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

In the Matter of)
)
Establishment of Public Service Radio) RM-9405
Pool in the Private Mobile)
Frequencies Below 800 MHz)

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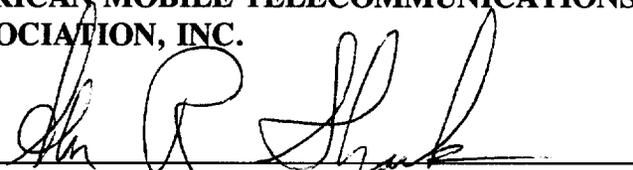
To: The Commission

COMMENTS OF AMERICAN MOBILE TELECOMMUNICATIONS, INC.

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS
ASSOCIATION, INC.**

By: _____


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December 23, 1998

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), in accordance with Section 1.405(a) of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding.¹ The Association opposes the Petition to the extent it suggests that trunking in the bands below 512 MHz will negatively impact the availability of high-quality communications systems for the broad gamut of Part 90 eligibles.

I. INTRODUCTION

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") service operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. These members provide conventional and trunked commercial wireless services in all of these bands throughout the country. AMTA's members support the further introduction of trunked systems into the Part 90 frequencies below 512 MHz as a proven vehicle for the delivery of highly cost- and spectrum-efficient services to a wide variety of business and other industrial communications users. Thus, AMTA must oppose the Petition's position that trunked systems, particularly when operated by commercial providers such as the Association's members, have a adverse effect on the delivery of vital services.

¹ 47 C.F.R. § 1.405(a); Public Notice, Report No. 2306 (Nov. 23, 1998); Petition for Rulemaking, In the Matter of Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz, RM-9405 (Aug. 14, 1998).

II. BACKGROUND

2. The Petition asks the Commission to establish a new radio service for what it defines as the Critical Infrastructure Industries ("CII") in the Part 90 bands below 800 MHz. CII eligibles would include entities engaged in the operation of electric, gas and water utilities, petroleum and natural gas pipelines and railroads, as well as other industries that provide "public safety"-type services, although not those services traditionally defined as Public Safety in accordance with Section 90.15 of the FCC's Rules. The Petition argues that the availability of immediate, interference-free communications is essential to the businesses operated by CII eligibles, in contrast to other Part 90 users that presumably can tolerate periodic interruptions or interference to their communications without significant impact.

3. In recognition of the alleged unique requirements of this user category, the Petition urges that certain Part 90 frequencies be retained for the exclusive use of CII eligibles, rather than being made available to all non-Public Safety applicants, and that the FCC also provide protected service contours for CII systems to ensure that they will not have to share their spectrum with other users in or near their operating area. The Petition specifically notes the increased interest in implementing commercial trunked systems in these bands as a threat to the continued availability of exclusive channels for CII eligibles. To the extent that adoption of the Petition would require the FCC to revise its recently-implemented Pool Consolidation rules in these bands and could frustrate the introduction of trunked technology into the Part 90 bands below 800 MHz

contrary to the Commission's express interest in deriving more efficient use of this spectrum, the Association cannot support it.²

III. TRUNKING BELOW 800 MHz IS BENEFICIAL FOR ALL PART 90 ELIGIBLES, IRRESPECTIVE OF THE ACTIVITIES IN WHICH THEY ARE ENGAGED.

4. The Association is not persuaded that the Petition has documented its claim that the CII services either are engaged in activities that are uniquely integral to the business of the country or that their communications requirements are distinguishable from numerous other Part 90 eligibles. While AMTA appreciates the desire of these industries to segregate themselves from the rest of the Part 90 masses, and thereby potentially avoid the possibility that future licenses might be awarded by competitive bidding,³ their efforts to differentiate their activities highlights their commonality with their Part 90 brethren rather than differentiating them. For example, with all due respect to the railroad industry, on the eve of the 21st century it is difficult to credit an argument that railroads play a more vital role in the delivery of goods and people in this country than do airplanes, or even trucking, or that air traffic can tolerate a breakdown in communications that would be devastating to a railroad operation. The same issues arise when one attempts to compare the importance of our telephone versus gas production companies, or weighs the relative dangers to life and property when an emergency occurs in a mine shaft as opposed to a pipeline. Even McDonalds must rely on communications for proper inventory control to prevent outbreaks of e-coli and other life-threatening health hazards. The very nature of the typical Part 90 user

² Second Report and Order, PR Docket No. 92-235, 12 FCC Rcd 14307 ¶¶ 56-59 (1997); Report and Order and Further Notice of Proposed Rulemaking, PR Docket No. 92-235, 10 FCC Rcd 10076 ¶¶ 118-120.

³ Omnibus Reconciliation Act of 1997, P.L. 105-33 (enacted Aug. 5, 1997).

is that it is a company engaged in an economically useful activity for which communications is a critical tool. To the extent that the CII category becomes sufficiently encompassing to represent all industries with safety characteristics, the exemption will subsume the rule, thereby rendering it meaningless.

5. AMTA also disagrees with the Petition's conclusion that increased use of trunking in the bands below 800 MHz will exacerbate the alleged CII spectrum shortage. Trunking was first authorized in the Private Land Mobile Services for the specific purpose of conserving spectrum resources by deriving more intensive use of each frequency.⁴ With more than twenty years of experience, it cannot credibly be argued that trunking does not enhance spectrum efficiency – whether the system is operated by a single user for internal communications requirements or by a commercial provider accommodating the needs of a number of entities that otherwise would be required to install their own, individual systems. Some of the customers on a commercial trunked system even are likely to be businesses that would be considered CII eligible according to the Petition: superior features and cost considerations attract a wide variety of Part 90 users to commercial systems, particularly in areas where their needs will not support an independent, internal system. In those cases, the availability of specialized commercial wireless services designed to satisfy the needs of businesses, rather than consumers, provide an invaluable option for all Part 90 eligibles.

6. The land mobile industry, including those claiming CII status, and the FCC know that trunking works. AMTA believes that there are complementary roles to be played by third party

⁴ Second Report and Order, Docket No. 18262, 46 FCC 2d. 752 (1974).

commercial and private internal trunked systems in meeting the almost limitlessly demanding communications requirements of the land mobile community. To the extent that the Petition would relegate the commercial trunked system to some second class status, it would disserve the interests of all Part 90 users, including those it classifies as CII.

IV. CONCLUSION

7. For the reasons and to the extent described herein, AMTA urges the FCC to deny the Petition.

CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this December 23, 1998, caused to be hand delivered a copy of the foregoing to the following Comments:

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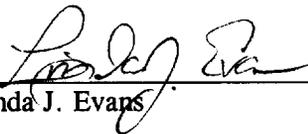
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