



**UNITED STATES DEPARTMENT OF COMMERCE**  
**National Telecommunications and**  
**Information Administration**  
Washington, D.C. 20230

Mr. Edmond J. Thomas  
Chief  
Office of Engineering and Technology  
Federal Communications Commission  
445 – 12<sup>th</sup> Street, N.W.  
Washington, DC 20554

*RE: MARITEL, INC and MOBEX NETWORK SERVICES, LLC Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees, Notice of Proposed Rulemaking, WT Docket No. 04-257, FCC 04-171.*

Dear Mr. Thomas

The National Telecommunications and Information Administration (NTIA), an Executive Branch agency within the Department of Commerce, manages and authorizes the Federal Government's use of the radio frequency spectrum. The Federal Communications Commission (FCC) recently published a proposed rule in the Federal Register seeking comments and reply comments in the above-referenced proceeding in which MARITEL, INC and MOBEX NETWORK SERVICES, LLC's seek additional flexibility for public coast station licensees. NTIA, on behalf of the United States Coast Guard (Coast Guard), submitted comments in that proceeding on October 12, 2004. Likewise, NTIA hereby submits and supports the attached reply comments that were also provided to NTIA by the Coast Guard.

NTIA looks forward to working with the FCC on this item. If you have any questions regarding these comments, please contact Gary Patrick in the Spectrum Engineering and Analysis Division of NTIA at (202) 482-9132.

Sincerely,

Fredrick R. Wentland  
Associate Administrator  
Office of Spectrum Management

Enclosure

U.S. Department of  
Homeland Security

United States  
Coast Guard



Commandant  
United States Coast Guard

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November 5, 2004

Mr. Fredrick Wentland  
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Washington, D.C. 20230

**SUBJECT:** FCC WT Docket No. 04-257, MariTEL, Inc. and Mobex Network Services, LLC, Petitions for Rule Making to Amend the Commission's Rules to Provide Additional Flexibility for AMTS and VHF Public Coast Station Licensees; Reply Comments

Dear Mr. Wentland

The United States Coast Guard respectfully requests that you submit the following Reply Comments to the Federal Communications Commission ("FCC" or "Commission") in response to Comments filed on the Notice of Proposed Rule Making in the above-referenced matter (69 *Fed. Reg.* 48440 (Aug. 10, 2004)).

In Comments filed in this proceeding, the Coast Guard: commended the FCC for reiterating the agency's commitment to the Maritime Services to promote the safety of life and property at sea and on inland waterways; expressed its appreciation of the Commission's recognition that it is essential there remain adequate, available, internationally-interoperable VHF frequency spectrum to meet the needs of maritime safety and security; provided examples of where additional VHF maritime spectrum may be necessary for future uses; supported the Commission's proposal to align authorized VHF Public Coast ("VPC") channel usage with that specified by the International Telecommunications Union ("ITU") at Appendix 18 of the Radio Regulations which authorize operations in single and two channel mode for port operations and ship movement services; strongly opposed the proposal to delete "public correspondence" from § 80.123 of the Commission's rules as this could, contrary to the FCC's stated intentions, cause a *de facto* reallocation of the spectrum for private land mobile use – which could deprive the maritime community and industry of internationally-interoperable VHF frequencies allocated for maritime use.

Eight other parties filed Comments in the proceeding.<sup>1</sup> For the most part, the Comments filed supported the Commission's proposal. Several parties suggested certain additions to the proposal which would amount to additional rule amendments. As discussed more fully below, the Coast Guard opposes the additional proposals of Havens, MariTEL, and AAR as those

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<sup>1</sup> Warren Havens (Telesaurus-VPC, LLC; AMTS Consortium, LLC; Telesaurus Holdings GB, LLC) ("Havens"); Mobex Network Services, LLC ("Mobex"); MariTEL, Inc. ("MariTEL"); Puget Sound Harbor Safety and Security Committee ("PSHSSC"); North Pacific Marine Radio Council ("NPMRC"); Association of American Railroads ("AAR"); Paging Systems, Inc. ("PSI"); Radio Technical Commission for Maritime Services ("RTCM").

proposals are contrary to the Commission's intent and the public interest in assuring that there remain adequate, available, internationally-interoperable VHF frequency spectrum to meet the needs of maritime safety and security.

Both MariTEL and Havens suggest that in allowing expanded land mobile operations for VPC licensees, the Commission should make clear that such operations are not subject to other allegedly inconsistent Part 80 rule provisions.<sup>2</sup> Neither MariTEL nor Havens reference the specific rule provisions involved. If these parties desire that certain Part 80 rule provisions be modified or ignored in particular circumstances, then those provisions must be identified and, in accordance with sound administrative procedure, notice must be provided as to precisely how the Commission proposes to modify applicable rule provisions. It is absurd to presume that the Commission simply can declare that certain unidentified rule provisions are not applicable to VPC operations.

Havens also requests "clarification" that under 80.123(b), if a public coast station licensee is not serving any maritime radio users, that it has no obligation to provide priority to maritime communications,<sup>3</sup> and MariTEL asserts that no Channel 16 watch is required for stations providing land mobile services.<sup>4</sup> In accordance with the Coast Guard's original comments, it is opposed to eliminating the public correspondence provision of § 80.123. Moreover, because the VPC channels are primarily allocated for maritime communications, to the full extent possible, Part 80 rule provisions must be applicable and priority must always be given to maritime communications. Furthermore, as indicated in the Coast Guard's original Comments, the VPC licensee should always be required to satisfactorily demonstrate how maritime communications will be given priority.

The Coast Guard commends MariTEL for its stated recognition that its "principal obligation is to provide a maritime service" - as provided at §80.49 of the rules (its "Maritime Service Obligation" or "MSO").<sup>5</sup> However, MariTEL asserts that its MSO does not require "ubiquitous" service, and there are many areas where it has excess capacity, or areas where there is no requirement for maritime communications. This suggestion by MariTEL demonstrates a fundamental misunderstanding of what the FCC clearly recognizes -- that it is essential there remain adequate, available, internationally-interoperable VHF frequency spectrum to meet the needs of maritime safety and security. MariTEL appears to view the maritime services in a commercial sense only -- judging the need for spectrum based solely on traffic and utilization of the frequencies. However, because these frequencies serve safety of life and property and security purposes, they must remain available for use even when there is limited traffic on the frequencies. When there is a need for a communications channel because of a safety of life issue, it is critical that the channel be available. In order to assure that the frequency is available, there will be periods of limited use. Under these circumstances, it is difficult, if not impossible, to determine whether there is "excess capacity" as described by MariTEL. Furthermore, while it may appear that there are areas where there is no requirement for maritime communications, there may be nearby waterways where maritime communications are needed or, while certain

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<sup>2</sup> MariTEL Comments, pp. 5-6; Havens Comments, p. 2.

<sup>3</sup> Havens Comments, p. 3.

<sup>4</sup> MariTEL Comments, p. 5.

<sup>5</sup> MariTEL Comments, p. 4.

areas are not located close to waterways, high powered land mobile communications could cause interference to maritime communications some distances away. Accordingly, there can not be “unrestricted land mobile use” of the VPC frequencies as proposed by MariTEL.

The Commission had proposed aligning the VPC spectrum with the ITU *Radio Regulations* Appendix 18 to provide for communications relating to port operations and ship movement services, and further to allow operation in single channel as well as two channel mode. The Coast Guard supported this proposal as it is necessary to bring the FCC’s rules in compliance with ITU regulations. MariTEL expressed concern that the alignment proposed would, in effect, create a reallocation of the frequencies for Private Coast Station use on frequencies that MariTEL purchased at auction. The Coast Guard is not advocating that these frequencies be reallocated to Private Coast Stations, as such action would be clearly premature and outside the scope of this proceeding. Instead, the Coast Guard believes that the Commission proposed to expand the authorized use of these frequencies currently licensed to MariTEL and other incumbents in a way that would benefit the whole maritime community. The intent of this expansion of allowable use and alignment with Appendix 18 is to assure that the applicable frequencies can be used for port operations and ship movement services in accordance with ITU regulations and should benefit existing license holders as well as the maritime community. Furthermore, because these frequencies are allocated on an international basis, any foreign flag vessels on innocent passage in United States waters are entitled to use those frequencies in accordance with the ITU regulations, regardless of how they are allocated in the United States.

The AAR indicated in Comments that it does not object to the alignment “as long as appropriate explanatory language” is incorporated as part of the resulting FCC rules.<sup>6</sup> AAR wants language in a new footnote concerning railroad operations in the 160.215-161.610 MHz band indicating that the FCC will not permit single frequency use on any frequency in the railroad band. The Coast Guard is opposed to such a footnote as it provides for a limitation that does not currently exist. The alignment proposed does not affect railroad frequencies in any way. Moreover, the AAR proposal would be prejudicial and would provide an unjustified limiting factor on possible future communications requirements before knowing what those requirements were. Accordingly, there is no reason to adopt AAR’s suggestion.

Finally, MariTEL also raises concerns with simplex operations on the VPC frequencies. MariTEL states that its business plans only contemplate the use of duplex channel configurations and it therefore opposes simplex operations on all VPC channels.<sup>7</sup> MariTEL goes on to state that if simplex is allowed, then only MariTEL, as the licensee of the channels, may decide if simplex use may be used, and authorization to use simplex channels should include such use on both sides of a channel pair. While MariTEL may have certain business plans, these plans have not yet been implemented, and there is no equipment available. The mere fact that there is some business plan certainly does not create a present justification for opposing simplex operations, especially when there are no other services being offered and, more importantly, the ITU regulations authorize simplex operations. Accordingly, simplex operations could be authorized by the Commission in accordance with applicable regulations without harming MariTEL in any

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<sup>6</sup> AAR Comments, p. 2.

<sup>7</sup> MariTEL Comments, p. 7.

way. The Coast Guard does agree with MariTEL on the issue of allowing simplex operations on both sides of a frequency pair. If simplex operations are conducted on one side of a frequency pair, there is no reason to prohibit simplex operations on the other side of the frequency pair. This would help to ensure more efficient use of the applicable VPC channels.

The Coast Guard is pleased to have this opportunity to submit its Reply Comments and urges the Commission to take further action in this proceeding consistent with the views expressed in the Coast Guard's Comments and these Reply Comments.

Sincerely,

A handwritten signature in black ink, appearing to read "J Hersey Jr". The signature is written in a cursive, flowing style.

**JOSEPH D. HERSEY, JR.**  
Chief, Spectrum Management Division  
By Direction of the Commandant