FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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

In the Matter of	)	
	)	
1998 Biennial Regulatory Review -- 47 C.F.R. Part 90 – Private Land Mobile Radio Services	)	WT Docket No. 98-182 RM-9222
	)	
Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services an d Modify the Policies Governing Them and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services	)	PR Docket No. 92-235

COMMENTS OF INTEK Global Corp.

INTEK Global Corp. (INTEK), by its counsel and pursuant to section 1.419 of the Commission's rules, hereby respectfully submits its comments in response to the *Notice of Proposed Rulemaking* released by the Commission on October 20, 1998 in the above-captioned proceeding.[1]

I. Introduction and Statement of Interest

INTEK is a publicly-traded company and the parent of both Roamer One, Inc., the largest existing service provider in the 220 MHz band, and Midland USA, Inc., a distributor of spectrally efficient equipment in the 220 MHz band as well as land mobile products that serve the private and public safety communications markets. Given these interests in the wireless

[1] "In Re 1998 Biennial Regulatory Review – 47 C.F.R. Part 90 – Private Mobile Radio Services, Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, and Examination of Exclusivity and Frequency Assignment Policies of the Private Land Mobile Services," WT Docket No. 98-182, RM 9222, PR Docket 92-235, *Notice of Proposed Rulemaking*, FCC 98-251 (rel. Oct. 20, 1998) (*NPRM*).

marketplace, INTEK applauds the Commission's endeavor to review its rules governing wireless services to determine which regulations should be streamlined or eliminated.

As a result of the growing interest in the use of the 220 MHz public safety frequencies, INTEK's subsidiary, Midland USA, sees great opportunities for the use of its spectrally efficient technology to provide valuable and long awaited service on the public safety channels. Therefore, as a general matter, INTEK supports the Commission's efforts to resolve the longstanding licensing delay of the 220 MHz frequencies. In this regard, INTEK urges the Commission to expedite the licensing of the 220 MHz public safety channels and to continue processing applications for those channels as they are received, on a first come first served basis. By doing so, the Commission can ensure that entities that have long been without frequencies will have access to much needed capacity.

II. Background

As noted in the *NPRM*, the Commission has been working since 1991 to license the 220 MHz frequencies. In March of 1997, following a freeze on the acceptance of new applications and the passage of several years, "the Commission adopted additional rules to govern the future operation and licensing of 220 MHz frequencies" including the provision of fifteen channel pairs for public safety and emergency medical use. Ten of those fifteen channel pairs were designated for public safety purposes, and the remaining five were allocated for emergency medical channels. Of the ten public safety channels, five channels were intended for shared use and five channels were intended for exclusive use. All five public safety emergency medical channels were designated for exclusive use.

Pursuant to section 90.175(i)(14) of the Commission's rules, none of these public safety channels require frequency coordination.[2] Instead, licensees on shared channels in the 220 MHz band are expected to coordinate their base station operations to minimize interference and insure operational compatibility. In the *NPRM*, the Commission explains that because public safety frequencies are exempt from auctions, and because under the Balanced Budget Act of 1997 the Commission can no longer utilize lotteries, it lacks a procedure for handling and granting mutually exclusive 220 MHz public safety channels.[3]

To resolve this dilemma, the Commission seeks comment on its proposal to amend section 90.175 "to require that applicants for any of the fifteen 220 MHz public safety channels . . . submit their applications to a public safety frequency coordinator for frequency coordination prior to submission to the Commission." The Commission believes that this proposal will "establish a procedure for processing applications for the ten exclusive 220 MHz public safety channels, and also establish consistency in the coordination of all 220 MHz public safety channels."[4]

III. Discussion

To the extent that the Commission proposes to amend its rules to provide frequency coordination for the use of the shared public safety channels in the 220 MHz band, INTEK supports the Commission decision as one that makes practical sense. However, because ten of the fifteen public safety channels are designated for exclusive use, INTEK does not necessarily see the value in using a frequency coordinator to process those applications. Moreover, as the

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2 47 C.F.R. § 90.175(i)(14).

3 *NPRM* at 7, ¶ 15.

4 *Id.* at 7, ¶ 16.

Commission strives to resolve its licensing procedures for mutually exclusive applications, INTEK stresses that it must, at a minimum, continue to process applications for the public safety channels as they are received on a first come, first served basis. The large majority of applications received for the public safety channels will not raise issues of mutual exclusivity. Thus, while it is certainly important for the Commission to establish procedures to handle and grant mutually exclusive applications for the public safety channels, it is equally important that the Commission minimize the delays and license these frequencies where it can under its current rules.

Due in part to the Commission's required inter-governmental coordination with the National Telecommunications and Information Administration (NTIA) for the use of shared channels, licensing of the public safety frequencies has routinely been delayed. Therefore, if the Commission chooses to adopt its proposal to require frequency coordination for all of the public safety channels in the 220 MHz band, INTEK urges the Commission to take whatever procedural measures are necessary to minimize the delays that such coordination might have when combined with the Commission's need to continue to coordinate with NTIA. Additionally, in the event that the Commission does amend its rules to include frequency coordination, INTEK suggests that the Commission should permit applicants to use the services of any public safety coordinator they choose.

Finally, INTEK strongly believes that the Commission must defer any further review of the use of these frequencies until public safety entities have been granted a reasonable amount of time to complete buildout. In its *Third Report and Order*,[5] the Commission indicated that at the

[5] "In Re Amendment of Part 90 of the Commission's Rules to Provide for the Use of the 220-222 MHz Band by the Private Land Mobile Radio Service, Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services, Implementation of Section 309(j) of the Communications Act - -

end of the three-year period following the effective date of the rules adopted in this proceeding, it would conduct an assessment of the use of the public safety channels, and if it determined that the channels were underutilized it would initiate a proceeding to address the designation of the channels for other uses.[6] INTEK believes that given the continued delays that have encumbered these frequencies, the three year time frame envisioned by the Commission now proves unrealistic, and must be postponed until public safety entities are given a true opportunity to utilize these channels for the very important purposes for which they were intended.

IV. Conclusion

As fully explained above, INTEK urges the Commission to adopt its positions regarding the licensing of the public safety channels in the 220 MHz band consistent with the views expressed in these Comments.

Respectfully submitted,

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[6] *Id.* at ¶ 62.