons, ProNet Inc. hereby requests that the Commission grant a Pioneer's Preference for ETS as proposed herein.

Respectfully submitted,

PRONET INC.



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Date: March 16, 1992.

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# Bank Robbery Statistics

## *PTS Cities*

City	Bank Robberies Year Before PTS Installation	Bank Robberies After Install - 3 Year Average ('89, '90, '91)	Difference / %
San Francisco	281	157	(-124) / (44%)
Las Vegas	76	57	(-19) / (25%)
Anchorage	18	8	(-10) / (56%)
Austin	28	12	(-16) / (57%)
Sacramento	125	65	(-60) / (48%)
Dallas	90	32	(-58) / (64%)
Reno	13	17	+4 / 3%
<b><u>1991 Actual</u></b>			
*Houston	57	61	+4 / 1%
*Portland	254	48	(-206) / (81%)
*ORCO/S. CA.	319	193	(-126) / (39%)

<b>Total: 10 Cities</b>	<b>1,262</b>	<b>650</b>	<b>(-611) 48% Decrease</b>
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\* Cities have not been in operation for 3 years  
 Source: FBI and Local Law Enforcement Agencies

ATTACHMENT A

# Bank Robbery Statistics

City	1987	1991	Difference
Los Angeles	409	810	+401
San Diego	109	317	+208
Boston	37	207	+170
Miami	206	345	+139
Chicago	59	95	+ 36
Atlanta	53	247	+194
Seattle	73	311	+238
Philadelphia	32	158	+126
Detroit	20	93	+ 73
Nashville	20	63	+ 43
Baltimore	62	110	+ 48
San Jose	20	57	+ 37
Cleveland	30	106	+ 76
Denver	20	39	+ 19
Fayetteville	2	14	+ 12
Little Rock	17	10	(-7)
San Juan, P.R.	16	98	+ 82
Charlotte	37	138	+101
Raleigh/Durham	10	132	+122
Salt Lake City	4	10	+ 6
Tempe, AZ.	2	18	+ 16

<b>Total:</b>	<b>21 Cities</b>	<b>( ) 138</b>	<b>3,378</b>	<b>( )</b>	<b>+2,140 173% Increase</b>
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Source: FBI and Local Law Enforcement Agencies

CERTIFICATE OF SERVICE

I, Becky Juricek, a secretary in the law firm of Gardere & Wynne, do hereby certify that the attached Reply Comments was mailed the 16th day of March, 1992, via U.S. Mail, first class, postage prepaid, to the following:

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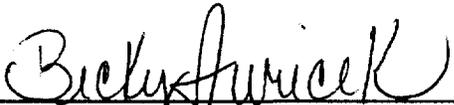
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Dated: March 16, 1992

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