

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

**In the Matter of** )  
 )  
**Amendment of the Commission’s** ) **PR Docket No. 00-48**  
**Rules Concerning Maritime** )  
**Communications** )

**To: The Commission**

**REPLY COMMENTS OF MARITEL, INC.**

MariTEL, Inc. (“MariTEL”),<sup>1/</sup> by its counsel and pursuant to the provisions of Section 1.415 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”), 47 C.F.R. § 1.415 (2000), and the invitation extended by the FCC in the *Further Notice of Proposed Rulemaking* (“*Further Notice*”)<sup>2/</sup> in the above-referenced proceeding, hereby submits its reply comments in response to the initial comments of other parties. In this proceeding, the Commission seeks comment on a variety of issues related to the implementation of the Global Maritime Distress Safety System (“GMDSS”).

**I. Comments**

**A. Coast Station Watches**

In the *Further Notice*, the Commission sought comments on coast station licensees’ obligations under Section 80.103(c) of the rules, which generally provides for digital selective calling (“DSC”) acknowledgement of DSC distress and safety calls by designated coast stations.

In its initial comments, MariTEL sought to clarify its existing obligations regarding the

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<sup>1/</sup> MariTEL was formerly known as WJG Maritel Corporation and participated in FCC rulemaking proceedings as such. Any references to MariTEL herein are to MariTEL, or its predecessor in interest, as appropriate.

<sup>2/</sup> *In the Matter of Amendment of Parts 13 and 80 of the Commission’s Rules Concerning Maritime Communications*, WT Docket No. 00-48, *Report and Order and Further Notice of Proposed Rulemaking*, 17 FCC Rcd 35086 (2002).

acknowledgement of DSC distress messages. It recommends that the Commission refrain from adopting additional watch requirements for coast stations using DSC equipment. The United States Coast Guard (“Coast Guard”), requests that the Commission extend its channel 16 requirements to coast stations operating on channel 70.<sup>3/</sup> The Coast Guard also recommends that coast stations remain capable of resuming a channel 70 watch requirement or providing the Coast Guard with access to the coast station’s channel 70 transmitter.<sup>4/</sup> The Coast Guard argues that such a requirement is merely an extension of the Commission’s existing obligations regarding the receipt of distress and safety calls over voice channels to “the newer Digital technology.”<sup>5/</sup> Contrary to the Coast Guard’s assertions, this is a new obligation, not an extension of the Commission’s existing requirements. For the reasons below, MariTEL strongly disagrees with the Coast Guard’s proposal.

The Coast Guard’s recommendations are inconsistent with the Commission’s past decisions regarding channel 70 watch requirements. As MariTEL pointed out in its initial comments, the Commission never intended for coast stations to maintain a watch on channel 70.<sup>6/</sup> Moreover, the Commission’s rules do not impose a DSC monitoring requirement; they

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<sup>3/</sup> *Id.* The Coast Guard states that coast stations operating on channel 70 be required to comply with the channel 16 requirements, as outlined in Section 80.303 of the Commission’s rules and regulations. 47 C.F.R. § 80.303. This rule states that “the Coast Guard may . . . require any coast station to remain capable of either immediately resuming the watch or providing the Coast Guard direct dial-up access to the necessary [channel 16] receiver.” 47 C.F.R. § 80.303(b).

<sup>4/</sup> *Id.*

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

<sup>6/</sup> *See In the Matter of Amendment of Parts 13 and 80 of the Commission’s Rules Concerning Maritime Communications*, WT Docket No. 90-480, *Notice of Proposed Rulemaking*, 5 FCC Rcd 6212 ¶ 34 (1990) (public coast stations only need to comply with certain watch requirements and are not required to comply with GMDSS requirements, including channel 70 watch requirements). Moreover, Section 80.1119(a) specifically states that the

only outline the procedures to be followed in cases where distress calls are acknowledged or relayed. There is no reason for the Commission to impose additional requirements on coast stations operating on channel 70 that are inconsistent with its current regulations and past practices.

Imposing the channel 16 distress and safety watch requirements on coast stations operating on channel 70 would be counterproductive. As the Commission is aware, the Coast Guard is in the process of implementing the National Distress and Response System Modernization Project (“NDRSMP”). When the NDRSMP is fully operational, the Coast Guard will have independent capabilities to monitor channel 70. There is no reason why the FCC should impose any channel 70 obligations on private parties, whose function it is to provide commercial services. While the Commission previously required that coast stations routinely maintain a channel 16 watch, the Commission has since amended its regulations to exempt coast stations from maintaining channel 16 watch requirements.<sup>7/</sup> In addition, coast stations otherwise required to monitor channel 16 need not maintain the watch at all times; they are only required to maintain the watch when their stations are in operation.<sup>8/</sup> The coast station, and not the Coast Guard, determines when their stations are in operation and will maintain a channel 16 watch. Coast stations enjoy this discretion because watch requirements are the primary responsibility of the Coast Guard and not of public coast stations. Coast stations simply do not have the resources

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regulations embodying GMDSS obligations do “not specify any radio watched for coast stations.” 47 C.F.R. § 80.1119.

<sup>7/</sup> *In the Matter of Amendment of the Commission’s Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853 ¶ 57 (1998).

<sup>8/</sup> *In the Matter of Amendment of the Commission’s Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Fourth Further Notice of Proposed Rulemaking*, 17 FCC Rcd 5080 ¶ 7 (2001).

or the capabilities necessary to perform the important functions associated with distress and safety watch requirements.<sup>9/</sup> MariTEL recognizes its obligation to assist the Coast Guard in limited situations and is pleased to comply with the Coast Guard's needs on specific occasions. Public coast stations, however, should not be required to become a substitute for the Coast Guard.

## **B. Distress Alerts**

The Coast Guard asserts that coast stations should be directed to comply with the requirements outlined in Subpart W of the Commission's rules regarding the handling of distress alerts and acknowledgements.<sup>10/</sup> As MariTEL explained in its initial Comments, the Commission rules with respect to channel 70 are clear. Section 80.1119 of the Commission's rules states that if a coast station has DSC capability and detects a distress message, the coast station must route the call to the Coast Guard, and render any other assistance with respect to that distress call, which the Coast Guard may reasonably request.<sup>11/</sup> This rule does not, however, impose a separate obligation on coast stations operating with equipment that, because of Sections 80.1101 and 1103, has DSC capability to provide distress and safety watch communications. As discussed above, the Coast Guard, and not public coast stations, has the primary responsibility of maintaining safety and distress watches. The Commission should take this opportunity to clarify that coast stations operating on DSC capable equipment are not subject to any additional requirements.

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<sup>9/</sup> The Coast Guard has the necessary systems in place to monitor distress calls, alert response units and coordinate response activities. *See* U.S. Dept. of Transportation, United States Coast Guard, National Distress & Response System Modernization Project, May 5, 2002, *available at* <http://www.uscg.mil/hq/g%2Da/ndrsmpl/descript.htm>.

<sup>10/</sup> Comments of the Coast Guard at 3; *see also* 47 C.F.R. §§ 80.1117 and 80.1119.

<sup>11/</sup> 47 C.F.R. § 80.1119.

As noted in MariTEL's initial comments, MariTEL already complies with the distress alert requirements listed in Section 80.1119 by sending, via facsimile, a record of distress communications it receives to the appropriate Coast Guard Rescue Communications Center.<sup>12/</sup> While MariTEL believes that this procedure is acceptable under the Commission's rules, MariTEL would not oppose further clarification from the Commission regarding its obligations. MariTEL, however, does not believe that any additional requirement is necessary.

### **C. Acknowledgement Requirements**

The Coast Guard argues that public coast stations must comply with the DSC distress acknowledgement requirements outlined in Section 80.1117 of the Commission's rules and regulations.<sup>13/</sup> This provision requires that acknowledgements received by DSC equipment to comply with the requirements outlined in ITU CCIR Recommendation 541.<sup>14/</sup> This requirement provides that "distress calls should normally be acknowledged by DSC only by *appropriate* coast stations."<sup>15/</sup> The term "appropriate" indicates that the acknowledgement obligations apply only to those stations capable of performing the functions of monitoring for distress alerts and assisting in search and rescue efforts. In the domestic context, the Coast Guard is the only entity capable of performing all of these functions. MariTEL, and other public coast stations, cannot engage in search and rescue operations and it would be both dangerous and counterproductive for MariTEL to acknowledge distress communications. Similarly, because transmissions of an acknowledgement will terminate distress communications and automatically switch communications to voice channel 16, the Coast Guard is the most appropriate entity to

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<sup>12/</sup> Comments of MariTEL at 5.

<sup>13/</sup> Comments of the Coast Guard at 3.

<sup>14/</sup> The provision of the regulation citing to CCIR Recommendation 541 refers to what is now ITU Radio Regulation 541-8. *See* ITU-R M.541-8.

<sup>15/</sup> ITU-R M.541-8, Section 3.3.1 (emphasis added).

acknowledge distress communications because they are obligated to monitor the majority of channel 16 distress communications.<sup>16/</sup>

This interpretation comports with MariTEL's understanding of the provisions of Section 80.103(c) of the Commission's rules, which requires "designated" coast stations to acknowledge DSC distress messages. As MariTEL has noted previously, and for the reasons expressed above regarding the acknowledgement of distress communications, the Commission must interpret "designated coast station" to mean the Coast Guard or its designee.<sup>17/</sup> The public interest, and in particular the boating community's interests, would be best served if public coast stations continue to be obligated to route distress messages received on channel 70 to the Coast Guard and the Coast Guard, in turn, be required to acknowledge those distress messages. MariTEL, therefore, urges the Commission to clarify that, for domestic purposes, the term "appropriate coast station" applies solely to the Coast Guard.

#### **D. Unattended Operations for Non-DSC Equipment**

The Commission tentatively rejected MariTEL's request that the rules which permit unattended operations for DSC transmitters be extended to non-DSC operations.<sup>18/</sup> The Coast Guard supports the Commission's conclusion and contends that manual intervention is necessary to avoid potential maritime casualties.<sup>19/</sup> MariTEL disagrees with the Coast Guard's analysis and urges the Commission to reevaluate its tentative conclusion.

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<sup>16/</sup> As noted earlier, coast stations are exempt from complying with channel 16 requirements. In the event they are required to maintain a watch, coast stations need only comply with these provisions during their hours of operation.

<sup>17/</sup> *Further Notice*, ¶ 111.

<sup>18/</sup> *Further Notice*, ¶ 114.

<sup>19/</sup> Comments of the Coast Guard at 4.

A requirement that a live operator be present for all non-DSC operations is inconsistent with Commission precedent. The Commission has already eliminated the requirement that a coast station have an operator on duty, and instead, afforded public coast station licensees the discretion to determine whether or not to have a radio operator on duty.<sup>20/</sup> In reaching this decision, the Commission concluded that new technologies no longer require a live operator and pointed out that the elimination of this requirement would be consistent with international regulations, which do not require an operator to be on duty.<sup>21/</sup>

In a subsequent proceeding, the Commission specifically rejected a proposal requiring the Commission to retain the requirement that there always be an operator on duty for coast stations required to maintain a watch.<sup>22/</sup> The Commission reasoned that there was no need to extend to such a requirement to a select group of individual coast stations. In addition, the Commission emphasized that the Coast Guard “did not contend that eliminating the operator requirement would jeopardize safety at sea.”<sup>23/</sup>

There has been no change in circumstances to require the Commission to reverse its course and reinstate a live operator requirement on public coast stations. In fact, there is less reason than ever to impose such an obligation. As discussed above, public coast stations are

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<sup>20/</sup> See *In the Matter of Amendment of the Commission’s Rules Concerning Maritime Communications*, PR Docket 92-257, *Second Report and Order and Second Further Notice of Proposed Rulemaking*, 12 FCC Rcd 16949 ¶ 14 (1997).

<sup>21/</sup> *Id.* at 14 n.40.

<sup>22/</sup> See *In the Matter of Amendment of the Commission’s Rules Concerning Maritime Communications*, PR Docket 92-257, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853 ¶ 58 (1998).

<sup>23/</sup> *Id.*

exempt from maintaining channel 16 watch requirements.<sup>24/</sup> Plainly, a coast station that is not required to maintain a channel 16 watch should not be required to have an operator on duty.

The rationale for imposing an operator requirement, which relies upon coast station's supposed distress acknowledgement obligations, is misplaced. The Coast Guard argues that without manual intervention, mariners would have a "false sense of security" because there would be no assurance that a distress alert has been properly acknowledged and relayed. The premise of the Coast Guard's concern is that mariners will be relying on coast station licensees to provide search and rescue operations. They will not. It is the Coast Guard's obligation to ensure distress messages are properly acknowledged and appropriate action is taken.

MariTEL urges the Commission to continue to allow licensees to determine whether their operations necessitate keeping a live operator on duty. The Coast Guard has already made clear that safety at sea will not be jeopardized if coast stations do not maintain live operators. In addition, the Coast Guard has provided no additional information explaining why its previous position, on which the FCC relied in excusing coast station licensees from maintaining an operator at station locations, is no longer valid.

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<sup>24/</sup> *In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications*, PR Docket No. 92-257, *Third Report and Order and Memorandum Opinion and Order*, 13 FCC Rcd 19853 ¶ 57 (1998).

## **II. CONCLUSION**

MariTEL urges the Commission to consider the foregoing reply comments and to act in a manner consistent with the recommendations made herein.

Respectfully submitted,

**MARITEL, INC.**

/s/ Russell H. Fox \_\_\_\_\_

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September 16, 2002