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

In the Matter of	)	
	)	
Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico	)	WT Docket No. 97-112
	)	
Amendment of Part 22 of the Commission's Rules to Provide for Filing and Processing of Applications for Unserved Areas in the Cellular Service and to Modify Other Cellular Rules	)	CC Docket No. 90-6

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To: The Commission

JOINT COMMENTS OF PETROLEUM COMMUNICATIONS, INC.
AND U.S. CELLULAR CORPORATION

Petroleum Communications, Inc. ("PetroCom") and United States Cellular Corporation ("U.S. Cellular"), by their respective attorneys, hereby submit joint comments in the captioned proceeding in response to the Commission's Second Further Notice of Proposed Rulemaking, FCC 97-110, released on April 16, 1997 ["Second FNPRM"].

I. Introduction

1. PetroCom is one of two carriers licensed by the Commission to provide cellular radio telephone service in the Gulf of Mexico Service Area ("GMSA"). U.S. Cellular is a cellular operator in Florida and Texas markets adjacent to the Gulf. The purpose of these joint comments is to submit a proposal that would serve as the basis for new rules governing the licensing of cellular systems in and near the Gulf.[1]

[1] Simultaneously, PetroCom is submitting separate comments addressing other issues raised by the Second FRNPM.

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II. The PetroCom/U.S. Cellular Proposal

2. The PetroCom/U.S. Cellular proposal is the result of an effort on the part of these carriers to fashion a compromise that accommodates the interests of land and Gulf carriers. Their joint proposal is comprised of the following eight points:

(1) Land and Gulf carriers may operate with service area boundary (SAB) contours at the coastline boundary as calculated by the Section 22.911(a)(1) formula for land-based systems.

(2) A carrier may operate at a higher effective radiated power (ERP) than that resulting from the 22.911(a)(1) formula based on measurement data showing that actual signal strengths are unequal at the boundary, in order to achieve equal signal strengths. This process would involve a notification to the FCC of a minor change. Unless the carrier obtains the written consent of the other carrier, the notification must include "before and after" measurement data (obtained by a firm appearing on a list issued by the FCC) showing that the increase in ERP has equalized signal strengths at the boundary. The measurement data would be obtained using a testing procedure based on industry standards requiring the testing firm to use a single device to receive the signal from both the land and Gulf carrier, the antennas receiving the land and gulf signals to be placed at the same height, and the measuring device not to be shielded or obstructed. Based on the measurement data, the testing firm would determine the maximum ERP at which the carrier may operate to achieve equal signal strengths at the boundary. SAB contour extensions resulting from the 22.911(a)(1) formula would be permitted without the consent of the other carrier if necessary to equalize signal strengths at the boundary, but such extensions would not be included as part of the carrier's CGSA. However, such extensions would require the consent of the other carrier if the extending carrier wished to operate with a signal strength at the boundary which is greater than that of the other carrier.

(3) The current coastline boundary is retained, with changes described below, but geographic coordinates are published that clearly depict that boundary.

(4) The coastline boundary is extended 10 miles seaward on the Florida side of the Gulf, thus increasing the service area boundary of land-based systems there. The coastline would remain at its current boundary on the western side of the Gulf from Texas to Alabama.

(5) Neither a land carrier nor a Gulf carrier could place a transmitter on the other side of the coastline boundary without the other carrier's consent.

(6) The Gulf carrier's protected CGSA is the area seaward from the coastline boundary

and is not defined as actual SAB contours. After five years from the date of adoption of the new rules, a land carrier could serve an area of a Gulf carrier's CGSA from a site on the landward side of the coastline without consent from the Gulf carrier if the latter is not serving that area. However, a Gulf carrier could begin serving that area within its CGSA under the guidelines stated in item 2 above, thus "reclaiming" the unserved area. In this reclamation scenario, if a Gulf carrier could not generate equal signal strength at the coastline boundary, the land carrier would be required to reduce ERP but not below what is required to provide a sufficiently strong signal (-100 dbm) at the boundary so it can continue to serve land-based customers, regardless of whether any reduced signal strength still remains higher than that of the Gulf carrier exercising reclamation rights.

(7) Land and Gulf carriers must cooperate and negotiate extension agreements in good faith.

(8) Pending, grantable non-mutually exclusive Phase II applications for service in coastal waters should be granted.

This proposal will be referred to as the Joint Proposal.

III. The Joint Proposal Meets The FCC's Goals

4. The Commission's principal goals in this rule making are: (a) to establish a comprehensive regulatory scheme that will reduce conflict between water-based and land-based carriers; (b) provide regulatory flexibility to Gulf carriers because of the transitory nature of water-based sites; (c) award licenses to serve well-traveled coastal areas to those carriers that value the spectrum most highly and will maximize its use to provide the best quality of service to the public; (d) ensure wide-spread, seamless and reliable coverage along the shoreline. The Joint Proposal meets these goals.

5. *Reduces conflict.* A major issue of contention among land and Gulf carriers is unauthorized subscriber capture. In a series of ex parte presentations made to the Commission's staff in March, 1998, GTE and other land carriers argued that Gulf carriers were capturing their traffic. The Gulf carriers responded with showings that the opposite was occurring, i.e., the land carriers

were capturing the Gulf carriers' traffic.[2] Given that unauthorized subscriber capture means lost revenues for the carrier whose CGSA has been violated, it is no surprise that it is a principal source of conflict between land and Gulf licensees.

6. The Joint Proposal provides a means for either carrier to eliminate subscriber capture by dealing directly with its cause – unequal signal strength at the boundary. Points (3) and (4) of the proposal would clearly define the boundary with geographic coordinates. Points (1) and (2) would permit either type of carrier, land or Gulf, to adjust signal strengths at that boundary based on objective, real world measurement data using the same propagation formula.

7. Another potential source of conflict can arise when a land carrier wishes to serve an area along the Florida coastline with facilities whose signals extend into the GMSA. Point (4) of the Joint Proposal, recognizing that Florida prohibits offshore drilling and thus there are no drilling platforms on that side of the Gulf, will reduce if not eliminate this source of conflict by extending the boundary 10 miles seaward.

8. *Provides flexibility.* On May 13, 1994, the United States Court of Appeals for the District of Columbia Circuit ordered the Commission to vacate Section 22.903(a) (now 22.911(a)) of its rules as applied to the Gulf carriers. Those rules define cellular CGSA boundaries as coterminous with the actual service area boundaries ("SABs") and provide that areas left unserved five years after the grant of the licensee's original authorization become "unserved" areas subject to competing applications.[3] The court stated it was unfair to apply such a rigid CGSA definition to Gulf carriers because the

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[2] GTE made oral and/or written presentations on March 5-6 and 18-20, 1998. The Gulf carriers responded by a letter dated May 29, 1998 letter and a presentation made on June 3, 1998.

[3] 47 C.F.R. §§ 22.911(a), 22.947.

frequent repositioning of the oil platforms could cause a Gulf Carrier to "effectively lose the ability to serve part or all of [its] service area."[4] In light of the court's order, a Gulf carrier's authorized CGSA is that which was authorized prior to January 11, 1993.

9. Acknowledging the court's decision, one of the goals of this proceeding is to provide Gulf carriers with the regulatory flexibility they require in order to deal with the nature of providing cellular service using non-stationary platforms in the Gulf. Point 6 of the Joint Proposal provides such flexibility by giving a limited right to a Gulf carrier to reclaim area it vacated due to movement of a platform . Limitations on this reclamation right would apply. Specifically, if a Gulf carrier could not generate equal signal strength at the coastline boundary, the land carrier would be required to reduce ERP *but not* below what is required to provide a sufficiently strong signal (-100 dbm) at the boundary so it can continue to serve land-based customers, regardless of whether any reduced signal strength still remains higher than that of the Gulf carrier exercising reclamation rights.

10. This limited reclamation right would become effective 5 years after the adoption of the final rules in this proceeding, a period that provides adequate time for land and Gulf carriers to plan and implement modifications to their systems using the same land-based formula of Section 22.911(a)(1) as described in Point (1) of the Joint Proposal.

11. *Maximizes service.* By permitting carriers, both on land and in the Gulf, to equalize signal strengths at the coastline boundary, the Joint Proposal offers a fair and efficient way of allowing carriers to maximize service to their customers. Further, the Joint Proposal provides a means for land carriers to serve areas in the Gulf which are left unserved due to movement of

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[4] Petroleum Communications, 22 F.3d at 1173 (D.C. Cir. 1993).

transmitter platforms. Even in the event a Gulf carrier exercises its reclamation right, such a right would be limited and would not require a land carrier to reduce signal strength lower than what is required (-100 db) to serve customers on shore.

12. *Ensures coverage.* By expanding the coastline boundary 10 miles on the Florida side of the Gulf, the Joint Proposal ensures that the Florida coast will receive cellular service coverage. Allowing carriers to equalize signal strengths at the coastline boundary will ensure that they are able to provide coverage to their customers and eliminate the problem of subscriber capture interference. Allowing land carriers to serve areas in the Gulf not served by Gulf carriers *without their consent but subject to their limited reclamation right* helps ensure coverage in the event a platform is moved. In sum the Joint Proposal fulfills all of the goals of the Commission's rule making.

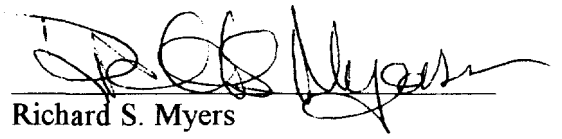
IV. The Joint Proposal Is Fair And Workable

13. Point (2) of the Joint Proposal creates an administratively efficient means for permitting a carrier to take fair and reasonable to resolve subscriber capture issues. This process would involve a notification to the FCC of a minor change. Measurement data, showing signal strength before and after the change would be submitted, following objective industry standards for the testing procedure performed by a firm on an FCC-issued list. SAB contour extensions resulting from the 22.911(a)(1) formula would be permitted without the consent of the other carrier if necessary to equalize signal strengths at the boundary, but such extensions would not be included as part of the carrier's CGSA. However, such extensions would require the consent of the other carrier if the extending carrier wishes to operate with a signal strength at the boundary which is greater than that of the other carrier. These provisions, which minimize the Commission's involvement, are a fair and workable solution to the problem of unauthorized subscriber capture.

V. The Joint Proposal Serves The Public Interest

14. The Joint Proposal serves the public interest by fulfilling all of the Commission's goals in the rule making in a fair and workable manner. It resolves the issues remanded by the court, thus terminating a lengthy a proceeding. It eliminates uncertainty about the exact location of the coastline boundary, and reasonably balances the interests of both land and Gulf carriers.[5]

Respectfully submitted,
PETROLEUM COMMUNICATIONS, INC.

By: 

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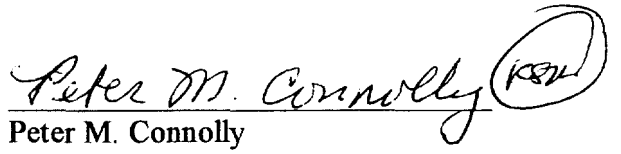
By: 

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[5] Counsel to PetroCom and U.S. Cellular have contaced and met with other carriers in an effort to gain support for their Joint Proposal. Those meetings have not led to a consensus in support of the Joint Proposal or any other proposal. PetroCom and U.S. Cellular hope that commenters in this round of comments will take the opportunity to address the Joint Proposal, articulate their concerns, and propose constructive alternatives.

CERTIFICATE OF SERVICE

I, Richard S. Myers, do hereby certify that on this 15th day of May, 2000, a copy of the foregoing "JOINT COMMENTS OF PETROLEUM COMMUNICATIONS, INC. AND U.S. CELLULAR CORPORATION" was mailed by U.S. First Class mail, postage pre-paid, to:

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