

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of)	
)	
Petition for Rulemaking to Amend Rule)	RM No. 11355
Section 22.901(b) to Extend Analog Sunset)	
Date)	
)	
Sunset of the Requirement that Cellular)	WT Docket No. 01-108
Systems Maintain Analog Transmission)	
Capacity through February 18, 2008, Rule)	
Section 22.901(b))	

To: The Wireless Telecommunications Bureau

MOTION TO DISMISS

ALLTEL Corporation, Dobson Communications Corporation, and Verizon Wireless (“Licensees”) hereby move to dismiss the Petition for Rulemaking (“Petition”) filed jointly by the Alarm Industry Communications Committee and ADT Security Services, Inc. (“Petitioners”). The Petition was filed for the sole purpose of asking the FCC to commence a rulemaking proceeding to consider extending the analog compatibility requirement contained in Section 22.901(b) of the Commission’s rules for two additional years so that the alarm industry would have more time to replace its fixed analog cellular equipment with digital equipment.¹ As discussed below, the Petition should be dismissed pursuant to Section 1.401(e) of the Commission’s rules which states:²

¹ The Commission placed the Petition on public notice and sought comment on “statutory, case law, and other legal authority that would support an extension of the sunset date.” *Wireless Telecommunications Bureau Seeks Comment on Petition for Rulemaking to Extend Cellular Analog Sunset Date*, RM No. 11355, *Public Notice*, DA 06-2559, at 3 (Dec. 20, 2006).

² 47 C.F.R. § 1.401(e).

Petitions which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner.³

The Petition does not warrant consideration because it misconstrues the scope of the analog compatibility standard, is inconsistent with indistinguishable Commission precedent and cannot serve to give Petitioners the relief they are seeking. In fact, the Commission previously considered and rejected a similar request based on the same threshold problem that exists with respect to the Petitioners filing – *i.e.*, because the devices at issue are “not mobile devices . . . service to such equipment is not covered by the analog requirement.”⁴ Thus, an extension of the analog compatibility requirement to allow Petitioners additional time to replace *fixed* devices *would* be contrary to the analog rule itself and directly inconsistent with applicable Commission precedent. Given this basic defect, consideration of the Petition would waste scarce Commission resources on a request that, even if granted, would not address Petitioners’ concerns.

The analog compatibility requirement applies only to *mobile cellular telephones* and, thus, does not apply to fixed devices. Section 22.901(b) states:

Until February 18, 2008, each cellular system that provides *two-way* cellular *mobile* radiotelephone service must —

- (1) Maintain the capability to provide compatible analog service (“AMPS”) to cellular telephones designed in conformance with the specifications contained in sections 1 and 2 of the standard document ANSI TIA/EIA-553-A-1999 ***Mobile Station – Base Station Compatibility Standard*** (approved October 14, 1999) . . .;
- (2) Provide AMPS, upon request, to subscribers and roamers using such cellular telephones . . .⁵

³ *Id.*; see *Reallocation of 30 MHz of 700 MHz Spectrum (747-762/777-792 MHz) from Commercial Use*, RM No. 11348, *Order*, DA 06-2278 (PSHSB rel. Nov. 3, 2006); Letter from John B. Muleta, Chief, Wireless Telecommunications Bureau, FCC, to Michael W. Grady, Vice President, Technology, Engineering and Quality and Sector Chief Technical Officer, Northrop Grumman Information Technology, DA 03-2940 (Sept. 24, 2003).

⁴ See *Year 2000 Biennial Regulatory Review*, WT Docket No. 01-108, *Report and Order*, 17 FCC Rcd 18401, 18416 n.82 (2002) (“*Analog Sunset Order*”).

⁵ 47 C.F.R. § 22.901(b) (emphasis added).

The rule, which is referred to as the analog compatibility requirement, only requires cellular licensees to provide AMPS to *cellular telephones* designed in conformance with ANSI TIA/EIA-553-A-1999 Mobile Station – Base Station Compatibility Standard (approved October 14, 1999) (“Bulletin 553-A”). The devices utilized by the alarm industry are not covered by this requirement — they are not cellular telephones designed in accordance with Bulletin 553-A.

Bulletin 553-A was adopted “to ensure that a *mobile* station can obtain cellular service in any cellular system manufactured according to this standard.”⁶ The very title of the standard indicates that it governs compatibility between mobile and base stations. The standard sets forth detailed requirements for *two-way* radio systems.⁷

The Petition concedes that the alarm industry utilizes “specialized fixed radios” to transmit alarm systems and seeks a two-year extension of the analog compatibility standard because it claims that it will be unable to replace all of these fixed devices prior to the sunset of the analog compatibility requirement on February 18, 2008.⁸ One of the Petitioners, AICC, also claims that a two-year extension is necessary so that two-way digital devices can be designed to replace the existing one-way analog devices.⁹ The devices utilized by the alarm industry are not

⁶ Bulletin 553-A at i.

⁷ *Id.*

⁸ See Petition for Rulemaking to Amend Rule Section 22.901(b) to Extend Analog Sunset Date, WT Docket No. 01-108, at 12 (filed Nov. 30, 2006) (“Petition”); see also *id.* at 15 (stating that “Alarm signaling radios are generally mounted in attics, crawlspaces and other locations not readily accessible”); Comments of the Alarm Industry Communications Committee, WT Docket No. 01-108 at 2, 7 (Feb. 21, 2006) (noting that “AICC member companies use radio units *installed* at the customer premises”(emphasis added)) (“AICC Comments”). Although the alarm industry references a limited number of devices that may qualify as mobile, these devices do not constitute cellular telephones and do not involve two-way communication. Petition at 18-22.

⁹ See AICC Comments at 10 (stating that AMPS alarm transmitters “are generally one-way devices – they send alarm signals only” and requesting additional time to develop two-way GSM alarm transmitters).

covered, however, by the analog compatibility standard. The standard governs the provision of two-way service between mobile stations and base stations. The alarm industry utilizes fixed, one-way transmitters.¹⁰

Moreover, contrary to Petitioners' claims, Commission precedent does not support an extension of the analog requirement.¹¹ In the 2000 *Analog Sunset Order*, in which the Commission adopted the 5 year analog sunset at issue in Petitioners' filing, the Commission confirmed that cellular licensees are not required to provide analog service to fixed devices such as those used by the alarm industry.¹² In that proceeding, a number of local government entities and U.S. Senators expressed concern that the elimination of the analog compatibility requirement would undermine public safety because highway call boxes rely on AMPS.¹³ In response, the Commission noted that "callboxes are not mobile devices by definition, and thus service to such equipment is not covered by the analog requirement."¹⁴ That same analysis applies to the alarm industry. If fixed highway call boxes operated by local government entities for public safety purposes are not covered by the analog requirement, fixed alarm transmitters operated by for-profit companies certainly are not covered.

Consistent with the Commission's determination regarding fixed, highway emergency call boxes, the Commission stated that the analog requirement had only two objectives: (i) to permit roaming by mobile handsets; and (ii) to ensure reasonable consumer mobile handset costs

¹⁰ Petition at 3; AICC Comments at 10.

¹¹ Petition at 22-25.

¹² See *Analog Sunset Order*, 17 FCC Rcd at 18416 n.82.

¹³ *Id.*

¹⁴ *Id.* The Commission also noted that the five year transition period provided sufficient time to transition any analog devices to digital equipment. *Id.*

for consumers.¹⁵ Neither policy objective would be furthered by an extension of the sunset date to accommodate the continued use of fixed, analog devices by the alarm industry.

Based on the foregoing, the Petition should be dismissed pursuant to Section 1.401(e) of the Commission's rules.

Respectfully submitted,

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¹⁵ *Id.* at 18405.