



FILED

AUG 05 1999

DOCKET FILE COPY ORIGINAL

# NORTH MARIN WATER DISTRICT

999 RUSH CREEK PLACE • POST OFFICE BOX 146 • NOVATO, CALIFORNIA 94948 • (415) 897-4133 • FAX (415) 892-8043

e-mail: <http://www.fcc.gov/e-files/ecfs.html>

July 31, 1999

Magalie Roman Salas  
FCC Secretary  
Office of the Secretary  
Federal Communications Commission  
The Portals, 445 Twelfth Street, SW  
Washington, DC 20554

Subject: WT Docket 99-87, Revised Competitive Bidding Authority

Dear Ms. Salas:

Enclosed are comments electronically submitted by North Marin Water District (NMWD) in response to the Federal Communication Commissions request for comment on WT Docket 99-87, Revised competitive Bidding Authority. The original and four copies have been forwarded to you via U. S. Postal Service regular mail.

NMWD appreciates the opportunity to offer the attached comments on this important rulemaking.

Sincerely,

  
Chris DeGabriele  
General Manager

Enclosure

CD/jsa  
@C:\WP51\CHRIS\FCC 0799.doc

No. of Copies rec'd 043  
List ABCDE



AUG 05 1999

1 Before the  
FEDERAL COMMUNICATIONS COMMISSION

2 Washington, DC 20554

3 In the matter of

4 Revised Competitive Bidding Authority )

5 WT Docket 99-87 )  
6 )

7 To: The Commission

8  
9 Comment:

10 North Marin Water District

11 Chris DeGabriele, General Manager

12 999 Rush Creek Place

13 Novato, CA 94945

14 Dated: July 31, 1999

15  
16 EXECUTIVE SUMMARY

17 In the Telecommunications Act of 1996 the Congress charged the Federal  
18 Communication Commission (FCC) with the requirement that radio frequency  
19 spectrum for communication, both voice and data, be assigned as a result of  
20 auctions. In this Act, particular frequency spectrums were set aside for use  
21 by "public safety" organizations. In the Act, "Public safety" was identified  
22 as police and fire protection services.

23 The Balanced Budget Act of 1997 directed the FCC to provide spectrum  
24 set-aside for a more broadly described "public safety services" including  
25 critical national infrastructure entities outside the auction process.

1 North Marin Water District (NMWD) supports the rulemaking petition  
2 submitted by the UTC, American Petroleum Institute, and Association of  
3 American Railroads proposing to create a third radio pool, in addition to the  
4 public Safety and Industrial/Business Radio Pools already used for private  
5 radio frequencies below 470 MHz, to be known as the Public Service Radio Pool  
6 open to entities that do not qualify for Public Safety Radio Pool spectrum,  
7 but are eligible to use the public safety radio services that the Balance  
8 Budget Act exempted from the Commission's auction authority. NMWD believes  
9 that this approach is feasible and appropriate for other frequency bands  
10 including PLMR frequencies above 470 MHz.

11 INTRODUCTION

12 NMWD is a County Water District providing potable water service to  
13 approximately 20,000 customers representing approximately 60,000 people.  
14 NMWD also provides wastewater service to approximately 200 rural customers in  
15 Marin County. The NMWD service area is geographically unique encompassing  
16 over 100 square miles and is hilly to mountainous, varying from sea level to  
17 1,500 feet in elevation. NMWD relies on low band 40-80 megahertz FM radio  
18 and numerous Local Exchange Carriers (LEC), private line and access services,  
19 which we employ for both voice and data links, particularly data.

20 COMMENTS

21 The Balanced Budget Act of 1997, Public Law No. 105-33, Title III, 111  
22 Statute 251 (1997) ("Balanced Budget Act") revised the Commission's auction  
23 authority for wireless telecommunications services. NMWD believes that the  
24 timely implementation of the Balanced Budget Act provisions regarding  
25 spectrum access for critical infrastructure entities is critical to meeting a  
need expressly recognized by the U. S. Congress.

1 Exemption from Auction

2           The Balanced Budget Act of 1997 and associated report language provide  
3 clear legislative direction to the FCC to insure that public safety radio  
4 services as defined in the Act and report language are exempt from auction.  
5 In determining that there was a specific need for access to spectrum outside  
6 of the auction process, Congress implicitly recognized the need for adequate  
7 availability of spectrum to activities deemed public safety radio services.  
8 And, that the spectrum should be made available to these activities through a  
9 mechanism other than auctions.

10 Definition of Public Safety Radio Service

11           The definition for "public safety radio services" as stated by Congress  
12 is broader than the current "public safety radio services." The Act and  
13 associated report language specifically avoid the use of language that would  
14 limit the applicability of this section to the current definition of public  
15 safety (i.e. police, fire, rescue applications).

16           The Balanced Budget Act of 1997 by reference and specific language  
17 describes "public safety radio services" as including private internal radio  
18 services, that were:

- 19 1.     Used by state and local government.  
20 2.     Used by non-governmental entities to protect safety of life, health or  
21         property, and not made commercially available to the public.

22           The Balanced Budget Act of 1997 was accompanied by report language that  
23 provides a clear descriptive summary of public safety radio services that  
24 meet the private internal radio services definition included in the Act:

25           "The exemption from competitive bidding authority for "public safety  
radio services" includes "private internal radio services" used by utilities,

1 railroads, metropolitan transit systems, pipelines, private ambulances, and  
2 volunteer fire departments. Though private in nature, the services offered  
3 by these entities protect the safety of life, health, or property and are not  
4 made commercially available to the public."

5 Access to the exemption from competitive bidding authority for public  
6 safety radio service and associated spectrum allocations, is a function of  
7 the service provided "protection of safety of life, health, or property." A  
8 key feature of water utility service is for fire protection through fire  
9 hydrants.

#### 10 Definition of Private Internal Radio Services

11 Access to the exemption from competitive bidding authority for private  
12 internal radio services should be held against the same yardstick as  
13 described above with the additional requirement that the radio service does  
14 not involve the commercial sale of the radio service itself. When applying  
15 this test of eligibility the applicant will serve a group of users and all  
16 users must meet the eligibility tests of (1) used to protect safety of life,  
17 health or property and (2) radio service is not sold commercially.

#### 18 Establishing A Public Safety Radio Service Pool

19 NMWD supports the formation of a public safety radio service pool to  
20 ensure that exempt spectrum is designated for the public safety needs  
21 identified in the Balanced Budget Act. Exemption from auction implies the  
22 formation of a core spectrum allocation to meet public safety radio service  
23 needs.

#### 24 Critical Infrastructure Entity Need Spectrum

25 Drinking water utilities, including NMWD should be eligible for auction  
exempt spectrum identified by the FCC as it implements the Balanced Budget

1 Act provisions. NMWD and other drinking water utilities across the United  
2 States are finding it difficult to obtain suitable spectrum to meet critical  
3 system needs.

4 NMWD employs a computer driven Distribution Control and Monitoring  
5 System (DCMS) which continually polls and controls pumps and valves to  
6 maintain proper water supply tank levels. At this time the DCMS (system) is  
7 in nearly full control of key (larger) tanks and pumps in our urban service  
8 area (Novato, California). The communication links are made up of NMWD owned  
9 private lines, interfaced with metallic pairs, digital private lines and  
10 access lines provided to us by two local exchange telephone companies (LECs)  
11 (Pacific Bell and GTEC).

12 We also serve suburban and rural water customers with separate smaller  
13 water and wastewater systems. Our communications paths to these smaller  
14 systems are poor and in some instances nonexistent, for proper control by our  
15 DCMS.

16 Private sector communications providers do not regard private line and  
17 access services for water utility data and control as high priority services.  
18 Since these telephone services were deregulated, our monthly costs have  
19 increased by about 300% for these services and new installations are only  
20 installed at very high costs by the TELCO's. Installation costs have  
21 increased tenfold since deregulation of the private line and access services.

22 The TELCO practices since deregulation make it clearly unaffordable for  
23 NMWD to extend and expand its DCMS operation for full control of its smaller  
24 pumps, valves and tanks in our urban service area, and to automate the  
25 operations of the smaller suburban and rural water and wastewater systems.  
Clearly NMWD must look to the use of radio and microwave links to provide

1 necessary data and control of water and wastewater systems 25 to 40 miles  
2 away from our control headquarters.

3 We urge you to allow us to utilize the appropriate and necessary radio  
4 spectrum (frequencies), exempt from auction, as part of the public safety  
5 water, wastewater and fire protection services that NMWD provides.

6  
7 Respectfully submitted,

8 

9 Chris DeGabriele  
General Manager

10 North Marin Water District  
11 999 Rush Creek Place  
12 P.O. Box 146  
Novato, CA 94948-0146  
(415) 897-4133

13 Date: July 31, 1999  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25