

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	
)	
Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies)	ET Docket No. 13-84
)	
Proposed Changes in the Commission’s Rules Regarding Human Exposure to Radiofrequency Electromagnetic Fields)	ET Docket No. 03-137
)	

COMMENTS

These comments are submitted by the Washington, DC law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP, on behalf of its various clients who operate radio facilities in the Part 90 Private Land Mobile Services (the “Blooston Private Users”) in the above-captioned proceeding in response to the Commission’s First Report and Order, Further Notice of Proposed Rule Making and Notice of Inquiry (“FNPRM”) released on March 29, 2013.

The Blooston Private Users are concerned that private user licensees (especially those with limited resources) not be saddled with additional regulatory burdens by the Commission’s proposal to “broadly revise and harmonize the criteria for determining whether single or multiple fixed, mobile or portable RF sources are subject to routine evaluation for compliance with the RF exposure limits or are exempted from such

evaluations.”¹ The Commission has indicated that its goal is to “streamline and harmonize many procedures” in order to ensure equal treatment of RF transmitters based upon physical properties instead of service specific categories. The Blooston Clients are concerned that this effort to harmonize the Commission’s rules will significantly increase staff and financial burdens in order to conduct the necessary field work to determine the specific environment at each transmitter location.

Under the Commission’s Rules, most Part 90 Private Land Mobile stations are categorically exempt from a specific RF radiation analysis. Whether or not a transmitter is exempt is based upon a simple determination that can generally be made by looking at the applicant’s frequency coordination proposal. This is because the current exemption is essentially based upon radio service, frequency, antenna height and power. Under the Further Notice in this proceeding, the Commission’s proposed criteria would be based upon power, frequency and separation distance (which is the minimum distance between the radiating structure of the transmitting antenna in any direction to any area that is accessible to a worker or to a member of the general public). As a result, in addition to having to hire an engineer to make RF calculations, each applicant would be required, as a practical matter, to physically review each transmitter site in order to verify that there was adequate separation distance between the proposed antenna location and any area that could be accessible to any worker or member of the general public. There is no evidence in the record that the present system of categorical exemptions has been

¹ See FNPRM at ¶ 3.

disruptive or resulted interference or harmful RF radiation problems. This burden would be exacerbated for locations that are located away from the applicant's business offices.

Additionally, the Blooston Private Users are also concerned about the Commission's proposal to require an evaluation based upon all antennas at the site rather than just those that belong to the particular applicant. Antennas may be added to a site at any time by the site owner without the knowledge or approval of incumbent users of that location. Thus, Private User licensees may be exposed to considerable liability for fines due to circumstances beyond their control. Many if not most private user licensees are not in the business of providing radio services and in a significant portion of cases do not own or control all of their antenna sites. Instead, these entities have expertise in, e.g., pouring concrete, towing stranded cars, or building new houses. These entities use their radios internally, as but one of many tools to conduct their businesses, and are ill equipped to conduct the RF site management for a structure they do not own or control. The same is true for public sector licensees such as school districts, hospitals and municipal utilities. The Blooston Private Users appreciate the general desirability of uniformity in regulation. However, where a long-standing regulatory scheme has worked

to reduce the burdens on licensees, it should not be disrupted solely for the sake of uniformity.

Respectfully submitted,

The Blooston Private Users



John A. Prendergast
Richard D. Rubino
Their Attorneys

Blooston, Mordkofsky, Dickens, Duffy
& Prendergast, LLP
2120 L Street, N.W., Suite 300
Washington, DC 20037
Tel. (202) 659-0830

Dated: September 3, 2013