



PUBLIC NOTICE

FEDERAL COMMUNICATIONS COMMISSION
1919 M STREET, N.W.
WASHINGTON, D.C. 20554

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COMMISSION SEEKS SUPPLEMENTAL COMMENT ON REQUEST TO ELIMINATE 40-MILE RULE FOR 220 MHz RADIO SERVICE

PR Docket No. 89-552

Comments Due: December 10, 1996

Section 90.739 of the Commission's Rules stipulates that a licensee in the 220 MHz radio service may not hold more than one license within a 40-mile area, unless the licensee can justify the need for an additional license based on communications requirements.

On April 5, 1996, the SMR Advisory Group, L.C. (SMR Group) filed *ex parte* comments in the above-captioned proceeding, urging the Commission to eliminate Section 90.739 (the "40-mile rule"). In its comments, SMR Group suggests that elimination of the rule would enhance the competitive potential of the 220 MHz service, and would be consistent with Commission findings of regulatory parity between the 220 MHz service and other commercial mobile radio services. SMR Group also contends that the original purpose for the rule -- *i.e.*, to prevent spectrum warehousing -- is no longer relevant in the context of today's mobile communications marketplace. Subsequently, the American Mobile Telecommunications Association, Securicor Radiocoms, Ltd., and SEA, Inc., also filed *ex parte* comments asking that the Commission eliminate this rule. Based on these filings, the Commission tentatively concludes that the rule should be repealed.

Pursuant to Section 1.415(d) of the Commission's Rules, 47 CFR § 1.415(d), the Commission seeks comment on this tentative conclusion. In particular, interested parties are invited to address any legal, factual, or policy considerations that may be associated with this issue. Comments must be filed no later than **December 10, 1996**. No reply comments will be accepted.

All comments should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street NW, Room 222, Washington, DC 20554, referencing PR Docket No. 89-552. The full text of the comments are available for inspection and duplication during regular business hours in the FCC Reference Center, Federal Communications Commission, 1919 M Street NW, Room 239, Washington, DC 20554. Copies may also be obtained from the International Transcription Service, Inc. (ITS), 2100 M Street NW, Suite 140, Washington, DC 20037, (202) 857-3800.

Action by the Commission November 18, 1996: Chairman Hundt, Commissioners Quello, Ness, and Chong.

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For further information, contact Marty Liebman at (202) 418-1310, Wireless Telecommunications Bureau, Policy Division.