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

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In the Matter of )  
)  
Relicensing of Certain Part 90 Frequencies )  
To Require Spectrally Efficient Use )

RM-9705

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

To: The Commission

REPLY COMMENTS OF CHADMOORE WIRELESS GROUP, INC.

1. Chadmoore Wireless Group, Inc. ("Chadmoore") hereby submits its reply to the Comments ("Comments") filed in the above referenced rulemaking wherein AMTA proposes that the licensing framework for the 450-470 MHz band be modified.<sup>1</sup> For the reasons set forth herein, Chadmoore submits that AMTA's Petition for Rule Making ("Petition") should be denied.

Introduction

2. Chadmoore is a licensee and manager of numerous facilities throughout the nation in the 800 and 900 MHz Special Mobile Radio ("SMR") service. Chadmoore has activated full market services over its 800 and 900 MHz authorized facilities in approximately 100 cities throughout a significant area encompassing 41 states, Puerto Rico and the U.S. Virgin Islands. Chadmoore holds additional authorizations and is in the process of further commercial roll-out of dispatch services on a wide area basis by which it is expected that Chadmoore's services ultimately will be available in more than 168 markets. Chadmoore's system encompasses facilities which operate on frequency assignments from both the "lower 80", "upper 200" 800 MHz SMR channels, 900 MHz channels as well as General Category channels. Chadmoore has

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investigated the use of the 450-470 MHz band for its service offerings and would be interested in utilizing the band if feasible.

3. Chadmoore provides basic voice and data telecommunications services to many businesses that do not always have the resources to afford the highly expensive and technologically complex services offered by large-scale CMRS entities. Many business entities in the markets served by Chadmoore have taken advantage of Chadmoore's services and have realized the benefits of mobile telecommunications capabilities to enhance the efficiency of their operations.

A. Voluntary Arrangements Should Be Encouraged

4. While Chadmoore is an SMR operator that could possibly benefit from AMTA's proposal, it opposes the proposal based upon the economic costs to consumers and the impractical nature of the proposal's treatment of incumbents as pointed out by a majority of the commenters.<sup>2</sup> Rather, Chadmoore supports the concept it has enunciated in other proceedings whereby private wireless operators should be able to enter into arms-length agreements to provide their licenses to a commercial operator in exchange for service if that is the most beneficial course of action for the private wireless operator. Many businesses, including small businesses, would benefit by such transactions.

5. Chadmoore has consistently maintained its support for private wireless users being able to utilize commercial services at their option.<sup>3</sup> Chadmoore continues to support such

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<sup>1</sup> The responses as filed by the parties in this proceeding were submitted in various manners, including as Comments, Oppositions or, in some cases, letters. For the purpose of our Reply, we refer to all as "Comments."

<sup>2</sup> Contrary to the implication of the Industry Coalition's comments, not all SMR operators are interested in obtaining additional spectrum to the exclusion of all else, including the public interest.

<sup>3</sup> See Comments of the Chadmoore Wireless Group, Inc., *In the Matter of* Wireless Telecommunications Bureau Incorporates Nextel Communications, Inc. Waiver Record into WT Docket No. 99-87, filed August 2, 1999; Opposition to Application for Review, *In the Matter of* Nextel Communications, Inc. Requests for Waiver of 47 C.F.R. Sections 90.167(c) and 90.619(b), DA 98-2206, filed September 7, 1999; Reply Comments by Chadmoore

a policy as being in the public interest. Allowing licensees of various categories to make spectrum usage decisions based on marketplace factors rather than regulatory restrictions would ensure that such decisions would be based on rational economic considerations that promote efficient use of the spectrum. The Commission will help further meet the needs of SMR dispatch service users by allowing flexible exchanges of spectrum between private licensee entities and commercial SMR operators where exchanges are appropriate and agreed upon by all parties.

6. Chadmoore recognizes the concern of many of the commenters regarding the scarcity of spectrum in which services can be provided meeting the private wireless industry's needs. Forced migration to a commercial operator is unreasonable and would not serve the public interest as pointed out by so many of the commenters. Additionally, providing for such channels to be disposed of at auction would result in higher costs for those entities currently using such private wireless services for safety and operational purposes which in turn will result in higher costs being passed through to the public. Those entities, especially small businesses, which cannot afford the higher prices resulting from auctions, may be forced to forego the benefits of telecommunications services.

B. AMTA's Proposal Would Lead to Higher Prices for Wireless Services

7. Chadmoore provides dispatch services in an economical fashion and at reasonable prices. As Blooston, Mordkofsky, Jackson & Dickens has pointed out in its Opposition ("BMJD Opposition") on behalf of its clients, the spectrum auction in the 800 MHz band has not resulted in economical service offerings for dispatch services for most businesses.<sup>4</sup> In its service areas and through the country, Chadmoore has observed the same trend of which the BMJD

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Wireless Group, Inc., *In the Matter of* Wireless Telecommunications Bureau Incorporates Nextel Communications, Inc. Waiver Record Into WT Docket No. 99-87, filed September 30, 1999.

<sup>4</sup> See BMJD Opposition at p. 5.

Opposition speaks regarding the auction winners forcing their customers to migrate to higher priced service offerings or terminating service options entirely. These actions are almost necessary for those parties spending significant funds at auction so as to recover the money required to obtain the licenses. While Chadmoore would be more than pleased to absorb these displaced customers, the economical services offered by Chadmoore might not be possible should it also have to recover costs expended to obtain licenses at auction.

8. Any entity that must utilize telecommunications services for any reason will pass on those costs of doing business in the final rates of its services or products. Hence higher telecommunications services costs will result in higher prices for the services of products of the entity. Ultimately, in the case of some industries in which the public must partake of its services, such as power companies, ambulance services, etc., the result will be higher costs resulting in what could be considered a regressive tax on the public. Those entities, especially small businesses, which cannot afford the higher prices, may be forced to forego telecommunications services and the advantages, including benefits to the public, relating thereto.

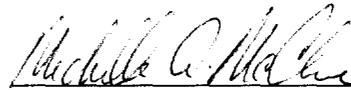
#### C. Auctions Would Not Necessarily Benefit All SMR Operators

9. AMTA's proposal would not necessarily benefit all SMR Operators. A large majority of SMR operators are unable to afford the prices paid for spectrum at auction and so the expectation that a multitude of service providers would bid for the spectrum and provide competitive services to the incumbents is speculative at best. More likely, there will be one major auction winner, as in previous SMR auctions, providing commercial opportunities for only one commercial provider and diminishing competitive opportunity with questionable benefits for the incumbents.

Conclusion

10. Chadmoore believes that AMTA's proposal is not in the public interest as it will likely lead to diminished service to the current private wireless users and, in many cases, result in more expensive service resulting in adverse economical effects. Flexible exchanges of spectrum between private licensee entities and commercial SMR operators should be allowed and encouraged where exchanges are appropriate and agreed upon by all parties. However, AMTA's proposal requiring forced migration and resulting in lack of competition and higher prices should be denied.

Respectfully submitted,



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Date: October 8, 1999

**CERTIFICATE OF SERVICE**

I, Tracy L. Trynock, hereby certify that on this 8th day of October, 1999, copies of the foregoing "Reply Comments of Chadmoore Wireless Group, Inc." have been served by hand delivery or first class mail, postage prepaid, upon the following:

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