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Before the
FEDERAL COMMUNICATIONS COMMISSION
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Reallocation of the 216-220 MHz,)	ET Docket No. 00-221
1390-1395 MHz, 1427-1429 MHz,)	RM-9267
1429-1432 MHz, 1432-1435 MHz,)	RM-9692
1670-1675 MHz, and 2385-2390 MHz)	RM-9797
Government Transfer Bands)	RM-9854

To: The Commission

REPLY COMMENTS OF MRFAC, INC.

MRFAC, Inc. ("MRFAC"), by its counsel, hereby submits its Reply Comments in the above-captioned proceeding.

As the record herein reflects, MRFAC has urged adoption of the allocation proposal put forward by the Land Mobile Communication Council ("LMCC"). That proposal seeks a much-needed allocation of ten (10) MHz for industrial and business users, 6 MHz for band manager auctions and 4 MHz for traditional, site-specific licensing. That position has been supported by a number of other LMCC members, or parties related in interest, such as American Petroleum Institute, Motorola, Inc., Automobile Club of Hartford, Inc. and California State Automobile Association.

Nonetheless, MRFAC recognizes the challenges facing the Commission in reconciling the competing proposals for the 1.4 GHz band. Thus, it is incumbent on all spectrum interest groups to examine ways and means of accomodating as many users as possible consistent with sound spectrum management principles – in particular the principle that interference not be caused between and among different classes of users.

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To this end, MRFAC has considered the Commission's Option 3 which would allow for co-primary sharing between the PLMR community, on the one hand, and Little LEO feeder links, on the other hand. This Option would also accommodate requests for utility meter reading and wireless medical telemetry.

Little LEO parties have expressed the view that such sharing is practical. See Comments filed by Final Analysis Communication Services, Inc. and Orbital Communications Corporation at 14-15. MRFAC is not at this time in a position to state whether it agrees with that assessment, or not. However, MRFAC is of the view that this issue should be explored further.

By contrast, certain commenters appear to seek a special carve-out which would benefit their industries and their industries only. In particular, United Telecom Council and the American Public Power Association urge that the 4 MHz earmarked for frequency-coordinated, site-specific licensing "be provided for use by [utilities, pipelines and other critical infrastructure entities]." Joint Comments at 4.

There are several problems with this approach. Not the least of them is the fact, recognized by the Joint Commenters themselves, that "this spectrum is the first identified for private wireless in several years" and that the bands, "while small, take on critical importance for future expansion of private wireless services." *Id.* at 3. MRFAC and LMCC have been urging the necessity of a new allocation for private land mobile for the past five years. The proposed allocation, 6 MHz for exclusive licenses via band managers and 4 MHz for shared frequency use via frequency coordination, best meet these needs.

Apart from this, however, the essence of the Joint Commenters' argument, i.e. the notion that an auction exemption (assuming their constituents be entitled to one) justifies an exclusive allocation, is contradicted by the Commission's very recent determinations in the Balanced Budget Act proceeding. There the agency held that:

The purpose of the exemption from our competitive bidding authority for public safety radio services is to relieve entities that protect the safety of life, health, and property from having to purchase spectrum at auction. There is no basis upon which to infer other or additional congressional intent with respect to this provision.

Report and Order and Further Notice of Proposed Rule Making, FCC 00-403, released November 20, 2000 at para. 102.

Finally, the request is also contrary to basic principles of re-farming and, in particular, service consolidation. This, too, was a principle re-affirmed in the Budget Act decision. See ibid at paras. 99-100.

MRFAC appreciates the concerns expressed by the Joint Commenters and other parties seeking protection of one sort or another. However, the solution is not special carve-outs – especially when such arrangements contradict the increased focus on sharing which has become necessary in an environment of spectrum scarcity.

Finally, MRFAC seconds the concern expressed by the American Petroleum Institute that there should be no special showing required for access to the 4 MHz proposed for shared frequency use. See Notice of Proposed Rulemaking at para. 31. Rather, this spectrum should be available under the same terms and conditions that such spectrum has always been available for business and industrial users. Any other approach would needlessly burden applicants. It would also needlessly entangle the

Commission in a multitude of individual, application-specific determinations, each of which would be subject to challenge by disappointed proponents.

Accordingly, for the foregoing reasons and those stated in its opening Comments, MRFAC urges consideration of the views it has expressed.

Respectfully submitted,

MRFAC, INC.

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