

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

In the Matter of:)

Amendment of Part 90)
of the Commission's Rules)

WP Docket No. 07-100
FCC 07-85

To: The Commission

COMMENTS

CARA Enterprises, Inc. ("CARA"), by its attorney, hereby submits its Comments in response to the *Notice of Proposed Rule Making and Order* in the above-referenced proceeding.¹ Comments are due to be filed on or before August 13, 2007.²

I.

INTRODUCTION

1. In the *Notice of Proposed Rulemaking*, the Federal Communications Commission ("Commission" or "FCC"), requested comments on miscellaneous changes to the FCC Rules within Part 90 as to whether to revise or eliminate provisions that are duplicative, outmoded or unnecessary.³

¹ In the Matter of Amendment of Part 90 of the Commission's Rules, *Notice of Proposed Rule Making and Order* ("NPRM"), FCC 07-100, released May 14, 2007, 72 Fed. Reg. 32582 (2007), 22 FCC Rcd 9594 (2007).

² 72 Fed. Reg. 32582 (2007).

³ *NPRM* at ¶ 1.

II.

STATEMENT OF INTEREST

2. CARA is a full service FCC license preparation firm with over 35 years of experience. It services organizations throughout the United States and assists in licensing all two-way radio systems, GPS systems, microwave and Scada systems, water and sewer control systems, telemetry and irrigation systems, and FAA and FCC air tower permits. It also completes and files license renewals, FRN registrations, construction notifications, as well as any other FCC licensing requirements.

3. Because it provides those services, it must monitor the Commission's ongoing modifications to its rules and in particular, Part 90 of the FCC Rules and Regulations. CARA welcomes the Commission proposals to review its rules and to revise or eliminate provisions that are outmoded or unnecessary.

4. Accordingly, CARA commends the Commission for making this inquiry. Specifically, CARA directs its comments to the Commission's proposals related to industrial/business pool eligibility⁴ and to frequency coordination and related matters.⁵

III.

DISCUSSION

A. Industrial/Business Pool Eligibility

5. CARA heartily supports the Commission for concluding that Section 90.35 is flexible enough to allow the operation of a commercial activity by a government entity to be classified as a commercial activity within the meaning of that Rule. CARA has had many governmental entity clients who provide commercial enterprises, in particular, operation of golf

⁴ NPRM at ¶ 14.

⁵ NPRM at ¶ 3.

courses, that have been frustrated in their attempts to locate frequencies for their operations. Such operations are considered to be low priority in the Public Safety Pool, if there are even channels available. In the recent past, CARA has had uneven responses from the Commission in connection with applications requesting Industrial/Business Pool frequencies for government operated public golf courses. For instance, in 2005, it began receiving returned applications on a regular basis with the following message:

We have reviewed your request and determined that it was improperly filed and does not include sufficient justification. As a governmental agency the applicant should file for channels in the Public Safety Pool. The Commission has granted waivers to allow local government agencies to use Industrial/Business channels when no public safety channels are available, and the requested Industrial/Business channels are unassigned in the area. In order to process your request, the applicant should file an application with one of the certified Public Safety coordinators. If the coordinator determines there are no Public Safety channels available it may seek concurrence to apply for Industrial/Business channels and file the application with a request for waiver. Your application is returned to have you file properly. ⁶

6. CARA believes that the Commission position in the *NPRM* is correct. It allows for more appropriate use of Public Safety Pool frequencies by entities that are actually providing public safety services and it properly classifies commercial operations by governmental entities as commercial.

7. Further, CARA submits that the Commission should state explicitly in Section 90.35 that governmental entities engaged in commercial enterprises are eligible for Industrial/Business Pool frequencies since the Commission's treatment of such applications has not been uniform in the past. For example, in some cases, the application would be returned until the applicant finally dismissed it. ⁷ In other cases, the application would be returned once and then granted, with the same or similar response from the applicant as the frequently returned

⁶ See Application for the City of John Day, FCC File No. 0002319818.

⁷ See Application for the City and County of Honolulu, FCC File No. 0001809661.

and finally dismissed applications.⁸ A sign of progress is that the Commission has recently granted, without a return on this issue, an application from a governmental agency requesting a frequency for its public golf course which referenced this proceeding as evidence for a grant.⁹ However, CARA submits that permitted commercial activity should be spelled out specifically in Section 90.35 to avoid misunderstandings in the future. In sum, the Commission should allow such governmental use of Industrial/Business pool frequencies for commercial activity and should state it explicitly.

B. Frequency Coordination and Related Matters

8. The Commission proposes that changing the type of operation from Private Land Mobile Radio (“PLMR”) Services to Commercial Mobile Radio Services (“CMRS”) of carriers should be exempt from frequency coordination.¹⁰ CARA agrees and submits that needless resources and efforts are often expended in modifying licenses through frequency coordination when the modifications do not affect “near-term” frequency selections.¹¹ As the Commission points out, the modification of operations to CMRS from PLMR is one of those cases.

9. CARA also believes that minor changes such as dropping frequencies and locations and increasing mobile counts as well as modification to reduce authorized bandwidth do not affect frequency selections. Additionally, CARA submits that such modifications should be able to be made without prior Commission approval; nevertheless, the licensee should be required to detail those changes on the Universal Licensing System, particularly in situations such as dropping frequencies.

⁸ See Application for the City of West Bountiful, FCC File No. 0001808548.

⁹ See Application for the City of Lander, FCC File No. 0003048645.

¹⁰ *NPRM* at ¶ 3.

¹¹ *See Id.*, note 6.

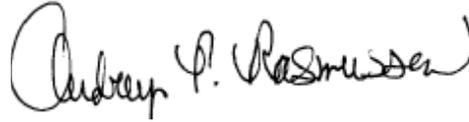
IV.

CONCLUSION

CARA Enterprises, Inc. respectfully requests that the Commission take these Comments into consideration in its review of the Part 90 Rules and make the requested changes.

Respectfully submitted,

CARA ENTERPRISES, INC.



By: _____
Audrey P. Rasmussen
ITS ATTORNEY

HALL, ESTILL, HARDWICK, GABLE, GOLDEN & NELSON, P.C.
1120 20th Street, N.W.
Suite 700, North Building
Washington, D.C. 20036-3406
Telephone (202) 973-1200
Facsimile (202) 973-1212
Dated: August 13, 2007

73757.1:999914:00014