Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
1998 Biennial Regulatory Review --	)	WT Docket No. 98-182
47 C.F.R. Part 90 - Private Land Mobile	)	RM-9222
Radio Services	)	

OPPOSITION TO A PETITION FOR RECONSIDERATION

Filed by: Personal Radio Steering Group, Inc.
Corwin D. Moore Jr., Administrative Coordinator
PO Box 2851
Ann Arbor, Michigan 48106
(734) 662-4533
E-mail: prsg@provide.net

Date: January 3, 2001

==========

TABLE OF CONTENTS

		Paragraph No.
I.	Background of the Commenter.	1
II.	The Docket Proceedings Have Established Certain Facts.	4
III.	Motorola's Petition Seeks a Reversal of History.	7
IV.	Motorola's Petition Fails to Acknowledge Spectrum Re-Use Potentials	11
V.	Motorola's Petition Raises No Legitimate Issues Not Previously Considered.	16
VI.	PRSG is Concerned About the Fundamental Ways in Which These MURS Frequencies Are Used.	22
VII.	In Conclusion.	25

==========

I. BACKGROUND OF THE COMMENTER.

1. The Personal Radio Steering Group, Inc. (PRSG) is an all-volunteer, not-for-profit Michigan corporation established in 1980

by licensees in the General Mobile Radio Service (GMRS, FCC Part 95-A) to provide services to and to serve as an advocate for users of the FCC's personal radio services.

2. The authors have been licensees in the Amateur Radio Service for more than twenty-five years, and have extensive personal experience operating in the two-meter ham band in a variety of urban, suburban and rural settings. Propagation characteristics in this band are nearly identical to those on the frequencies allocated to the Multi-Use Radio Service.

3. The authors also have extensive experience in monitoring the frequencies now allocated to MURS, including experience in more than half of the forty-eight contiguous states.

II. THE DOCKET PROCEEDINGS HAVE ESTABLISHED CERTAIN FACTS.

4. The proceedings so far in this docket have established certain facts. Among these are the following:

- There was widespread unlicensed use of the frequencies now allocated to MURS prior to the authorization of these operations by rule instead of by license. This had existed despite the requirement for licensing, and despite the name of the service.

- Many of these operations were for purposes not directly related to business and industrial operations, despite the prior regulatory requirements that essentially prohibited consumer-type personal use.

- This general consumer-type use was likely attributable to certain long-standing practices of marketing of these radios through public consumer outlets. (The authors' experience is that the advertising of these radios sometimes clearly suggested their appropriateness for use in recreational and sporting activities.)

5. Several other facts can be presumed from the docket record and from the rules applicable to the use of these frequencies before the FCC reallocated them to MURS.

- Nearly all of the individual communications systems (networks of users operating under the same license) using these frequencies can be characterized as operating over a relatively short range, typically not greater than a mile between users in the same system actually communicating with each other. These are truly "SMALL FOOTPRINT SYSTEMS" that place minimal demands on the spectrum and accommodate spectrum re-use and efficiency.

- Motorola Inc. was a primary supplier, perhaps THE primary supplier, of equipment used in this market.

- There is no evidence of interference to licensed business or

industrial users from other licensed or unlicensed users, and in particular from non-business/non-industrial users.

- The Commission clearly acknowledged and accepted these current realities, in particular with regard to the predominance of unlicensed operation and the use of these frequencies for non-business/non-industrial communications.

6. Specifically, the Commission's intent in this proceeding has NOT been to mandate widespread changes in operations that existed prior to reallocation of these frequencies to MURS. The Commission's action to accept the status quo did not favor either those who were or those who were not licensed under Part 90 of the FCC Rules. Nor did the Commission's action favor those operations which were compliant with the limitations on eligible content of communications under those Part 90 Rules.

III. MOTOROLA'S PETITION SEEKS A REVERSAL OF HISTORY.

7. In its Petition for Reconsideration, Motorola now wants to ignore the established realities already acknowledged by the Commission (discussed above). Instead, Motorola wants to change back to an operational environment (specifically, requiring licensing and placing restrictions on content of communications) that no longer exists and hasn't existed apparently for many years.

8. At page 4, Motorola states:

> "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."

The FCC Rules (for instance, at 95.401(e)), quite to the contrary, DO expressly acknowledge the availability of these frequencies for use for business and industrial communications. If there are business or industrial users unwilling or unable to share these frequencies with other non-business/non-industrial users, there are other frequencies offering comparable communications potentials (in the general 150 MHz band) available solely within Part 90.

9. For the personal (consumer) user, however, there are NO other frequencies available that offer comparable communications potential. Other spectrum alternatives (the Citizens Band Radio Service at 27 MHz, and the General Mobile Radio Service and the Family Radio Service at 460 MHz) have propagation characteristics which are distinctly different and less capable from those at the 150 MHz frequencies of MURS.

10. In particular, MURS operations at 150 MHz offer the potential for communications substantially superior to GMRS and FRS in rural operating environments (with limited access to communications options), locations well away from those in which business and industrial use of these frequencies is most common.

IV. MOTOROLA'S PETITION FAILS TO ACKNOWLEDGE SPECTRUM RE-USE POTENTIAL.

11. As previously discussed, nearly all existing communications systems utilizing frequencies now allocated to MURS can be characterized as having "a small footprint." Our Petition for Reconsideration encouraged the Commission to retain this "small footprint" characteristic in the MURS regulatory and operational environment by adopting certain restrictions mostly reflecting those in place on these frequencies before the Commission reallocated them to MURS.

12. PRSG believes that by retaining this "small footprint" characteristic, interference between business/industrial users and general public users will continue to be minimal. Nothing in this docket suggests that such a "peaceful co-existence" is not already commonplace.

13. In particular, MURS represents an ideal mixture of users whose operations will be largely separately located. MURS is of particular benefit to the rural highway traveler, offering a capability not available (due to antenna restrictions) in the Family Radio Service (at 460 MHz), yet free from the problems of atmospheric reflections and man-made noise commonly encountered in the Citizens Band Radio Service (at 27 MHz).

14. At page 5 of its Petition for Reconsideration, Motorola states:

> "Moreover, due to the attractive qualities of the radios currently marketed for business and industrial uses -- 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."

The statement presumes the integration between consumer and business use in and of itself is undesirable. However, Motorola offers no documentation or further argument of this viewpoint.

15. Experience to the contrary can be cited from the Family Radio Service. Because of the "very small footprint" of typical FRS systems, business and consumer operations DO peacefully co-exist, to the detriment of neither.

V. MOTOROLA'S PETITION RAISES NO LEGITIMATE ISSUES NOT PREVIOUSLY CONSIDERED.

16. At paragraph 32 of the Notice of Proposed Rule Making, the Commission stated:

> "Should we decide to take this action, we would reallocate the frequencies from Part 90 to a radio service that does not require licensing, such as the Citizens Band, Low Power

Radio, or Family Radio Services."

17. At paragraph 31 of the Report and Order, the Commission explained why it would create a new radio service separate from any previously existing one (especially, CBRS, FRS, and LPRS), but still under the general category of being a Citizens Band service (see FCC Rule 95.401(e)), and thus authorizing operation by rule instead of by license.

18. In its Petition for Reconsideration, Motorola argues that a content restriction is necessary for these MURS frequencies. Motorola fails to demonstrate how communications content can be regulated in an UNLICENSED service, when history has demonstrated that it could not be done in a LICENSED one.

19. As a primary (and perhaps THE primary) supplier of equipment for use on the frequencies now allocated to MURS, where was Motorola when the use of these frequencies came to be dominated by unlicensed users?

20. The ONLY information that Motorola presents in its Petition that was not previously presented and considered, or for which there was no timely opportunity to present, is the citation in its footnote 9. Motorola notes there that other manufacturers are contemplating entry into this market. Thus, Motorola admits that it is concerned (especially) for its potential loss of market share.

21. Catering to Motorola's concern for its market share is hardly a legitimate reason for the Commission now to consider withdrawing MURS from general consumer use. Had Motorola genuinely been concerned about integration of consumer and business use on these frequencies, it could have taken steps years ago to halt the sales of its own product line to consumer users.

VI. PRSG IS CONCERNED ABOUT THE FUNDAMENTAL WAYS IN WHICH THESE MURS FREQUENCIES ARE USED.

22. In our Petition for Reconsideration, we expressed concern about the ways in which the frequencies now allocated to MURS could become used in the future. We asked the Commission to restore or to implement certain new regulatory changes that would retain the mobile-operating nature of these frequencies. We believe that retention of the "small footprint" characteristic will more successfully accommodate existing and previous users of this spectrum, and will respect the very limited number of channels available.

23. We believe that our modest requests are more likely to be successful than the radical step requested by Motorola of withdrawing MURS from general consumer use altogether. Under our proposals, existing business/industrial users of these frequencies (whether or not formerly licensed) will continue to enjoy their current capabilities, while not mandating the relocation of other consumer uses that have proven to be compatible.

24. In short, we believe that the limited number of MURS frequencies can accommodate new business and personal USERS, but should not be

subjected to new USES that expand beyond the current typically "small footprint" systems.

VII. IN CONCLUSION.

25. For the reasons stated above, we OPPOSE Motorola's request that the FCC withdraw the frequencies now allocated to MURS and instead reallocate them solely to a licensed Part 90 business/industrial-only service. Such an action would ignore current operating realities, and would deprive the consumer public of an alternative that now offers a unique and valuable communications capability. Withdrawal of MURS for consumer use would also be a step BACKWARDS in the well-established direction of encouraging greater spectrum sharing.

==========

I, Corwin D. Moore Jr., certify that on this date (January 3, 2001), I mailed a copy of these comments to the following party:

Richard C. Barth, Ph. D.
Vice President and Director
Telecommunications Strategy
Motorola
1350 I Street NW, Suite 400
Washington, DC 20005

I also certify that we are willing to receive replies to these comments by electronic means at: prsg@provide.net

<EOF>
•