

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

PR Docket No. 87-213

In the Matter of

Trunking in the Private
Land Mobile Radio
Services for More
Effective and Efficient
Use of the Spectrum

RM-5398

NOTICE OF PROPOSED RULE MAKING

Adopted: December 12, 1988; Released: January 3, 1989

By the Commission: Commissioner Quello dissenting in part and issuing a separate statement.

I. INTRODUCTION

1. This Commission has before it a *Notice of Inquiry (Inquiry)*¹ that discusses the available options for further fostering the use of trunked radio systems in the private land mobile radio services.² By this *Notice of Proposed Rule Making (Notice)*, we are proposing certain rule changes that will increase the number of frequencies available for trunked technology. Although the *Inquiry* discussed the use of trunking in all private land mobile radio bands, we are limiting the discussion in this *Notice* to frequencies above 800 MHz. We will consider the issues involved in allowing trunking on frequencies below 800 MHz in subsequent phases of this proceeding.

II. BACKGROUND

2. There are two types of systems licensed in the private land mobile services. The first and most common type is the conventional land mobile system. The distinguishing feature of conventional systems, which are authorized in all private land mobile frequency bands, is that the user selects a channel manually. Most conventional systems are authorized one channel, or channel pair, but can be authorized more. The other type of system in use today is the trunked system. Such systems usually employ five or more channel pairs. A computer automatically routes the user to the first available channel or places the user in a waiting line (queue) to be served in turn. Trunked operation is currently permitted on all 800 MHz base/mobile channels except those specifically designated for conventional use.³ Further, trunked assignments are made on an exclusive basis at the time of grant regardless of the initial loading. Conventional operations, on the other hand, must achieve a certain level of loading before they receive exclusive use of a channel.⁴

3. Trunking technology was first introduced in the private land mobile radio services in 1974 concurrent with the allocation of 600 channel pairs in the 800 MHz band.⁵ In that action, we designated 100 of these 600 channel

pairs for conventional use only and 200 channel pairs for trunked operation. The remaining 300 channel pairs were kept in reserve. It was not long, however, before there were shortages of conventional channels. As a result of these shortages, we released an additional 50 of the 300 reserve channels for conventional use bringing the total number of conventional channels to 150.⁶ On the other hand, trunked operations were slower to develop because of the lack of available equipment and relative high cost. As trunked equipment proliferated, its superior efficiency became apparent, causing a rapid increase in the number of radio systems using this technology. Growth was so rapid, in fact, that by late 1979 waiting lists for trunked frequencies were started in the major metropolitan areas.⁷ The greatest demand for trunked frequencies came from specialized mobile radio (SMR) operators.⁸

4. In response to the demand for additional frequencies for trunked systems use, we released the remaining 250 private land mobile channel pairs in 1982.⁹ Unlike the 1974 allocation, the new channels were not divided according to system technology but instead were grouped according to broad service categories.¹⁰ Applicants in each of these categories were allowed the flexibility to use either trunked or conventional systems. Although the SMR category was provided eighty of the 250 channel pairs, this allotment was still insufficient to meet the growing demand for SMR systems in many of the large urban areas.

5. In the past, we have taken numerous steps to help meet the demand for 800 MHz systems and to ensure that this spectrum is being used efficiently. For example, we instituted a channel recovery program to recover underutilized 800 MHz frequencies.¹¹ These recovered channels are then made available to other users for system expansion or for new systems. We have adopted rules allowing intercategory sharing¹² on a limited basis and have allowed the partial assignment of trunked SMR authorizations.¹³ We have also allocated additional spectrum from the 900 MHz reserve to the private land mobile services.¹⁴ While this spectrum can be used to establish new trunked systems, it cannot be used to expand existing 800 MHz trunked systems because of incompatibility of current equipment. While all of these steps have provided some relief, the general scarcity of spectrum available for trunked operation is still a problem in many parts of the country, particularly for SMRs.

6. We believe it is in the public interest to make more efficient use of existing private land mobile spectrum. We can accomplish this by expanding the use of both trunking and intercategory sharing. To this end, our *Notice of Inquiry* in this proceeding was adopted to explore the problems involved in expanding the use of trunking.

III. COMMENTS

7. Fifteen parties submitted comments in response to the *Inquiry* and five parties filed reply comments.¹⁵ Generally, all commenters support the Commission's goal of increasing the efficient use of private land mobile spectrum through the use of trunking. A number of parties, however, state that trunking should remain optional and that there is a genuine need to preserve the ability to operate in the conventional mode. The Association of American Railroads (AAR), for example, states that "while trunking may be useful in certain congested areas, implementation of trunking in more remote regions

(where most railroad operations are situated) simply would not be feasible."¹⁶ The American Petroleum Institute (API) notes that "for many PLMRS eligibles, including API members, it is not economically viable nor technically feasible to employ trunked systems."¹⁷ Those entities with needs for conventional systems urge the Commission to take into consideration the communication requirements of all radio users in determining whether and to what extent the use of trunking should be expanded. In this vein, API and the Utilities Telecommunications Council (UTC) recommend that we continue to reserve some 800 MHz channels for conventional use only.¹⁸ The Association of Maximum Service Telecasters (MST), on the other hand, argues that we should create incentives for, or mandate, the use of trunked technology.¹⁹

8. Forest Industries Telecommunications (FIT), Mobile U.H.F., and Associated Public-Safety Communications Officers, Inc. (APCO) state that trunking should be permitted in all portions of the private land mobile spectrum.²⁰ Most commenters, however, support expanding trunking above 800 MHz, while expressing concerns about allowing trunking below 800 MHz. Generally, these commenters do not argue against allowing trunking on frequencies below 800 MHz, but rather, emphasize that there are a number of additional problems associated with its implementation in these lower bands. For example, the comments of the Land Mobile Section of the Electronic Industries Association (EIA) state:²¹

In sum, the ability of equipment manufacturers to provide trunked systems on a timely basis on spectrum below 800 MHz exists. There are, however, operational and administrative hinderances combined with the heavy present usage of the more attractive bands, that must be overcome before trunking to any meaningful degree can occur.

Because of the additional problems associated with trunking below 800 MHz, a number of commenters recommend that the Commission deal with this issue separately so as not to delay expanding trunking above 800 MHz.²²

9. Only a few of the commenters address the specific questions set forth in the *Inquiry*.²³ In general, these commenters favor some expansion of trunking above 800 MHz, particularly on the original 150 conventional channel pairs for system expansion. Regarding existing trunked systems seeking to expand, most entities recommend that we (1) require applicants first to consider all in-category frequencies, (2) make conventional channels assigned to trunked systems subject to trunked construction and loading requirements, (3) limit system expansion to one channel more than the current system loading warrants, (4) maintain present frequency coordination requirements, and (5) recover out-of-category frequencies assigned as a result of interservice sharing first and return them to their original frequency pool.²⁴

10. Concerning the questions on whether we should allow unused out-of-category frequencies to be used for the construction of new trunked systems, the American SMR Network Association, Inc. (ASNA) argues that we should not allow entities to establish new trunked systems on unused conventional channels. According to ASNA, such an action would reduce the number of channels

available to existing trunked systems seeking to expand.²⁵ Further, ASNA argues that such an action could deny the legitimate needs of Business and Industrial/Land Transportation eligibles.²⁶ The National Association of Business and Educational Radio, Inc. (NABER) also filed comments against allowing entities to employ unused conventional frequencies to establish new trunked systems. NABER is concerned that applicants could bypass waiting list procedures for grant of SMR licenses.²⁷ The Special Industrial Radio Service Association (SIRSA), on the other hand, favors allowing entities to implement new trunked systems on the 150 conventional channels.²⁸

11. In response to the issue of combining existing conventional systems in order to form one trunked system, NABER, ASNA, SIRSA, State of Connecticut, and API favor allowing conventional channel licensees who have exclusive use of their channels to combine and trunk over all associated channels.²⁹ ASNA would impose the condition that such conventional licensees co-locate their systems so that the trunking takes place from one site. It also suggests that the conventional systems combining channels be licensed as a single SMR system.³⁰ In cases that involve combining a number of multiple licensed systems (*i.e.*, community repeaters), NABER suggests that the Commission require the consent of all involved users before allowing the conventional channels to be used in a trunked mode.³¹ SIRSA disagrees with ASNA's recommendation that conventional systems combining together should be licensed as SMRs. It argues that users should be allowed the flexibility to choose not to be licensed as SMRs.³²

12. In the *Inquiry*, we asked whether rules governing trunking in the 800 MHz band should be extended to the 900 MHz band. ASNA states that it favors extending any new rules and policies adopted at 800 MHz to the 900 MHz band. It recommends that we allow trunked SMRs access to 900 MHz frequencies in the Business and Industrial/Land Transportation categories at the same time we allow intercategory sharing between these two categories.³³ SIRSA opposes this position. It urges the Commission to allow intercategory sharing at 900 MHz between the non-commercial categories before providing SMRs access to this spectrum.³⁴

13. Finally, General Electric Mobile Communications Business (GE) recommends that the Commission establish a trunking standard so as to make interoperability among existing trunked systems mandatory. It argues that users are "effectively 'locked in' to one manufacturer by the choice of equipment." This, according to GE, limits user flexibility by denying entities the ability to switch to another trunking system in the same market that offers superior service at lower rates.³⁵ Motorola, Inc. (Motorola) disagrees with GE's analysis. It claims that the adoption of a trunking standard would limit, rather than expand, the public's choices of equipment. According to Motorola, GE's proposal would retard innovation.³⁶

IV. DISCUSSION

14. We have reviewed the comments and believe it is timely to propose specific rule changes for expanding trunking opportunities on frequencies above 800 MHz. This is not the case, however, for allowing trunking below 800 MHz. The problem of allowing the use of trunked technology on frequencies that have no provisions for exclusivity is difficult and would take much time and

effort to resolve.³⁷ Rather than delay progress on expanding trunking opportunities above 800 MHz, we will separate this proceeding into stages, dealing first with trunking above 800 MHz. We will examine the feasibility of allowing trunking below 800 MHz at a later date.

15. The purpose of this *Notice* is to examine ways to increase the opportunities for trunked systems in the private radio frequency bands above 800 MHz.³⁸ One possible way to accomplish this would be to allow trunking on the 150 conventional frequencies at 800 MHz that are currently available only for conventional operation.³⁹ We could also expand our intercategory sharing rules. For example, under the current rules, trunked SMR licensees have access only to unused out-of-category frequencies.⁴⁰ We could allow these licensees access to out-of-category frequencies that are currently in use for system expansion. In this *Notice*, we are proposing a combination of these options together with appropriate conditions to ensure that sufficient opportunities remain for users requiring conventional operations. These options are consistent with our overall policies regarding sharing and reducing government regulation as well as our goal of increasing efficient use of existing spectrum.

A. Trunking on the 150 conventional frequencies.

16. The 150 frequencies detailed in Section 90.615 of the Rules are available only for conventional use; trunked operation is not permitted.⁴¹ Allowing these frequencies to be trunked is probably the single most significant step we could take to help satisfy the demands of the SMR industry for additional spectrum for trunking. There are several urban areas where fully loaded trunked SMR licensees seeking to expand can no longer obtain frequencies from the Commission, either from their own pool of frequencies or through intercategory sharing, while some of the 150 conventional frequencies are still available. Allowing trunking on these frequencies would increase spectrum efficiency both by using idle frequencies and by providing for a generally more efficient technology. On the other hand, allowing trunking on these frequencies would reduce the number of frequencies available for conventional operations. In this regard, several parties filing comments indicate that they have a need only for conventional operations.

17. Our analysis of the comments to the *Inquiry* leads us to conclude that the public interest will be best served by allowing trunking on the original 150 conventional frequencies. Trunking is a more spectrum efficient mode of operation. Further, we propose trunking as an option and not a requirement. Consequently, entities would still be able to use any of these frequencies in the conventional mode. We believe that the public interest is best served by providing our licensees the flexibility to use frequencies in the manner that best suits their needs. We see no reason to continue to reserve these frequencies for conventional use only, especially when many areas of the country have a greater demand for trunked operation than for conventional operation. By making these frequencies available for both types of operations we will let demand determine use.

18. We could implement trunking on these frequencies in several ways. We could divide the original 150 conventional frequencies among the various service categories or place all the frequencies in one of the four service categories as we did with the original 200 trunked frequencies.⁴² We could also treat these 150 frequencies as a

separate "general access" category. We believe this latter approach is best. Under the current rules, the 150 conventional frequencies are assigned on a "first come, first served" basis to any Part 90 eligible. Consequently, the same frequency may be assigned to a public safety entity in one area, a business entity in another and a power company in still another area. Further, there is currently a variety of users on these frequencies, unlike the original 200 trunked frequencies which are predominantly used by SMRs. These facts make the options of dividing the 150 channels into each of the four service categories or assigning all of the frequencies in one of the existing service categories difficult from an administrative standpoint. The present assignment policy, however, does not present a problem if we treat these frequencies as a separate "general access" category. Establishing a general access category also is consistent with how we license "unassigned" frequencies in the 470-512 MHz band.⁴³ Therefore, we propose to treat these frequencies as a separate distinct category and designate it the "General" Category.

(1) Expanding existing trunked systems on unused General Category frequencies.

19. We currently have rules governing the use of unused (unlicensed) frequencies in one service category by eligibles in another service category for system expansion.⁴⁴ In developing these intercategory sharing rules, we established criteria for determining under what conditions out-of-category entities can invoke intercategory sharing.⁴⁵ These criteria are necessary to protect the needs of in-category users. The same concerns apply to the General Category where the in-category users are those who need conventional systems only. To protect the interests of these in-category users, we are proposing minimal restrictions to licensees of trunked systems seeking frequencies from the General Category for system expansion. These restrictions are similar to the intercategory sharing provisions that currently apply to the other service categories.

20. We propose to allow licensees of existing trunked systems loaded to 70 mobiles per channel access to unused frequencies in the General Category. We propose to limit this access to one more frequency pair than the expanding system's current loading warrants. Finally, we propose that all applications for unused General Category frequencies to expand fully loaded existing trunked systems include a statement from the applicant's own category coordinator that frequencies are not available in its service category (*i.e.*, one of the four service pools).⁴⁶ Because there is no private group coordinating frequencies in the SMR Category, we propose that an SMR licensee submit a statement that no 800 MHz frequencies are available in the SMR category in the proposed area of operation. The existence of a waiting list for SMR pool frequencies will verify this statement. We also propose to "take-back" these conventional channels first from any trunked system that is subsequently subjected to a channel recovery action due to insufficient loading. Further, if a licensee obtaining conventional frequencies through this process has an application on a waiting list, the application will be removed from the list unless the system remains fully loaded even after acquiring the new frequencies, in which case the application will retain its original position.⁴⁷

21. The Rules require that applications for intercategory sharing of frequencies be accompanied by frequency coordination.⁴⁸ Because frequency coordination serves to

maintain an accurate data base, we do not intend to change this requirement for applications by trunked users for General Category frequencies. Under our proposal, however, SMRs now will be allowed access to unused General Category channels to expand trunked systems. These channels are currently coordinated by three groups.⁴⁹ Thus, we must decide the appropriate coordination procedure to be employed.

22. The primary objective of this *Notice* is to make more efficient use of the existing private land mobile 800 MHz band allocation and to do so as quickly as possible to provide relief to 800 MHz users. To maintain an accurate data base reflecting the use of General Category frequencies, we must establish some mechanism for coordinating trunked SMR systems operating on these frequencies.⁵⁰ Accordingly, we propose to allow trunked SMRs requesting General Category frequencies to obtain coordination from any of the three certified coordinators in this band.⁵¹ Furthermore, we propose to modify the frequency coordination procedures for conventional SMRs operating on the General Category channels. Inasmuch as we are proposing to allow trunked SMRs seeking these channels to utilize the services of any of the three recognized coordinators of those frequencies, it would be consistent to allow applicants for conventional SMRs this same flexibility. This would establish common procedures for both trunked and conventional SMRs on these channels.

(2) Expanding existing trunked systems on in - use General Category frequencies.

23. We also propose to allow licensees of existing trunked systems loaded to 70 mobiles per channel access to in-use General Category frequencies. Under this proposal, an existing licensee operating on one (or more) of the 150 General Category channels may assign its authorization to an eligible trunked licensee with a fully-loaded system, subject to the filing of an assignment application and our approval of the application. A licensee seeking to expand an existing trunked system will receive the assignor's license expiration date.⁵² In essence, the new licensee would stand in place of the original licensee.

24. Consistent with our approach that allows fully-loaded trunked systems seeking to expand to employ unused General Category frequencies, we propose to establish certain criteria for determining when trunked systems seeking to expand can take advantage of in-use General Category frequencies. In this regard, we propose to apply the same criteria as we did above for expanding systems seeking access to unused General Category frequencies.⁵³ In addition, we propose to require that the new frequencies be used at the primary site of the expanding system. Administratively, this simplifies the licensing process and it is consistent with our current policy of requiring all frequencies that are trunked in one system to be located at a primary site.⁵⁴ Certain commenters, in fact, suggested that this be required.⁵⁵

25. Our proposal would not require the assignor of the conventional authorization to have exclusive use of the channel.⁵⁶ When the frequency is shared by more than one licensee, however, we propose that the application for assignment include a signed statement listing all affected co-channel licensees verifying that they all have agreed to the proposed assignment or shared use.⁵⁷ This requirement will prevent any licensee from significantly affecting the use of a shared frequency by other co-channel users.

26. We also propose to allow a licensee of one or more General Category channels to transfer for a profit its authorization(s) to an eligible out-of-category trunked licensee regardless of whether the transferor has completed construction of its authorized station(s). In other words, we would permit for-profit transfers from a licensee of an unconstructed conventional system to a trunked licensee to expand its trunked system. We would also permit such transactions when the transferee is in the process of accumulating channels for the purpose of creating a new trunked system. Given our goal of promoting the development of spectrally efficient trunked systems, we tentatively conclude that the public interest would be served by not inquiring into the amount of profit, if any, the transferor realizes on such a sale, and by not limiting such transfers to completed systems only.

27. We recently discussed allowing for-profit transfers of construction permits in the Domestic Public Cellular Radio Telecommunications Service.⁵⁸ We concluded that such transfers are permissible under the Act and serve our goal of promoting the rapid provision of cellular service by facilitating the creation of economically, viable, competitive cellular systems in many markets. Similarly, we see no reason to inquire into any profit that may be realized by the transferor of an unconstructed conventional license for use in a trunked system. Our overriding goal in this proceeding is to promote spectrum efficiency. Since facilitating the creation or expansion of trunked systems accomplishes that goal, we tentatively conclude that allowing these transactions for this purpose in this private land mobile service is warranted.

28. At the same time, however, we are concerned that licensees of General Category channels not speculate in such authorizations. Accordingly, we propose that the sale of a General Category authorization for unconstructed facilities will be permitted only after a showing by the transferor that it is not speculating in private land mobile radio licenses. This provision, which would be analogous to that contained in Section 22.40(b) of our Rules for the Public Land Mobile Service, would require a transferor to demonstrate that it acquired the General Category authorization for the purpose of constructing and operating the system, and that its decision to sell was prompted by changing business circumstances or marketplace conditions. This approach has proved effective in the Part 22 services and we tentatively conclude that it will be equally effective here. We invite comments on our proposal to allow the license transfers discussed above.

29. In reaching our tentative conclusion to allow the transfer of an unconstructed conventional frequency authorization, we are mindful that Congress did not intend the Commission to employ auctions or similar economic methods in managing the private land mobile spectrum. In discussing the 1982 amendments to Section 331(a) of the Act, Congress stated its concern that allocating frequency space based on a "... user's monetary ability to pay for a frequency allocation will work to the detriment of an efficient and competitive private land mobile spectrum."⁵⁹ Our proposal is intended to provide flexibility and incentives for private land mobile licensees to assemble spectrally efficient trunked systems to meet the demand for land mobile services. We request comment on whether such transfers would be inconsistent with the Congressional intent. In considering this question, commenters may wish to address whether allowing uncon-

structed license transfers is necessary in light of the other measures we propose here to help alleviate the shortage of channels available for trunked use.

30. Frequency coordination is also an issue relevant to trunked systems seeking to expand by employing in-use General Category frequencies. We propose that licensees of trunked systems applying for General Category frequencies that are currently being used submit a coordination statement from the coordinator in the service in which the assignor's system is licensed. This will allow the data base to be changed to reflect trunked use of the channels. If the General Category frequency or frequencies being assigned are already licensed to an SMR, then the assignee may submit a coordination statement from any of the three recognized coordinators of the conventional frequencies. Frequency coordination in these cases is necessary to maintain an accurate data base.

(3) Establishing new trunked systems on General Category frequencies.

31. The *Inquiry* solicited comments on whether we should allow new trunked systems to be established on the 150 conventional frequencies. We noted that this would be of particular interest to SMR operators that wish to establish a new SMR trunked system capable of interfacing with an existing trunked SMR operating in the 800 MHz band but for whom no SMR pool frequencies are available. The *Inquiry* also addressed allowing existing licensees operating on the conventional frequencies to combine their operations into a new trunked system.

32. The current rules do not provide for new trunked SMR systems to be established by acquiring frequencies through intercategory sharing. The purpose of this restriction is to accommodate the needs of in-category eligibles. The General Category, however, differs somewhat from the specific service categories. For example, any entity that can establish eligibility in one of the four service categories is eligible to be licensed on these frequencies. Consequently, unused conventional frequencies can be employed to establish new Public Safety, Business, SMR, and Industrial/Land Transportation conventional systems. We have already proposed to allow trunking of these frequencies. Consequently, we see no reason to differentiate between in-category eligibles establishing a new conventional system or a new trunked system. We propose, therefore, to allow entities to establish new trunked systems on General Category channels. We also propose to limit the number of channels that we will license at any one time for a new system to five. This is consistent with the current provisions of Section 90.621(a) of the Rules.

33. We recognize, however, that it is considered more efficient to accommodate the expansion of fully loaded trunked systems as opposed to creating new trunked systems. In fact, we note our decision when we merged Subpart M and S of Part 90 where we specifically granted preferences to fully-loaded systems over new systems.⁶⁰ We therefore propose to initially limit access to the General Category channels to existing trunked systems seeking to expand. After we have allowed such expansion of existing systems for six months, we will accept applications for new systems on the General Category frequencies. These restrictions will not apply to applicants for conventional operations or to applications that seek authority for one or more existing conventional licensees to combine operations into a new trunked system (*See* para. 35 *infra*). Systems seeking these channels for expansion will be re-

quired to submit a new application, even if they are on a waiting list for additional frequencies, and will be processed on a "first come - first served" basis.

34. We propose to follow the same frequency coordination procedures for establishing new systems that we propose herein for existing systems seeking conventional frequencies for system expansion. Under this approach, an applicant proposing to establish a new trunked SMR system, for example, could obtain frequency coordination from any of the three recognized coordinators of the conventional frequencies.

35. We also propose to allow existing conventional licensees of the General Category frequencies to combine channels and trunk over those channels. In essence, these entities could combine several existing conventional systems to form a new trunked system. Existing conventional users licensed on the original 150 conventional frequencies also could combine with existing conventional users licensed in one of the present four service categories to form a new trunked system.⁶¹ We believe that the regulatory flexibility inherent in allowing such use will allow the creation of new, more spectrum efficient systems that could provide additional communications service. The frequencies being combined do not have to be licensed on an exclusive basis. If there is more than one licensee involved, however, the application must include a signed statement listing all affected co-channel licensees and verifying that they all have agreed to the proposal.

36. Administratively, such an action would be treated as a license modification. Frequency coordination, therefore, would be required.⁶² Consistent with our policy for trunked operation in other categories, all frequencies being trunked together in the new system must be located at a primary site. Further, the new trunked system must be licensed to a single entity. At this time, we propose to allow all affected channels to be part of the new trunked system but we do solicit comments on whether the total loading of all the licensees should account for the number of channels permitted. For example, if eight licensees of eight different conventional systems having a cumulative loading figure of 280 mobiles agree to form a single trunked system, should this cooperative venture be limited to four or five channels.⁶³ We propose that the loading deadline will be calculated from the original date of each license being combined. If each license is more than five years old then the assignment date will be used for loading purposes.

B. Intercategory sharing between the other service categories

(1) Expanding existing trunked systems

37. Another way we could provide some relief to entities needing 800 MHz frequencies for trunked operation would be to expand our current intercategory sharing rules. We could, for example, allow existing trunked systems access to in-use frequencies in other service categories. Expanding trunked systems currently have access only to unused (unlicensed) frequencies through the intercategory sharing process. We have received requests from licensees to trunk over frequencies that are allocated in another service category and are currently licensed. Such requests are becoming more prevalent due to the shortage of 800 MHz frequencies. Allowing this option would increase spectrum efficiency and allow market forces to prevail.

38. We propose to allow licensees of existing trunked systems loaded to 70 mobiles per channel access to in-use frequencies in service categories in which the licensee is currently eligible under the intercategory sharing rules.⁶⁴ Such use will be subject to the conditions proposed herein for expanding trunked systems employing in-use frequencies in the General Category. Expanding our intercategory sharing rules to allow existing trunked systems access to frequencies that are in use provides another option for licensees to satisfy their communication needs. Further, this proposal is consistent with our desire to ensure efficient use of the spectrum with a minimum of government intrusion. Also, allowing such use should help expedite the movement of scarce 800 MHz frequencies to their highest valued use.

(2) Establishing new trunked systems

39. We could also allow out-of-category frequencies to be used to establish new trunked SMR systems.⁶⁵ For example, we could allow entities to employ unused out-of-category frequencies from the Business pool of frequencies to form a new trunked SMR system. The advantage to expanding intercategory sharing in this way is that it increases the options available to satisfy user communication requirements. The primary disadvantages, however, are that it could reduce the number of frequencies available for in-service users and the number of frequencies that could be used for expansion of 800 MHz trunked systems.

40. Although we are aware of the demand for frequencies to establish new 800 MHz trunked SMR systems, we are not proposing to permit the establishment of new systems on unused frequencies where the entity is not a primary eligible. In the Public Safety/Special Emergency, Business, and Industrial/Land Transportation Categories, primary eligibility is restricted. Allowing out-of-category entities to establish new trunked SMR systems on frequencies in these service categories might well deny the legitimate needs of category eligibles. Further, SMRs already have access to the non-public safety pools through the intercategory sharing process. This issue is therefore, quite different from allowing the use of trunking on the 150 conventional channels. Finally, precluding entities from employing unused out-of-category frequencies to establish new trunked SMR systems will leave unused frequencies, if any, available for trunked system expansion, which could make more efficient use of the spectrum.

41. We also are not proposing to expand intercategory sharing to allow SMRs to access frequencies in the Public Safety category.⁶⁶ The public safety community is currently in the process of preparing regional plans for the assignment of stations in its recently allocated 6 MHz of spectrum. The 70 channels in the public safety pool at 800 MHz is a vital consideration in this planning effort. Because we do not want to disrupt the regional planning process, we do not propose to allow SMRs access to the public safety pool of frequencies.

(3) Intercategory sharing in the 900 MHz band

42. The *Inquiry* also raised the question of whether to apply the 800 MHz intercategory sharing rules and policies to the 900 MHz band. Currently, there are provisions for intercategory sharing at 900 MHz involving only the Business and Industrial/Land Transportation categories.⁶⁷ There is no provision for SMRs operating at 900 MHz to access out-of-category frequencies. We have just started to

license 900 MHz SMR systems. If the initial interest in 900 MHz SMRs is any indication, we anticipate that SMRs operating on 900 MHz frequencies in the major urban areas will soon have the same problems of obtaining frequencies as do 800 MHz SMRs. Expanding 900 MHz sharing opportunities makes more efficient use of that spectrum and makes the 900 MHz rules fully consistent with those governing operation at 800 MHz. Accordingly, we propose to allow SMRs to access 900 MHz frequencies in the Business and Industrial/Land Transportation categories beginning on the same date sharing between the latter two categories will be effective. Further, we propose to apply the same rules and policies being proposed herein for 800 MHz to intercategory sharing at 900 MHz.

C. General

43. GE recommends that we establish an equipment compatibility standard for private land mobile trunked equipment operating in the 800 MHz band.⁶⁸ Private land mobile conventional 800 MHz equipment has been available on the market since 1976. Trunked equipment was available approximately two years later. Consequently, there are tens of thousands of users operating radio equipment in the 800 MHz band. Equipment manufacturers have large investments in present equipment designs and inventories. Therefore, an equipment compatibility standard in this segment of the 800 MHz band at this stage could present a substantial cost burden to users, equipment manufacturers and dealers/suppliers, as well as disrupt the marketplace that has evolved. Therefore, we decline to propose an 800 MHz equipment compatibility standard.⁶⁹

44. The proposed rules are presented in Appendix B. In addition to comments on the specific proposals put forth, any other comments relating to the subject of expanding trunking above 800 MHz are invited.

V. SUMMARY

45. In order to provide some additional relief to 800 MHz private land mobile users we propose the following:

- (a) To allow under certain conditions fully loaded trunked systems access to the 150 conventional frequencies at 800 MHz for system expansion.
- (b) To allow, after six months, new trunked systems on the 150 conventional channels.
- (c) To allow, under certain conditions, existing users on the conventional channels to combine with other users on those frequencies or with conventional users in the service categories to form new trunked systems.
- (d) To expand, under certain conditions, our intercategory sharing rules to allow entities to access out-of-category frequencies that are in use.
- (e) To expand intercategory sharing provisions at 900 MHz to include the SMR Category.

VI. INITIAL REGULATORY FLEXIBILITY ANALYSIS

A. Reason for Action.

46. The Commission proposes to amend its rules to expand trunking on frequencies above 800 MHz. The proposals are intended to increase the efficient use of existing private land mobile spectrum. This action would allow trunked systems to access additional frequencies, thereby providing service to a greater number of people, expedite the movement of scarce 800 MHz channels to their highest valued use, and provide a more consistent set of rules governing operation on frequencies above 800 MHz.

B. Legal Basis.

47. The proposed action is authorized under Sections 4(i), 303(r), and 331(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 332(a).

C. Reporting, recordkeeping and other compliance requirements.

48. No new requirements will be imposed upon licensees in the private land mobile services.

D. Federal rules which overlap, duplicate, or conflict with this rule.

49. None.

E. Description, potential impact, and number of small entities affected.

50. The Commission expects the proposals to provide increased opportunities to current trunked licensees and potential licensees. Although we believe it is too early to estimate the total effect of these proposals, we anticipate that the overall effect on small entities would be favorable. The proposal would permit trunked systems to provide service to a larger number of end users. The proposed rules may, however, make it difficult for those entities who want to establish their own conventional communication systems to find sufficient frequencies. The Commission has proposed, however, certain rule changes that minimize this potential impact.

F. Any significant alternative minimizing the impact on small entities and consistent with the stated objectives.

51. All significant alternatives have been addressed in the *Notice*. Further, this item is intended to minimize the regulatory burdens to our licensees, many of whom may be considered small business entities.

VII. PAPERWORK REDUCTION ACT STATEMENT

52. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase burden hours imposed on the public. Rather, if adopted as proposed, the licensing burden on the public could be reduced.

VIII. PROCEDURAL MATTERS

53. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* presentations are permitted except during the Sunshine Agenda period. *See generally* 47 C.F.R. § 1.1206(a). The Sunshine Agenda period is the period of time which commences with the release of a public notice that a matter has been placed on the Sunshine Agenda and terminates when the Commission (1) releases the text of a decision or order in the matter; (2) issues a public notice stating that the matter has been deleted from the Sunshine Agenda; or (3) issues a public notice stating that the matter has been returned to the staff for further consideration, whichever occurs first. 47 C.F.R. § 1.1202(f). During the Sunshine Agenda period, no presentations, *ex parte* or otherwise, are permitted unless specifically requested by Commission or staff for the clarification or adduction of evidence or the resolution of issues in the proceeding. 47 C.F.R. § 1.1203.

54. In general, an *ex parte* presentation is any presentation directed to the merits or outcome of the proceeding made to decision-making personnel which (1) if written, is not served on the parties to the proceeding, or (2), if oral, is made without advance notice to the parties to the proceeding and without opportunity for them to be present. 47 C.F.R. § 1.1202(b). Any person who submits a written *ex parte* presentation must provide on the same day it is submitted a copy of same to the Commission's secretary for inclusion to the public record. Any person who makes an oral *ex parte* presentation that presents data or arguments not already reflected in that person's previously-filed written comments, memoranda, or filings in the proceeding must provide on the day of the oral presentation a written memorandum to the secretary (with a copy to the Commissioner or staff member involved) which summarizes the data and arguments. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. 47 C.F.R. § 1.1206.

55. Authority for issuance of this *Notice of Proposed Rule Making* is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 303(r). Interested persons may file comments on or before **March 10, 1989**, and reply comments on or before **April 7, 1989**. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that the fact of the Commission's reliance on such information is noted in the report and order.

56. In accordance with the provisions of Section 1.419 of the Commission's Rules, 47 C.F.R. § 1.419, formal participants shall file an original and five copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting one copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters at 1919 M Street, N.W., Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION

Donna R. Searcy
Secretary

APPENDIX A

Comments

American Petroleum Institute
American SMR Network Association, Inc.
Associated Public-Safety Communications Officers, Inc.
Association of American Railroads
Association of Maximum Service Telecasters
Electronic Industries Association, Land Mobile Section
Forest Industries Telecommunications
General Electric Mobile Communications Business
Hudson Valley Communications
Manufacturers Radio Frequency Advisory Committee, Inc.
Mobile U.H.F., Inc.
National Association of Business and Educational Radio, Inc.
Special Industrial Radio Service Association, Inc.
State of Connecticut
Utilities Telecommunications Council

Reply Comments

National Association of Business and Educational Radio, Inc.
Manufacturers Radio Frequency Advisory Committee, Inc.
Motorola, Inc.
Special Industrial Radio Service Association, Inc.
Utilities Telecommunications Council

APPENDIX B

Part 90 of Chapter 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation for Part 90 is modified to read as follows:

Authority: Sections 4, 303, 331, 48 Stat., as amended, 1066, 1082; 47 U.S.C. §§ 154, 303, and 332 unless otherwise noted.

2. The Table of Contents to Part 90 is amended by revising the heading in Section 90.615 to read as "Frequencies available in the General Category".

3. Section 90.609 is amended by revising the title, by adding a new paragraph (b)(3), and by revising paragraph (c) to read as follows:

§ 90.609 Special limitations on amendment of applications for assignment or transfer of authorizations for radio systems above 800 MHz.

* * * * *

(b)(3) The authorization is for a conventional system assigned on a General Category frequency and the assignee, or transferee, is either an existing trunked licensee or an applicant proposing to use the frequency as part of a new trunked facility. The application must be accompanied with a demonstration that the assignor or transferor has not acquired the authorization for the principal purpose of profitable sale rather than constructing and operating a radio system and that its decision to assign the authorization was prompted by changing business circumstances.

(c) Licensees of constructed systems are permitted to make assignments, including partial assignments, of an authorized grant to an applicant proposing to create a new system or to an existing licensee that has loaded its system to 70 mobiles per channel and is expanding that system. Frequencies need not be available on an exclusive basis to be assigned. In cases where other licensees may be affected the applicant must submit a signed statement listing all affected co-channel licensees (including call signs) and verifying that they all have agreed to the proposed assignment. An applicant authorized to expand an existing system or to create a new system with frequencies it obtains through assignment will receive the assignor's existing license expiration date and loading deadline. A licensee that makes an assignment, full or partial, will not be authorized to obtain additional frequencies for that same system for a period of one year from the date of assignment.

4. Section 90.611 is amended by revising paragraph (c) to read as follows:

§ 90.611 Processing of applications.

* * * * *

(c) Each application will be reviewed to determine whether it can be granted. Applicants for frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories must specify the intended frequency (or frequencies) of operation. Applicants for frequencies in the SMRS Category may either specify the intended frequency (or frequencies) of operation in accordance with the provisions of § 90.621 or request the Commission to perform the selection.

* * * * *

5. Section 90.615 is amended by revising the section heading; revising the existing text and making it paragraph (a); and adding a new paragraph (b) to read as follows:

§ 90.615 Frequencies available in the General Category.

(a) Frequencies in the 806-809.750/851-854.750 MHz bands (Channels 1-150) are allocated to the General Category for conventional operations. The frequencies are available to all eligibles under this subpart (see § 90.603) for conventional operations in areas farther than 110 km (68.4 miles) from the US/Mexico border and farther than 140 km (87 miles) from the US/Canada border.

(b) Frequencies in this category may also be used for trunked operations in these same areas in accordance with the following:

(1) Entities may employ unlicensed General Category frequencies to establish new trunked systems provided there are no 800 MHz and 900 MHz frequencies available in their service category.

(2) Conventional licensees may combine channels to form a trunked system provided each of the licensed systems being combined is constructed and operating. All frequencies being trunked together must be located at a primary site.

(3) General Category frequencies may be used for trunked system expansion in accordance with § 90.621(g).

6. Section 90.621 is amended by revising paragraphs (a), (c), (d), (e) and (h); revising the introductory text in paragraph (g); redesignating existing paragraphs (g)(3), (4), and (5) to (g)(4), (5), and (6), respectively; and adding a new paragraph (g)(3) to read as follows:

§ 90.621 Selection and assignment of frequencies.

(a) Applicants for frequencies in the Public Safety, Industrial/Land Transportation, Business, and General categories must specify on the application the frequencies on which the proposed system will operate pursuant to a recommendation by the applicable frequency coordinator. Applicants for frequencies in the SMRS Category may either request specific frequencies by including in their applications justification for the frequencies requested or may request the Commission to select frequencies for the system from the SMRS Category.

(1) * * *

(i) Channels will be chosen and assigned in accordance with §§ 90.615, 90.617, or 90.619.

(ii) * * *

(iii) There are no limitations on the number of frequencies that may be trunked. Except as indicated in paragraph (a)(1)(iv) of this section, authorizations may be granted for up to 20 trunked frequency pairs at a time in accordance with the frequencies listed in §§ 90.615, 90.617, and 90.619.

* * * * *

(c) Trunked systems authorized on frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories will be protected solely on the basis of predicted contours. Coordinators will attempt to provide a 40 dBu contour at 20 miles and to limit co-channel interference levels at this distance to 30 dBu. This would result in a mileage separation of 70 miles for

typical system parameters. Separations may be less than 70 miles where the requested service areas, terrain, or other factors warrant reduction. In the event that the separation is less than 70 miles, the coordinator must indicate that the protection criteria have been preserved or that the affected licensees have agreed in writing to the proposed system. Only co-channel interference between base station operations will be taken into consideration. Adjacent channel and other types of possible interference will not be taken into account.

(d) Conventional systems authorized on frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories that have met the loading level necessary for channel exclusivity will be protected in the same fashion as described in paragraph (c) of this section.

(e) Conventional systems authorized on frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories which have not met the loading levels necessary for channel exclusivity will not be afforded co-channel protection.

(f) * * *

(g) Frequencies in the 806-821/851-866 MHz bands listed as available for eligibles in the Public Safety, Industrial/Land Transportation, Business, General, and SMRS Categories are available for inter-category sharing under the following conditions:

(1) * * *

(2) * * *

(3) Channels in the General Category will be available to fully-loaded trunked Public Safety, Industrial/Land Transportation, Business, and SMR Category systems for expansion if there are no in-category 800 MHz frequencies available. Evidence must be provided that the applicant has sufficient users to warrant the authorization of additional channels. A licensee will be authorized no more than one channel more than its current loading warrants. Unused (unlicensed) channels in the General Category are also available to establish new trunked systems provided there are not sufficient in-category 800 MHz and 900 MHz frequencies available. The maximum number of frequency pairs that will be assigned at one time for new systems is five.

* * * * *

(h) Frequencies in the 896-901/935-940 MHz bands listed as available for eligibles in the Industrial/Land Transportation, Business, and SMRS Categories will be available for inter-category sharing to all persons eligible in those categories starting May 6, 1990, under the following conditions:

(1) The applicant must submit a statement from its own category coordinator that frequencies are not available in that category, and coordination is required from the applicable out-of-category coordinator.

(2) The out-of-category licensee must operate by the rules applicable to the category to which the frequency is allocated.

(3) For SMRs, the licensee will be authorized no more than one channel more than its current loading warrants.

7. Section 90.629 is amended by revising the introductory text to read as follows:

90.629 Extended implementation schedules.

Applicants requesting frequencies in the Public Safety, Industrial/Land Transportation, Business, and General Categories for either trunked or conventional operations may be authorized a period of up to three (3) years for placing a station in operation in accordance with the following:

* * * * *

FOOTNOTES

¹ Notice of Inquiry, PR Docket No. 87-213, 2 FCC Rcd 3820 (1987).

² Currently, above 800 MHz, trunking is permitted only on certain specified frequencies. See 47 C.F.R. §§ 90.615 - 90.621.

³ See 47 C.F.R. §§ 90.615, and 90.617.

⁴ See 47 C.F.R. §§ 90.621, 90.625, 90.631, and 90.633.

⁵ Second Report and Order, Docket No. 18262, 46 FCC 2d 752 (1974).

⁶ See Order, 43 Fed. Reg. 35,394 (1978).

⁷ The Commission established waiting lists as a means of ranking applications that could not be granted at the time of filing but could be granted when and if frequencies later became available.

⁸ SMR operators are entrepreneurs who offer communications services on a commercial basis to private radio eligibles. The SMR service was created to encourage a competitive private land mobile market, as well as to promote the use of trunking technology. See note 5.

⁹ Second Report and Order, Docket No. 79-191, 90 FCC 2d 1281 (1982).

¹⁰ The four service categories are Public Safety/Special Emergency, Business, Industrial/Land Transportation, and SMR.

¹¹ We recover or "take back" assigned channels from SMR licensees who fail to meet either the construction period or mobile loading requirements of Section 90.631 of the Rules. See 47 C.F.R. § 90.631.

¹² See Report and Order, PR Docket No. 86-160, 2 FCC Rcd 513 (1987). See also note 9, *supra*.

¹³ Report and Order, Docket No. 86-404, 3 FCC Rcd 1838 (1988), 53 Fed. Reg. 12154 (1988).

¹⁴ Report and Order, Gen Docket No. 84-1233, 61 RR 2d 165 (1986).

¹⁵ A list of the commenting parties is provided in Appendix A.

¹⁶ AAR comments at 3.

¹⁷ API comments at 4.

¹⁸ See, e.g., UTC comments at 5.

¹⁹ MST comments at 4-5.

²⁰ See, e.g., APCO comments at 3.

²¹ EIA comments at 9.

²² See, e.g., NABER comments at 15.

²³ The Inquiry solicited comments on whether licensees should be allowed to trunk on the 150 conventional channels at 800 MHz and under what circumstances, whether new trunked systems can be established on out-of-category channels obtained through intercategory sharing, whether existing licensees for conventional operations should be allowed to combine licensed frequencies and trunk those frequencies, and on the implications of allowing trunking in frequency bands other than 800 MHz. See Inquiry at 2 FCC Rcd 3820-3825.

²⁴ See, e.g., NABER comments at 4-9.

²⁵ Theoretically, the efficiency of a trunked system increases as its number of channels increases.

²⁶ ASNA comments at 9.

²⁷ NABER comments at 11.

²⁸ SIRSA comments at 6.

²⁹ See, e.g., Connecticut comments at 3.

³⁰ ASNA comments at 10.

³¹ NABER comments at 12-13.

³² SIRSA reply comments at 3.

³³ ASNA comments at 9.

³⁴ SIRSA reply comments at 4.

³⁵ GE comments at 4-5.

³⁶ Motorola reply comments at 3-4.

³⁷ There are exclusivity provisions for the 470-512 MHz band, but this spectrum is only available to private land mobile services in a limited number of metropolitan areas. See Subpart L of Part 90 of the Commission's Rules, §§ 90.301 *et seq.*

³⁸ Our primary objective is to provide some relief for SMR systems to obtain additional frequencies as they are by far the dominant users of trunked technology. The spectrum efficiency arguments in favor of expanding trunking, however, apply equally well to other trunked users.

³⁹ See 47 C.F.R. § 90.615.

⁴⁰ See 47 C.F.R. § 90.621(g).

⁴¹ The Private Radio Bureau, however, has granted several waivers for trunked operation on these frequencies. See, for example, Sigma Telecommunication Waiver (DA 88-1064) adopted July 8, 1988. (Waiver granted where licensee has exclusive use of the conventional channel.) In light of action taken here, we do not plan to grant any requests filed during the pendency of this proceeding for waiver of our Rules to allow trunking on the conventional channels.

⁴² See note 13 *supra*.

⁴³ See Report and Order, Docket 20909, 64 FCC 2d 825 (1977).

⁴⁴ See 47 C.F.R. § 90.621(g).

⁴⁵ In 1982 we adopted rules allowing eligibles in the three non-SMR Categories access to frequencies in each others' categories. We later extended the intercategory sharing rules to include eligibles in the SMR Category. See note 12 *supra*.

⁴⁶ Service category here refers to the four categories where the frequencies are grouped by eligibility rather than technology. The service categories are Public Safety, Business, Industrial/Land Transportation, and SMR.

⁴⁷ This policy is consistent with those adopted for intercategory sharing. See Memorandum Opinion and Order, Docket 86-160, 2 FCC Rcd 4292 (1987).

⁴⁸ See 47 C.F.R. § 90.621.

⁴⁹ The recognized frequency coordinators in this category are APCO, NABER, and SIRSA. NABER currently coordinates applications for SMRs on the 150 conventional frequencies. There is no certified frequency coordinator for the SMR Category.

⁵⁰ Only SMR base stations need to be coordinated.

⁵¹ We recognize that this may involve additional coordination among these entities due to the potential for increased use of these frequencies. Because they now must coordinate between each other for conventional use of these frequencies, this additional effort should not be burdensome.

⁵² The expiration date also will be used as the five year loading date unless the license being assigned is more than five years old in which case the assignment date will be used to determine the five year loading date. Note, however, that the channel recovery program is being phased out. See Report and Order, PR Docket No. 86-404, 3 FCC Rcd 1838 (1988).

⁵³ This criteria is discussed in paragraph 20, *supra*.

⁵⁴ See Memorandum, Opinion and Order, Docket 79-191, 95 FCC 2d 477 (1983).

⁵⁵ See, e.g., ASNA comments at 6.

⁵⁶ Exclusive use of an 800 MHz channel is obtained when the licensee "loads" at least 70 mobiles on the channel.

⁵⁷ Generally, all affected co-channel licensees means those stations located within 70 miles.

⁵⁸ In Re Application of Bill Welch, FCC 88-338, released November 14, 1988.

⁵⁹ See H.R. Report No. 97-765, 97th Cong., 2d Sess. 53 (1982).

⁶⁰ See Report and Order, 3 FCC Rcd 1838 (1988) at para. 48.

⁶¹ Existing conventional users licensed on frequencies in one of the service categories are already allowed to group together and form a new trunked system. See 47 C.F.R. § 90.617.

⁶² The new trunked applicant should go through the coordinator of the category in which the conventional systems being combined are allocated. If more than one category is involved, then the applicant should pick one of the certified coordinators.

⁶³ Seventy mobiles assigned to a channel represents a fully loaded channel. The 280 mobile figure therefore refers to four fully loaded channels. We generally allow licensees seeking to expand one channel more than their current loading calls for.

⁶⁴ This proposal applies to all intercategory sharing combinations in the five categories. See 47 CFR § 90.621.

⁶⁵ Entities applying in the Public Safety, Business, or Industrial/Land Transportation Categories may, under certain conditions, use each other's frequencies to establish new systems. Use of out-of-category frequencies by trunked SMRs, however, is limited to system expansion.

⁶⁶ The 800 MHz public safety category referred to here is the 70 channels listed in 90.617(a), Table 1. See 47 C.F.R. § 90.617(a).

⁶⁷ Intercategory sharing between these two categories is scheduled to start May 6, 1990.

⁶⁸ In most cases, trunked equipment available from one manufacturer is incompatible with that available from another manufacturer.

⁶⁹ We note our inquiry into trunking compatibility standards in the public safety 800 MHz bands. This inquiry, however, was initiated because of our concern about interoperability of public safety radio systems. We do not find these concerns applicable outside the public safety area. See Notice of Inquiry, Docket 88-441, 3 FCC Rcd 5399 (1988).

**SEPARATE STATEMENT OF
COMMISSIONER JAMES H. QUELLO
DISSENTING IN PART**

Re: Trunking in the Private Land Mobile Radio Services for more effective and efficient use of the spectrum (PR Docket No. 87-213).

By adopting the Notice of Proposed Rule Making the Commission is moving in the right direction by proposing to allow more spectrum efficient technology in the 800 MHz bands. I will review carefully the comments in response to this proposal.

I do have concerns regarding the proposal to allow the buying and selling of conventional channels on a for-profit basis. As I have stated on previous occasions, I believe the use of economic means to manage private land mobile radio spectrum is inconsistent with amendments of the Communications Act. (See, H.R. Rep. No. 765, 97th Cong. 2d Sess. 53 (1982); *Report and Order*, PR Docket No. 86-404, 3 FCC Rcd 1856, 1858 (1988)). I ask that commenters address the issue of how buying and selling spectrum in the private land mobile radio services comports with amendments to the Communication Act.