

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

In the Matter of)	
)	
Establishment of Public Service Radio)	Docket No. <u>RM-9405</u>
Pool in the Private Mobile Frequencies)	
Below 800 MHz)	

COMMENTS OF MIDWEST ENERGY, INC.

Pursuant to Section 1.405 of the FCC's Rules, Midwest Energy, Inc. ("Midwest") hereby submits its Comments in support of the above-referenced "Petition for Rulemaking" filed on August 14, 1998, by UTC, The Telecommunications Association (UTC), the American Petroleum Institute (API), and the Association of American Railroads (AAR).

Introduction

Midwest is a corporation organized under the laws of the State of Kansas. Midwest provides wholesale and retail electric and retail natural gas service in all or parts of forty-four counties of central and western Kansas, as well as retail propane service. The efforts of various construction, service and repair crews are coordinated and directed from ten offices during normal working hours, and additionally from a central System Control Center on a twenty-four hour basis.

A fundamental essential element of the coordination and direction of Midwest's field operations personnel is sufficient and reliable communications facilities. Midwest makes extensive daily use of a land mobile radio system, comprised of an interconnected network of ten repeater stations operating in the 450MHz band. This land mobile radio system allows for both office-to-mobile and mobile-to-mobile communications across Midwest's service territory, providing an essential communications link to coordinate service, repair, construction and emergency response service to the general public and, particularly, Midwest's customers.

Comments

It is imperative that the operation of Midwest's land mobile radio continue to be unhindered because of its critical importance to the provision of adequate electric, natural gas and propane energy services. Perhaps of even greater importance is the system's

ability to support the delivery of prompt service and repair in times of emergencies that threaten life, health and property.

I. Land Mobile Radio Systems Are An Integral Part of Safeguarding Public Life, Health and Property

A land mobile radio system provides an open communications channel on which a number of people can participate in a conversation simultaneously. It is this “party line” capability that provides the key communications link in times of emergencies. For example, in the case of a downed power line, it allows service and construction crews that are physically separated from each other to coordinate safety precautions such as switching and grounding, while simultaneously allowing other crews to hear the conversation. In the event that another crew not participating in the original conversation has vital information, they can immediately inject this into the conversation, and potentially prevent a catastrophic accident that might endanger an employee’s life, or that of a member of the general public. Similar analogies can be drawn in the operation of a natural gas distribution system. For instance, in the event of a gas leak, multiple service crews may be required to isolate and repair the problem, and thus prevent an explosion or fire that would result in property damage and injuries, perhaps fatal. Again, the availability of an open communications channel provides an important coordination tool that allows service and construction crews to function safely.

Inasmuch as electric and natural gas energy have become such important parts of maintaining both our industrial and residential infrastructure, the efficient restoration of service is both a safety and economic issue. For residential customers, the loss of energy supplies during an extreme cold wave can present life-threatening conditions if homes are without service for an extended period. Prompt restoration of service depends in part on an open, reliable communications channel, and land mobile radio provides this vital link. For industrial and commercial customers, the pressing issue is more often one of economics. A loss of electric and/or natural gas energy can result in downtime, loss of production or sales, and life safety issues as well. Even our nation’s infrastructure depends on energy to operate such important services as traffic control, water supply, wastewater treatment, public safety services, etc. Again, the common link is the ability of a utility to provide safe, reliable service is its ability to communicate with all personnel.

While the use of cellular telephone service has expanded significantly in recent years, that technology does not sufficiently address the operational needs of utilities such as Midwest. For example, the party line capability described above is not adequately addressed by cellular technology, and therefore does not meet the communications needs of the utility industry relative to protecting life, health and property. Additionally, Midwest owns and maintains its radio system, and is therefore not totally dependent on outside parties to maintain its operational integrity.

II. Allowing Commercial Users to Interfere On Utilities' Channels Would Jeopardize Utilities' Important Functions and Public Safety Responsibilities

In order to communicate effectively with field personnel, it is essential that our land mobile communication system be free of interference from outside sources. Historically, utilities, pipelines, railroads, and other public service groups have had access to frequency spectrum that was somewhat protected from intrusion by other commercial interests. This helped to ensure that ample spectrum would be available for use by utilities, in their required service territories, without having to compete with other commercial interests for radio frequency spectrum. To the extent that other entities could "purchase" overlapping frequencies in the service area of a utility, this would likely lead to interference from the competing systems.

Such interference would deteriorate the reliability and clarity of the land mobile radio system. Such deterioration would undoubtedly impede the ability of utilities like Midwest to coordinate the switching and repair work of field crews, thereby impacting our ability to maintain the safety of our employees and the public in general. A primary example would be a situation where electric crews had completed repairs to a power line, and were ready to remove protective grounding equipment and re-energize the line. This requires close and cautious coordination among the various line crews and the System Control Center. If there is a significant amount of radio interference that inhibits our ability to verify that all crews are in a safe position to remove the protective grounds and re-energize those facilities, then we could place ourselves in a position where a misunderstanding could result in an injury to or death of an employee.

III. Auctioning Spectrum May Ultimately Compromise Public Health and Safety for Economic Gain

Competitive economic issues would take precedence over maintaining life safety if auctions are employed in the allocation of radio frequency spectrum. As increased demands are placed on the available spectrum, some commercial interests may well take an increased interest in obtaining that spectrum and utilizing it in a for-profit manner. Regulated utilities should not have to compete with unregulated commercial interests for radio spectrum where safety is the primary concern. If economics were to become the sole driver in the auction process, the utility may ultimately be forced to revert to other less reliable communications systems. While the economic impact may well be significant for all users of energy services, the safety impact could well be immeasurable. Taken to the logical extreme, it begs the question of comparison between economic and safety issues. Any rational individual or regulatory body would give deference to the safety concerns in such an instance.

IV. Industrial/Business Pool Would Not Be Harmed By Establishment Of A Separate Public Service Radio Service

The ultimate issue here is whether or not the public interest is being served by the auction of frequency spectrum that had previously been reserved for the public service

providers such as utilities, pipelines and railroads. Regardless of the small economic gain that might result from such an auction process, the public interest in protecting life, health and property should be of much greater concern. Furthermore, there will be sufficient spectrum left even after the establishment of a Public Service Radio Service.

Conclusion

The Petition for Rulemaking provides a reasonable solution that will help ensure that utilities, pipelines, and railroads are able to continue to fulfill their mission of providing critical energy and transportation services to the general public. As noted previously, the provision of energy services in particular is an essential part of maintaining our nation's infrastructure. Communications tools in general, and land mobile radio systems in particular, are an indispensable requirement for maintaining the safety of both employees and the general public, and for protecting the infrastructure itself. The creation of a Public Service Radio Service will ensure that the ability of critical infrastructure industries to provide essential public services is not jeopardized.

In conclusion, Midwest Energy, Inc. supports the Petition for Rulemaking, and urges the Federal Communications Commission to promptly issue a Notice of proposed Rulemaking looking toward the creation of a Public Service Radio Service as described in the Petition.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Midwest Energy, Inc." was filed electronically using the Federal Communications Commission's Electronic Comment Filing System (ECFS) persons this 23rd day of December, 1998 at the following address:

www.fcc.gov/e-file/ecfs.html

A signed original and four copies of the foregoing "Comments of Midwest Energy, Inc." were sent by first-class mail, postage prepaid, to the following:

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