

CONCURRING STATEMENT
OF
COMMISSIONERS HENRY M. RIVERA
AND
JAMES H. QUELLO

RE: Proposals to Allocate the 900 MHz Land Mobile Reserve Spectrum

We concur in the issuance of these three Notices of Proposed Rulemaking,^{1/} but not without considerable reservation.

Collectively, the Notices would dispose of 18 of the remaining 21 MHz of land mobile reserve spectrum. ^{2/} The untutored commenter might reasonably infer from this substantial proposed allocation that the Commission has developed a record indicating that these are the wisest uses for this premium reserved spectrum. Unfortunately, that is not true. The Commission is even now attempting to evaluate in Docket 82-10 the adequacy of the land mobile reserve to meet the future needs of land mobile users. The Private Radio Bureau's initial estimate projects shortages of at least 40-50 MHz by the year 2000. ^{3/} While the Commission has not yet endorsed the Bureau's estimate, it seems clear that unless a refined sense of priority is established, we may casually allocate this rapidly dwindling resource without adequate consideration.

^{1/} See Notices of Proposed Rulemaking in Dockets 83-26 and 83-30 and Further Notice of Proposed Rulemaking in Docket 82-243.

^{2/} An additional 20 MHz of the land mobile reserve is tacitly set aside for the future growth of the cellular radio service.

^{3/} See Future Private Land Mobile Telecommunications Requirements, released August 1982. Even if, as some claim, the assumptions underlying this study are flawed, causing the projections to be off by as much as fifty percent, an unmet need of 20-25 MHz would still exist. Such a projection should indicate that it is ill-advised to consider allowing the reserve to be put to other than its intended use.

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Ordinarily, it is difficult to quarrel with the issuance of notices of proposed rulemaking. In this instance, however, it seems imprudent at best, and foolish at worst, to set this Commission and the public on a course requiring devotion of substantial resources to assess a plan whose feasibility is highly suspect, particularly in view of the existence of the Commission's ongoing inquiry and the staff's initial findings in Docket 82-10. It is especially unfortunate that our actions here may create public expectations for new services whose likely authorization is speculative in the extreme, at least in the bands identified. Finally, we have grave misgivings about allocating the land mobile reserve to services whose claim to being land mobile services is extremely weak in two cases, (personal radio communication service and air-to-ground), and entirely unsupportable in the case of NTIA's proposal.

The Private Radio Bureau's commitment to complete Docket 82-10 before the proceedings initiated by the subject Notices are completed has somewhat allayed our fears that the Commission may allocate this spectrum without full information. It would indeed be regrettable if we were forced to reallocate additional UHF spectrum because we had given away the land mobile reserve to these new services and were then faced with confirmation of the need projected in Docket 82-10's Interim Report. 4/

4/ We must see to it that the land mobile reserve is not drained away, leaving the UHF band as the only remaining alternative for land mobile operation. One need only recall how wrenching was the FCC's 1970 decision to reallocate UHF Channels 70-83 when the potential of UHF was not even fully recognized. By that 115 MHz reallocation -- which was four times the amount of spectrum then allotted to land mobile services -- the Commission intended to provide enough spectrum to meet land mobile's growth at least through the remainder of the 20th century. Now, barely a decade later, parties are aggressively moving to wrest additional spectrum from the UHF service.

The Commission would also do well to remember Congress' commitment, in the 1962 All-Channel Receiver Act, to the full development of UHF television and our own commitment to that end. And, finally, we must be mindful of the possibility that reallocation of UHF channels can seriously diminish the potential for new service, competition, diversity, and ownership opportunities. Such consequences would seriously undermine important Commission goals.

Turning to the particulars of these NPRMs, the Further Notice proposing government/non-government fixed service allocations at 932-35 MHz and 943-46 MHz proposes a "housekeeping" change of bands to make way for the proposed personal radio communication service. We do not view this proposal as strictly housekeeping. The new allocation is technically questionable because it may interfere with Canada's contemplated personal radio service and it would displace broadcast auxiliary users now operating on a secondary basis in parts of the proposed band. The spectrum proposed is further questionable because it embodies less than the 45 MHz separation ordinarily called for in the fixed service. Finally, it is unclear why this premium spectrum should be devoted to fixed operations, which can exist above 1 GHz, albeit at a higher cost.

As for the Notice proposing an air-to-ground service allocation at 896-898 MHz and 941-943 MHz, we question the wisdom of allocating part of the land mobile reserve to a service which is spectrally inefficient and probably of limited appeal due to its high cost.

Finally, with regard to the new personal radio communication service proposed for 898-902 MHz and 937-941 MHz, we are concerned about whether the PRCs is sufficiently distinct from existing services to warrant additional spectrum. It is not clear why, for example, the personal and business communications needs identified (the service is expressly designed for both purposes, see para. 77) cannot be satisfied by existing land mobile services, be they "private" or "common carrier". If there are persuasive reasons why this is so, then the decision boils down to whether there is a strong public desire (as opposed to a strong desire solely on GE's part) for a new, technically distinct, hybrid personal service. We trust that the commenters will amplify the record on these issues.

Even if the PRCs should be authorized, it is still questionable whether it should occupy spectrum in the land mobile reserve. If the service can go far toward satisfying future land mobile requirements, then it would be reasonable to authorize its operation in that reserve. If such a new service cannot be counted on to meet future land mobile needs, then its claim to the land mobile reserve is wholly unwarranted and highly objectionable.

The issues raised by these NPRMs underscore the crying need for this Commission to place greater emphasis on spectrum management. Fair and efficient division of the spectrum between various services is becoming more important daily as the contests for spectrum multiply. How well and how wisely we accomodate competing spectrum demands will profoundly influence how well equipped we are to meet the telecommunications needs of the future. We do not know how the spectrum wars begun by the Notices will be finally resolved. But we are convinced that competing demands for spectrum will become increasingly common, the spectrum management must become a more highly prized activity at the FCC, and that our spectrum policies must be designed to encourage and reward the most up-to-date and efficient ----- technology. If we do not make this activity a top priority, the public will suffer the consequences for years to come.

*GE's proposal not
spectrum efficient?*
