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

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
)  
Amendment of Part 90 of the Commission's ) WT Docket No. 01-146  
Rules and Policies for Application and ) RM-9966  
Licensing of Low Power Operations in the )  
Private Land Mobile Radio 450-470 MHz )  
Band )

To: The Commission

**COMMENTS OF THE  
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION, INC.**

The American Mobile Telecommunications Association, Inc. ("AMTA" or "Association"), by its attorneys and in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") Rules and Regulations, respectfully submits its Comments in the above-entitled proceeding. AMTA generally agrees with the Commission's proposed decisions in respect to the Land Mobile Communications Council ("LMCC") low power recommendations, and supports fully the LMCC Comments being filed in respect to the Notice.<sup>1</sup> The Association urges the FCC to proceed expeditiously to finalize this aspect of the ongoing effort to enhance the efficient use of the so-called "refarmed" Part 90 spectrum below 512 MHz.<sup>2</sup> However, the even more urgent task is to address the fundamental problem that "the current pace of migration to more spectrally efficient technology is not rapid enough"<sup>3</sup> in these bands. AMTA respectfully requests the Commission to turn its attention to that broader matter, which was raised directly in the BBA Order, and to adopt

<sup>1</sup>Notice of Proposed Rule Making, WT Docket No. 01-146, FCC 01-199 (rel. July 24, 2001) ("Notice").

<sup>2</sup>See, PR Docket No. 92-235.

<sup>3</sup>Report and Order and Further Notice of Proposed Rule Making, WT Docket No. 99-87, FCC 00-403 at ¶ 141 (rel. Nov. 20, 2000) ("BBA Order").

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a decision responsive to the Association's comments in that proceeding at the earliest possible opportunity.

## **I. INTRODUCTION**

1. AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") operators, licensees of wide-area SMR systems, and commercial licensees in the 220 MHz and 450-512 MHz bands. These members provide commercial wireless services throughout the country to the Private Land Mobile Radio ("PLMR") user community. Many of them have implemented or are in the process of developing efficient, commercial trunked systems in the refarmed bands. Thus, the Association and its members have a significant interest in the outcome of this proceeding.

## **II. BACKGROUND**

2. As part of its effort to promote the more efficient use of PLMR spectrum below 512 MHz, the Commission adopted a band plan in 1995 that resulted in the conversion of previously low power, secondary, offset channels in the 450-512 MHz band to primary, full power use.<sup>4</sup> However, the FCC also acknowledged the PLMR industry recommendation that certain offset channels be reserved for low-power operation, and charged the Part 90 frequency advisory committees ("FACs") with the task of developing a low power plan through industry consensus. Consideration of the resulting proposal, formulated by the FACs under the LMCC mantle, was delayed substantially while the FCC addressed matters such as medical telemetry use of the band, and the LMCC ultimately resubmitted its consensus proposal on September 11, 2000 as a formal Petition for Rule

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<sup>4</sup>*Report and Order and Further Notice of Proposed Rule Making*, PR Docket No. 92-235, 10 FCC Rcd 10076 (1995) ("Refarming Order").

Making. The instant, responsive Notice was released on July 24, 2001. As the proposals in the Notice generally are consistent with LMCC's recommended plan, AMTA supports them, except as noted in the LMCC Comments being filed in the instant proceeding.

### III. COMMENTS

#### A. Low Power Channels

3. AMTA is pleased that the Commission is prepared to address the low power portion of the refarming proceeding. The FACs have endeavored to direct applicants to appropriate channels assuming the LMCC consensus plan ultimately would be adopted, but the compatible use of this spectrum by entities with like applications will be enhanced by having what previously were FAC recommendations codified in the FCC rules.

4. AMTA supports the LMCC proposal that the FCC rules provide for different types of low power operation. The FACs have substantial experience in working with a broad range of PLMR users and are familiar with the wide variety of radio applications on which their operations rely. While there likely are as many unique low power system parameters as there are types of PLMR eligibles, the four groups proposed by the LMCC represent an appropriate accommodation of the vast majority of such systems. Thus, AMTA, like the FCC, endorses adoption of proposed low power Groups A through D.

5. The Association also concurs with the LMCC recommendation in respect to the use of Effective Radiated Power ("ERP") and Transmitter Output Power ("TPO"). Adoption of a maximum ERP and TPO for the low power channels will enable applicants to determine whether their needs would be better served by the use of higher power radios or higher gain antenna, without compromising the low power status of the channels. Further, AMTA agrees with the LMCC that the industry and the FCC must explore how best to promote the optimal use of spectrum efficient

technologies, including, but not limited to data, which can be accommodated on a single channel. The Association intends to participate actively in the LMCC initiative to develop guidelines for single channel protected service areas ("PSAs"), consistent with AMTA's broader objective of deriving more intensive use of this limited spectrum resource.

B. Accelerated Migration to More Efficient Technologies

6. While this further step in the refarming effort is welcome, in AMTA's opinion it is not sufficient. The Commission determined almost ten years ago that the PLMR user community must derive more efficient use of this spectrum. It further concluded that achievement of that objective would require incumbents in the refarmed bands to migrate to more efficient equipment, most likely equipment with narrowband capability. Yet, those goals still remain distant.

7. The FCC attempted to promote that result without specifying a date by which that migration must be completed -- or even begun -- relying instead on the type acceptance process as the expected catalyst for a transition to new technologies. That effort was successful only to the extent that such technology is readily available. Unfortunately, the approach failed in its more fundamental objective: encouraging incumbents to abandon their legacy equipment in favor of more efficient technology. It even has failed to prevent new users from implementing new, inefficient systems, thereby further perpetuating the problem of incumbent investment in legacy equipment.

8. AMTA has urged the Commission repeatedly to adopt a more pro-active role in promoting the efficiency goals of the refarming proceeding. It did so most recently in response to the FCC's own conclusion that the current pace of migration was not adequate.<sup>5</sup> The Association's Comments and Reply Comments in respect to the BBA Order again detailed AMTA's conviction that the current refarming rules had proven inadequate to this critical task. They reaffirmed the

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<sup>5</sup>*Id.*

Association's recommendation that a more radical approach was needed if the Commission and the PLMR community were to derive the necessary level of spectrum efficiency from the refarmed bands. At a minimum, AMTA urged the FCC to stop licensing new 25 kHz systems and to adopt a not too distant date certain after which the authorizations of licensees who elected not to convert to more efficient technology would be modified from primary to secondary status, positions endorsed by a number of PLMR representatives.

9. However, the Association further argued that even those steps were far from adequate. It recommended that the Commission resurrect AMTA's Petition for Rulemaking filed on July 30, 1999 which outlined a radically new approach for licensing the non-Public Safety refarmed bands.<sup>6</sup> The Association remains convinced that its proposal, which provided spectrum for both shared, non-auctioned and auctioned private and commercial applications, reasonably balances the interests of all PLMR eligibles. It is the only proposal that offers a realistic migration path to readily achievable spectrum efficiency levels in a reasonable time frame. Since a Commission decision in the instant proceeding is meaningful primarily in the context of agency action on the broader efficiency issues set out in the BBA Order, AMTA urgently requests the FCC to proceed expeditiously to address that matter.

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<sup>6</sup>AMTA Petition for Rulemaking (RM-9705) (filed July 30, 1999).

**IV. CONCLUSION**

10. For the reasons described above, AMTA recommends that the FCC proceed promptly to act in a manner consistent with the positions expressed herein.

Respectfully submitted,

**AMERICAN MOBILE TELECOMMUNICATIONS  
ASSOCIATION, INC.**

By:



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October 12, 2001

## CERTIFICATE OF SERVICE

I, Linda J. Evans, a secretary in the law office of Lukas, Nace, Gutierrez & Sachs, hereby certify that I have, on this October 12, 2001, caused to be mailed, first-class, postage prepaid, a copy of the foregoing Comments to the following:

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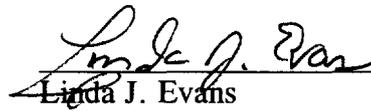
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