

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

<b>In the Matter of</b>	)	
	)	
<b>Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Services</b>	)	<b>ET Docket No. 00-258</b>
	)	
<b>Petition for Rulemaking of the Cellular Telecommunications Industry Association Concerning Implementation of WRC-2000: Review of Spectrum and Regulatory Requirements for IMT-2000</b>	)	<b>RM-9920</b>
	)	

**To: The Commission**

**COMMENTS  
OF THE  
AMERICAN PETROLEUM INSTITUTE**

The American Petroleum Institute ("API"), by its attorneys and pursuant to Section 1.415 of the Rules and Regulations of the Federal Communications Commission ("Commission"), respectfully submits the following Comments in response to the Commission's *Notice of Proposed Rulemaking* ("NPRM")<sup>1/</sup> in the above-referenced proceeding. The *NPRM* addressed the Commission's spectrum management policies

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<sup>1/</sup> 66 Fed. Reg. 7438 (Jan. 23, 2001).

regarding advanced wireless services and the reallocation of spectrum to support the growth and development of new systems, including third generation (“3G”) technologies.

## **I. PRELIMINARY STATEMENT**

1. API is a national trade association representing approximately 350 companies involved in all phases of the petroleum and natural gas industries, including the exploration, production, refining, marketing and transportation of petroleum, petroleum products and natural gas. The API Telecommunications Committee is one of the standing committees of the organization's Information Systems Committee. The Telecommunications Committee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

2. API's Telecommunications Committee is supported and sustained by licensees that are authorized by the Commission to operate, among other telecommunications systems, facilities in the Private Land Mobile Radio Services (APLMRS<sup>≡</sup>) and the Private Operational-Fixed Microwave Services (APOFS<sup>≡</sup>). API's members utilize PLMRS systems, for example, to support the search for and production of oil and natural gas, to ensure the safe pipeline transmission of natural gas, crude oil and refined petroleum products, to process and refine these energy sources and to facilitate their ultimate delivery to industrial, commercial and residential customers. Similarly, POFS systems serve a variety of vital telecommunications functions, including communications to remote oil and gas exploration and production sites for voice and data

applications, supervisory control and data acquisition systems, communications with refineries, and extending circuits to remote pipeline pump and compressor stations.

3. The private radio systems operated by API members are absolutely essential to protecting the safety of life, health and property, both in connection with members= everyday operations and during responses to emergency incidents. These systems are integral to the provision of our nation's energy sources. Due to the critical importance of these radio systems to the operations of its members, API has participated for more than fifty years in the Commission's major rule making proceedings addressing the use of the spectrum in the private radio services.

## **II. COMMENTS**

4. The Commission has requested comment in this matter on the amount of spectrum required to support advanced wireless voice, data and broadband technologies, as well as which spectrum bands should be designated for this use. API supports the Commission's commitment to easing spectrum congestion and promoting the development of advanced, wireless technologies. It anticipates that some of these new services will be utilized in the energy industries. However, API wishes to emphasize that, in reallocating spectrum to accommodate the growth of new wireless services, the Commission must also consider the vital interests of incumbent licensees and that of the public which support current allocations to existing entities. API's Comments address issues that it believes

have a potential impact on the PLMRS and/or POFS systems utilized by its member companies.

**A. API Supports the Commission’s Decision to Preserve the Current Allocation in the 806-960 MHz Band.**

5. The Commission determined in the *NPRM* that, although the 806-960 MHz band has been considered for allocation to 3G technologies by the International Telecommunications Union (“ITU”), portions of this band are already designated for use by Fixed and Mobile services.<sup>2</sup> The Commission concluded that the 70 megahertz of spectrum currently allocated from this band to Fixed and Mobile services could be used to deploy advanced wireless technologies and thereby satisfy the goal of international interoperability for 3G technologies.<sup>3</sup>

6. API strongly supports the Commission’s conclusion that it should maintain the current spectrum allocation in the 806-960 MHz band. Critical PLMRS systems currently operate in large segments of this band, along with Personal Communications Services (“PCS”), Specialized Mobile Radio (“SMR”), Multiple Address Systems (“MAS”), and Federal Government radiolocation services. Accordingly, API supports the Commission’s conclusion that it should not reallocate spectrum from this band for advanced wireless services.

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<sup>2</sup> See *NPRM* at ¶ 34.

<sup>3</sup> See *NPRM* at ¶ 36.

7. In its *Policy Statement* on spectrum allocation, the Commission noted the importance of private land mobile services for meeting the specialized internal needs of business and industry radio communications.<sup>4</sup> Congestion in the existing PLMRS bands already presents problems for these entities and the Commission has acknowledged the importance of allocating spectrum for private business radio systems.<sup>5</sup> The petroleum and natural gas industries rely heavily on PLMRS systems to ensure the safe day-to-day operations of their facilities and to initiate emergency response to life-threatening situations. In light of these and other considerations, API fully supports the Commission's decision to not reallocate additional spectrum from the 806-960 MHz band to 3G technologies.

**B. API Requests that the Commission, at a Minimum, Maintain the Current Reimbursement Policies for Relocated FS Microwave Incumbents.**

8. The Commission has proposed to use the policies adopted for the relocation of Fixed Service ("FS") microwave incumbents in the 2165-2200 MHz and 2110-2115 MHz bands for incumbents in the 2110-2150/2160-2165 MHz bands.<sup>6</sup> In the *NPRM*, the Commission considered allocating segments of the 2110-2150 MHz band to

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<sup>4</sup> See Principles for Reallocation of Spectrum to Encourage the Development of Telecommunications Technologies for the New Millennium, FCC 99-354, *Policy Statement*, 14 FCC Rcd 19868 (1999), at ¶ 24.

<sup>5</sup> *Id.*

<sup>6</sup> See *NPRM* at ¶ 55.

accommodate advanced wireless services. Numerous API members operate POFS systems in this band, and therefore, API is concerned about the Commission's proposed relocation policies. API is aware that the Balanced Budget Act of 1997 requires reallocation of incumbent FS licensees in the 2110-2150 MHz band and it does not now oppose the allocation of portions of this band to advanced wireless services. However, API strongly urges the Commission to affirm its existing incumbent relocation policies for FS licensees who must remove their systems from this band.

9. In the *Emerging Technologies* proceeding governing the relocation of incumbents to accommodate new PCS licensees, the Commission established a one-year voluntary negotiation period, a one-year mandatory negotiation period, followed by involuntary relocation if the parties failed to reach an agreement during negotiations.<sup>7</sup> The PCS licensee is required to provide the relocated incumbent licensee with "comparable facilities"; and, if twelve months after the involuntary relocation the FS microwave licensee determines that the new facilities are not comparable, the FS licensee may exercise its "right of return" and be reassigned to the original frequencies.

10. In ET Docket No. 95-18, in which the Commission reallocated the upper 2 GHz band (2165-2200 MHz) to Mobile Satellite-Services ("MSS"), the agency modified

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<sup>7</sup> See 47 C.F.R. §§ 101.69-101.82.

the relocation rules established in the *Emerging Technologies/PCS* relocation proceeding.<sup>8</sup> In the *Second Report and Order*, the Commission adopted a single, two-year mandatory negotiation period followed by involuntary relocation of the FS incumbent.<sup>9</sup> The Commission concluded that the shortened negotiation period was justified because “one MSS provider . . . is prepared to begin service in 2002 . . . [and] the short time remaining before MSS service may begin justifies shortening the negotiation period.”<sup>10</sup> Additionally, unlike the *Emerging Technologies* proceeding, the “right of return” to the original frequencies was not adopted for FS microwave incumbents in the 2165-2200 MHz band. Instead, if the relocated FS microwave incumbent experiences problems operating on the new frequencies, its recourse is to petition the Commission for modified or replacement equipment.<sup>11</sup>

11. API members have found that, in practice, the current policies do not always fully compensate the FS microwave licensees for the cost of relocation to new frequency bands. The Commission has found justifications for modifying these policies in a manner that makes them less favorable to the relocated incumbent. Accordingly, API

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<sup>8</sup> See generally *Amendment of Section 2.106 of the Commission’s Rules to Allocate Spectrum at 2 GHz for Use by the Mobile Satellite-Service*, ET Docket No. 95-18, *Second Report and Order and Second Memorandum Opinion and Order*, 15 FCC Rcd 12315 (2000) (hereinafter *Second Report and Order*).

<sup>9</sup> See *id.* ¶ 86.

<sup>10</sup> *Id.* ¶ 85.

<sup>11</sup> See *id.* ¶ 94.

implores the Commission to, at a minimum, retain the current policies and not further diminish the compensation provided to the relocated FS microwave licensees.

### **III. CONCLUSION**

12. API commends the Commission's efforts to address the need to designate spectrum to accommodate advanced wireless services and 3G technologies. However, it wishes to stress that such reallocation should not be at the expense of existing licensees who operate systems in these bands which provide a vital public service by supporting our nation's energy supply.

**WHEREFORE, THE PREMISES CONSIDERED,** the American Petroleum Institute respectfully submits the foregoing Comments and urges the Federal Communications Commission to act in a manner consistent with the views expressed herein.

Respectfully submitted,

**THE AMERICAN PETROLEUM  
INSTITUTE**

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