

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

In the Matter of)	
)	
1998 Biennial Regulatory Review—)	WT Docket No. 98-182
47 CFR Part 90—Private Land Mobile)	RM-9222
Radio Services)	
)	
Replacement of Part 90 by Part 88 to Revise)	PR Docket No. 92-235
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)	

PETITION FOR RECONSIDERATION

Motorola, Inc. (“Motorola”) hereby asks the Commission to reconsider certain aspects of its Report and Order adopted in the above-captioned proceeding.¹ Specifically, Motorola seeks reconsideration of the decision to reallocate five low power VHF frequencies² from the

¹ 1998 Biennial Regulatory Review—47 C.F.R. Part 90—Private Land 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; FCC 00-235, WT Docket No. 98-182, PR Docket No. 92-235 (rel. July 12, 2000); (“*Report And Order*”).

² The specific frequencies in question are 154.570 MHz, 154.600 MHz, 151.820 MHz, 151.880 MHz, and 151.940 MHz.

Part 90 Private Land Mobile Radio (“PLMR”) Services to the Part 95 Citizens Band Radio Services, in the newly created Multi-Use Radio Service (“MURS”).

As further explained below, Motorola believes that the Commission’s final rules in this matter fail to preserve these frequencies for business and industrial use but, rather, threaten expanded usage of these frequencies for non-business related purposes. Motorola believes that it is highly likely that consumer use of these frequencies will seriously degrade the quality of service that business and industrial users expect on these frequencies and, ultimately, will undermine the ability of these frequencies to serve professional communications needs. In the absence of appropriate protections for business and industrial users, the Commission should return the frequencies to Part 90 use and reinstate the licensing requirements. The Commission can then focus on other ways to reduce the administrative burdens associated with licensing users onto these frequencies.

I. Background

In its 1998 Biennial Review proceeding,³ the FCC noted public confusion concerning the licensing requirements for the use of hand-held portable radios operating on low power VHF frequencies assigned to the Industrial/Business Pool. Although the Commission’s rules required frequency coordination and licensing of the frequencies, the *NPRM* noted that very few

³ 1998 Biennial Regulatory Review—47 CFR Part 90—Private Land 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; FCC 98-251, WT Docket No. 98-182, PR Docket No. 92-235 (rel. Oct. 20, 1998); (“*Notice of Proposed Rulemaking*” or “*NPRM*”).

customers buying these radios would actually obtain a license. The Commission proposed to eliminate the coordination requirement and to reallocate the frequencies from Part 90 to a radio service that permits licensing by rule rather than individual application, such as the Citizens Band.

In its *Report and Order*, the FCC decided to adopt its proposals and reassign the five frequencies from the Part 90 PLMR Services to the Part 95 Citizens Band Radio Service, and thus eliminate the licensing and coordination requirements for these frequencies. The frequencies have been reallocated to the Multi-Use Radio Service (“MURS”), a new general-use service category in the Citizens Band services. The new regulations define MURS as a “private, two-way, short-distance voice, data or image communications service for personal or business activities of the general public.”⁴ The regulations further provide that the MURS channels “are available on a shared basis only and will not be assigned for the exclusive use of any entity.”⁵

II. Elimination of the Licensing Requirement and Reallocation to MURS Will Cause Irreparable Harm to Business and Industrial Users

In its Comments and Reply Comments filed in this proceeding,⁶ Motorola generally supported the Commission’s proposals, especially the elimination of the licensing requirements for the five low power frequencies. Motorola, however, emphasized that the frequencies should be reserved for business and industrial use only, and that the Commission’s proposal would

⁴ *Id.*, Appendix B—Amended Code of Federal Regulations, 47 C.F.R. §95.401.

⁵ *Id.*, 47 C.F.R. §95.1309.

serve the public interest because of “the significant consumer demand for unlicensed *business* frequencies.”⁷ Motorola recommended that the frequencies be placed in a new unlicensed radio service category, called the “Low Power Industrial/Business Radio Service,” that “will be designated for business users *only* and clearly distinguishes itself from the Family Radio Service and the Low Power Radio Service frequencies in the Citizens Band Radio Service.”⁸ The channels in this category would be available to business and industrial users for low power business activities, in accordance with the technical parameters that applied to these frequencies under Part 90 of the Commission’s rules.

In its *Report and Order*, the FCC indicated that Motorola filed comments supportive of eliminating the relevant licensing requirements and placing the subject frequencies into a new Part 95 radio service. However, the Commission failed to address any of Motorola’s concerns or recommendations that the frequencies continue to be available for business and industrial use. Because the final rule does not take into consideration the needs of industrial and business users, Motorola does not support the rule as it currently stands.

⁶ Respectively filed in this proceeding on January 19, 1999 and February 3, 1999.

⁷ Motorola Reply Comments at 4.

⁸ *Id.*

Motorola wishes to reemphasize to the Commission its position that these frequencies should be reserved for business and industrial use only. If the frequencies are placed in the MURS category, manufacturers will likely develop radio applications that will be marketed to a broader consumer population.⁹ The expanded availability of the frequencies to general consumers will increase traffic congestion and interference, thereby harming business users. Moreover, due to the attractive qualities of the radios currently marketed for business and industrial use—higher power, increased range, and more professional features—a portion of the general consumer market will inevitably be drawn to these radios, resulting in further integration of consumer and business use in the same spectrum.¹⁰ The addition of potentially millions of additional consumer users on the MURS frequencies will render it even more difficult to maintain disciplined and orderly use, which is essential for the needs of the business community. The increased interference will be unacceptable to business users, and may eventually lead to their abandonment of this popular technology. Thus, in the Commission’s effort to remove unnecessary regulatory obstacles for business and industrial users of the low power “color dot” frequencies, the final rules, as adopted, will have the unintended effect of harming those users.

⁹ There already are early reports that some manufacturers will try to mimic the commercial success of the Family Radio Service (“FRS”) on the MURS channels. *See, e.g., Multi-Use FRS Radio Service Gets OK From FCC*, Nov. 6, 2000, available at <http://www.twice.com/html/pagebeta.cfm?InputKey=2554>. This article contains quotes from land mobile manufacturers stating that MURS “will be a shot in the arm for personal radios” while warning that “with only five channels, it can get crowded really quick if a lot of people are using it in one area.”

¹⁰ *Id. See also, FRS Heads for Big-Time Selling Season*, Nov. 6, 2000, available at <http://www.twice.com/html/pagebeta.cfm?InputKey=2555>.

Not only will the MURS regulations lead to chaos on the airwaves, the resulting integration of services may have other serious, unintended consequences. For example, Part 90 of the Commission's rules prohibits interconnection to the Public Switched Telephone Network ("PSTN") without appropriate licensing.¹¹ In the subject *Report and Order*, the FCC has failed to adopt similar restrictions for MURS, which could lead to new and unintentional uses of the channels, to the detriment of existing users. For example, the lack of a prohibition on telephone interconnection could invite the development of a two-watt cordless telephone that provides service—and potential interference—for miles from its associated base. By eliminating the licensing requirement for these frequencies, the FCC sought to remove an unnecessary burden on users. However, by *not* adopting any appropriate restrictions, the FCC will fundamentally alter the use of these channels.

Motorola would support Commission efforts to develop appropriate operational and eligibility rules for the new MURS service that better ensures that these frequencies are used primarily for business applications and not consumer use. For example, a prohibition on telephone interconnection could be required and, perhaps, a prohibition against integrating MURS frequencies and FRS frequencies into a single radio unit. Motorola believes, however, that it will be difficult to craft the appropriate protections for business and industrial users particularly for a Citizens Band radio service that, by definition, is intended to meet the needs of the general public.¹² If this proves to be the case, the Commission should reinstate the licensing

¹¹ 47 C.F.R. §§90.477, 90.483.

¹² See 47 C.F.R. § 401(e).

requirements for these frequencies and return the frequencies to the Part 90 PLMR Services.¹³

The Commission's efforts to deregulate burdensome licensing requirements for business and industrial users could be accomplished by simplifying, rather than eliminating, the licensing procedures. For example, utilizing the ULS system on the Commission's website, the FCC could request users of these frequencies to complete forms similar to a manufacturer's warranty card that only requires information such as name, address and frequency of operation. This information would be beneficial to the FCC's spectrum management role to help gauge the popularity of such frequencies and to determine whether additional capacity should be made available.

III. Conclusion

For the foregoing reasons, Motorola respectfully requests the Commission to reconsider its decision to reallocate the five low power VHF frequencies into the Part 95 MURS category. While Motorola supports deregulating the applicable licensing requirements, the FCC's decision as constructed will alter the fundamental purpose of these frequencies in a manner detrimental to business and industrial users that was not contemplated by Commission.

¹³ The FCC should, however, retain the elimination of the applicable frequency coordination requirements of Section 90.175, which was fully supported by all commenters.

Respectfully submitted,
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