

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)

SUPPLEMENTAL REPLY TO AN OPPOSITION TO A
PETITION FOR RECONSIDERATION

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I. BACKGROUND OF THE COMMENTER AND OF THE DOCKET.

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. Further information is in the our Reply to Oppositions to a Petition for Reconsideration ("REPLY"), submitted to the FCC on July 21, 2003.

2. PRSG brought issues in the PETITION which had arisen since the first Report and Order in this Docket, issues for which there had been no prior opportunity for public comment.

3. The FCC's Electronic Comment Filing System ("ECFS") did not show the Opposition filed by Dakota Alert, Inc. ("DAKOTA") as of July 21, 2003, the original deadline date for filing our REPLY. PRSG personnel checked the ECFS information for this docket regularly, but did not discover the DAKOTA filing acknowledged in the ECFS until July 31, 2003. In a telephone call to personnel in the Office of the FCC Secretary, we learned that FCC staff did not post information about the DAKOTA filing until July 29, 2003.

4. In addition, on July 30, 2003 PRSG received an advertising flyer from RadioShack Corporation ("RADIOSHACK") containing information that further documents the misunderstanding or misrepresentation of operating obligations perpetuated by manufacturers and marketers of certain personal radio equipment.

5. In a separate Petition for Acceptance of Late Filed Reply, we request that the FCC accept this SUPPLEMENTAL REPLY as having been timely filed, given the delay caused by the FCC and other factors beyond our control.

II. GENERAL OBSERVATIONS ABOUT THE DAKOTA ALERT OPPOSITION.

6. As exhibited in its Opposition, DAKOTA does not understand the requirements of the current FCC Rules, has misrepresented the compliance by some of its current product line with those requirements, does not understand the issues and parameters that we raised in the PETITION, and does not understand the implications of the changes that we requested in the PETITION on the future of MURS.

II.A. SOME DAKOTA ALERT PRODUCTS DO NOT COMPLY WITH CURRENT RULES.

7. In its opening paragraph, DAKOTA claims (in part):

"... All (Dakota Alert) products comply with the MURS rules as amended in the MO&O released May 23, 2002."

In the Rules adopted in the referenced MO&O appears the following language (95.1307(d)):

"MURS users shall take reasonable precautions to avoid causing harmful interference. This includes monitoring the transmitting frequency for communications in progress and such other measures as may be necessary to minimize the potential for causing interference."

8. DAKOTA's MURS Alert models are intended for automatic and remote transmitter activation. FCC Rules (95.1307(c)) permit remote control, but do not relieve the station operator from complying with the "reasonable precautions to avoid causing harmful interference." In its MURS Alert models, DAKOTA offers no capability for the exercise of such precaution whatsoever. In at least one of these models, there is not even a receiver, by the use of which a station operator might make an effort to comply.

9. There are alternatives which DAKOTA could have chosen, but didn't. For instance, it could have provided a "busy channel lock out" ("BCLO") to delay transmission until the associated receiver had perceived no co-channel activity for some minimum period of time. It could have provided a highly directional antenna. It could have provided a means for reducing transmitter output power to the minimum necessary to establish the communications link. It could have encoded the alerting message into a very brief (only a few tens of milliseconds) encoded data burst. It could have chosen a radio service with automatic trunking (for the automatic selection of a clear frequency), or one that in other ways would not require the effort specified in the rules to avoid disrupting co-channel communications.

10. For DAKOTA now to claim that all of its products comply with current operating requirements is simply not truthful. DAKOTA made no effort whatsoever to incorporate such a feature into the MURS Alert models.

III. DAKOTA ALERT DOES NOT UNDERSTAND THE COMPLEXITY OF NETWORK INTERCONNECTIVITY.

11. DAKOTA claims that the existing prohibition on PSN interconnection is "quite clear." This is complete foolishness, and reveals either DAKOTA's ignorance of the complexities of contemporary network interconnectivity (as we discussed at length in the REPLY), or an attempt to conceal or misrepresent those complexities.

IV. DAKOTA ALERT ERRONEOUSLY CLAIMS THAT PRSG SEEKS AN "ABSOLUTE GUARANTEE" OF NON-INTERFERENCE.

12. DAKOTA alleges that the PRSG approach would require a BCLO with a minimum ten-second "no-signal period" before enabling a MURS transmitter. Nowhere in the PETITION did we suggest a mandatory BCLO function when a station operator is physically present at the transmitter. (In our REPLY at paragraph 43, we do address the need for a BCLO with the use of remotely actuated transmitters, when no operator is physically present.) The only reference to "a ten-second minimum" in the PETITION (at paragraph 14) is in conjunction with an optional return to receiver muting AFTER the conclusion of the communications exchange, in the "Phase 3 - Closure" period. We described this function in greater detail at paragraph 22 of our REPLY.

13. Nowhere in our PETITION did we claim that a software- or firmware-enforced pre-transmission monitoring period ("Phase 1 - Initiation," as described further in our REPLY) would provide any "absolute guarantee" of non-interference. DAKOTA has simply misread (or wants to misrepresent) the process which the PETITION seeks, a brief period of time to give the station operator an opportunity to determine prior channel occupancy. (On the contrary, it is DAKOTA that wants to redefine "reasonable precaution" to mean "no precaution whatsoever" if the transmitter is remotely actuated, as is the situation with DAKOTA's MURS Alert transmitters.) After the minimum monitoring period (suggested at paragraph 42 in our REPLY to be in the range of 2 to 5 seconds), the local transmitter would remain fully enabled until such time as the station operator put the associated receiver back into a coded-squelch condition.

V. DAKOTA ALERT WRONGLY COMPLAINS THAT ADDING MINIMUM TIMING PARAMETERS WOULD IMPOSE SIGNIFICANT COSTS.

14. If such an additional timing parameter were so costly, then how do other manufacturers include such minimum and maximum timing parameters in their products? As cited at paragraph 14 of our REPLY, the Garmin model 120 (combining a GPS receiver with an FRS transceiver) includes precisely such an integral timing mandate (a maximum data transmitter "on time," and a minimum "off time" between data transmissions). FRS models from other manufacturers also include transmitter time-out timers. Clearly these other manufacturers have found an economical way to include timing functions.

VI. DAKOTA ALERT WRONGLY COMPLAINS OF A POTENTIAL FOR ABUSE.

15. DAKOTA, wrongly believing that the PETITION requests a ten-second BCLO, argues:

"If a rouge [sic] user designs a circuit that activates a transmitter momentarily every 8 seconds, then no other users will be able to use that MURS channel at all in that location. While this might seem like an absurd idea, there are those out there who gain pleasure from causing annoyance to others. One person in a tall building in a large city could easily shut down MURS in that location if all MURS radios were so enabled."

16. This statement was based on an incorrect understanding of our requests in the PETITION (which did NOT request a BCLLO, and did NOT request a ten-second pre-transmission monitoring time). However, it DOES confirm our concern that there may well eventually be "rogue" users who will intend to disrupt or to ignore other parties sharing the same limited number of MURS channels. This reinforces our argument in the PETITION that the FCC needs to impose the software- or firmware-based timing parameters NOW.

VII. DAKOTA ALERT WRONGLY COMPLAINS OF AN INCREASED COMPLEXITY OF USE.

17. The pre-transmission timing protocols requested in the PETITION should actually SIMPLIFY the use of future MURS transceivers. The pre-transmission monitoring requirement will be automatically imposed by the transceivers themselves, hopefully with just a single user action to begin the minimum monitoring period. It should NOT require, as it is on some current MURS models (including possibly on DAKOTA's current models) that the user go through some complicated, multi-step procedure to disable coded squelch, and then to re-enable transmitter encoding of the squelch code before calling an associated radio. Yes, users WILL have to UNLEARN bad operating habits acquired from FRS use, where continuously closed (coded) squelch operation is the norm, and where users therefore routinely remain totally unaware of co-channel communications.

18. However, this represents a DESIREABLE change. Compared with similar operations in FRS, MURS operations are governed by rules that allow a greater transmitter output power and the use of non-detachable (including high-gain, base station) antennas. These factors, along with the use of VHF frequencies (at 150 MHz), will easily result in MURS communications over much greater distances than from comparably-sited FRS radios, and thus with the capability of causing interference over a much larger area (and potentially, to a larger number of co-channel users). MURS users of the future MUST learn to live in a different operating and behavioral environment than that to which they may have become accustomed when using FRS radios.

VIII. DAKOTA ALERT NAIVELY SUGGESTS THAT TODAY'S LACK OF CONGESTION REMOVES ANY NEED TO CONSIDER A NEW TIMING PROTOCOL.

19. MURS has the potential for serving a unique communications need in the public's mobile operating environment. FRS provides only a very limited range of communications because of the requirement for using non-detachable antennas. FRS/GMRS combination units suffer from the same limitation. GMRS-exclusive units (which would allow detachable antennas and potentially much higher transmitter output power) are available but quite expensive. CB radio (at 27 MHz) is subject to both man-made and atmospheric interference.

20. PRSG expects that the motoring public will soon discover the various and considerable advantages of MURS over these other radio services in the mobile-operating environment. We expect that this will soon result in an abundance of new market offerings. (The largely unspoken but widely industry-recognized slow start for MURS so far is due to the current glut

of low-cost and under-performing FRS units on the market. No manufacturer has yet introduced a vehicle-mounted, specifically MURS-oriented model. PRSG expects that situation to change shortly.)

21. Now IS the BEST time for the FCC to create a requirement for these new timing protocols, as we requested in the PETITION. Once the popularity of MURS begins to grow, it will then be TOO LATE to begin consideration of imposing these new protocols, and to have them apply to the largest possible number of available products.

IX. DAKOTA ALERT MISUNDERSTANDS THE PETITION'S REQUEST TO REINSTATE A REQUIREMENT FOR STATION IDENTIFICATION.

22. DAKOTA's misunderstanding or misrepresentation of the PETITION's request (at paragraphs 15 and following) concerns WHICH grandfathered licensees would be affected. The PETITION's intent was to require this reinstatement of station identification by FCC callsign ONLY of those grandfathered users whose licenses formerly authorized operation which would exceed or in some other way fail to comply with the current MURS rules. We do not expect this to apply to very many grandfathered users. However, for those few to whom it would apply, there needs to be a mechanism publicly and readily accessible for other MURS users to verify that a particular grandfathered user should indeed be able to operate in a manner otherwise impermissible under the current rules.

23. DAKOTA also claims that this would "lead to confusion among casual users." That ignores the considerable evidence from the experience of the seven frequencies shared between GMRS (the 462 MHz "interstitial channels") and FRS (commonly referred to as FRS channels 1 through 7). While there IS confusion on those common GMRS/FRS channels, it is a confusion based on which operations (dependent on the radio model) must be conducted under (and identified by) an FCC license, NOT a confusion as to eligibility of FRS stations to operate on those frequencies in the first place. Based on this experience, it is EXTREMELY UNLIKELY that the kind of confusion about which DAKOTA speculates would occur.

X. DAKOTA ALERT BELIEVES CHANGING RULES INHIBIT SERVICE GROWTH.

24. DAKOTA speculates,

"If MURS is to become a viable service, the rules must remain constant. In the short history of the MURS service, several petitions for reconsideration have been addressed. In that time, the FCC has always made the right decision to protect MURS and broaden the market for consumers."

The FCC considered the several prior Petitions for Reconsideration (including one from PRSG) all at the same time, and made ONE set of changes, announced in May 2002 and implemented in November 2002. This is hardly an over abundance of changes, especially considering that this concerned the creation of an entirely new citizens' radio service to be authorized by rule.

25. PRSG filed its current PETITION as the result of changes that had occurred AFTER the first PRSG Petition for Reconsideration was filed and considered. The current PETITION requests further changes needed to implement more completely the FCC's intent described in the MO&O released in May 2002.

26. This speed of implementation is quite rapid, compared with the often lengthy rulemaking proposals and considerations that can be found in many other new, public-use radio services.

27. DAKOTA alleges that,

"the FCC has always made the right decision to protect MURS and broaden the market for consumers."

That statement is quite inconsistent with DAKOTA's design and marketing of its MURS Alert transmitters (discussed in Section II.A. above) which fail to comply with the CURRENT requirements.

XI. THERE IS FURTHER EVIDENCE OF MANUFACTURER MISUNDERSTANDING OR MISREPRESENTATION OF "INTERFERENCE" TO COMMUNICATIONS.

28. In section V.C. (at paragraphs 53 and following) of our REPLY, we noted that some manufacturers had given misleading names to, or had misrepresented the nature of, "interference" with regard to FRS operations. A most recent example is contained in an advertising flyer from RADIOSHACK dated "requested in home 7/29 - 7/31/03."

29. On page 31-BS,, in a discussion of "Motorola GMRS/FRS 2-Way Radios With Weather Alert" (model #21-1913), RADIOSHACK states:

"Each has 22 channels and 99 quiet codes - including 61 unique codes not used by other GMRS/FRS radios. This virtually guarantees interference-free operation, even at the most crowded event. ..."

30. That channel occupancy could increase but interference decrease is ABSURD. The potential for interference will also INCREASE, especially since the predominant FRS operating mode is to use a coded-squelch receiver.

31. This RADIOSHACK claim supports our discussion (PETITION, paragraph 53) that the communications industry portrays as being "interference" ANY inconvenience or distraction of hearing communications not intended for the particular recipient. This is a gross misrepresentation of what constitutes true (disruptive) interference, and creates the decidedly improper behavior that radio users need not listen for and cooperate with other co-channel users.

32. DAKOTA was correct when it stated that future MURS users are going to compare MURS and FRS operations. These future users will bring their bad FRS operating habits to MURS. This will most certainly include the desire to block out any communications not specifically directed to the individual station operator, just as is now widespread in FRS. Without the changes imbedded in and required by the transceivers themselves, these new users will continue their inappropriate behavior of failing to monitor with

uncoded squelch before and during transmissions) in MURS.

33. Without the protocol changes requested in our PETITION, we clearly foresee a future for MURS where users will want to be insulated from exposure to others' communications. This is the exact OPPOSITE of what is needed for a radio service where cooperation among users in sharing the very limited resources (only five channels) is essential for the public welfare.

XII. IN SUMMARY.

34. In our PETITION, we requested changes to the MURS Rules which we believe are necessary and desirable to guide the evolution of this relatively new and still growing personal radio service. We request that the FCC proceed as rapidly as possible to consider and to implement these changes.

35. In the PETITION, we left the specific time value to be required for pre-transmission uncoded squelch monitoring deliberately unspecified. As we indicated in our COMMENTS (at paragraph 42), we believe that the optimal time (given the other considerations mentioned there) should be not less than 2 seconds, but need not be greater than 5 seconds. PRSG recommends a minimum of 3.0 seconds.

36. If the FCC feels that further consideration should be given to the precise timing factor, we request that the FCC commit first to implementing the concept of a mandatory pre-transmission-monitoring requirement, and initiate a separate inquiry only into the appropriate length of time.

XIII. SERVICE LIST.

37. I hereby certify that on August 7, 2003, I sent a copy of these SUPPLEMENTAL REPLY COMMENTS and our prior COMMENTS by First Class US Mail to the following party at the addresses shown:

Dakota Alert, Inc.
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