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

In the Matter of	)	
	)	
Authorization of CMRS Jamming Within Correctional Institutions in Order to Improve Public Safety Under Conditions that Protect Legitimate CMRS Users	)	RM No. _____
	)	
CellAntenna Corp. Request for Special Temporary Authority for Demonstration of Equipment to Block Wireless Calls By Inmates at Pine Prairie Correctional Center	)	WT Docket No. 09-30

Petition for Rulemaking of

South Carolina Department of Corrections

SUMMARY

Pursuant to 47 C.F.R. § 1.401, the South Carolina Department of Corrections and the co-signers listed in Appendix A ("Petitioners") request that the FCC initiate rulemaking to protect the public safety by permitting jamming of Commercial Mobile Radio Services (CMRS) within correctional institutions under strict rules both to prevent unintended harmful interference to other legitimate parties in or near correctional facilities and to prevent any diversion of jamming equipment to other uses.

CMRS use within prisons is an unintended negative consequence of the ubiquitous growth of CMRS in recent years. While the industry can be proud that many uses of this technology have enhanced public safety, *e.g.* through E-9-1-1 systems and Amber Alerts, the leakage of this technology into correctional facilities has caused major security problems for the facilities, the judicial system, and the general public. Although correctional managers are reluctant to make public details of security problems, Attachment I provides examples of publicly reported incidents documenting this problem.

There is no single solution that will solve this problem in the wide variety of state and local correction facilities in our country. Given unlimited resources, Petitioners might attempt to address the problem through a variety of technical and nontechnical measures. But Petitioners do not have unlimited resources. In fact, some correctional systems have insufficient funding to fulfill their core mission. The real problem is finding the most cost-effective solutions for individual correction facilities that vary greatly in their physical characteristics. While jamming is not a "magic bullet" that can prevent all illicit use of CMRS services in corrections facilities, Petitioners assert that carefully regulated correction facility jamming must be part of the package of solutions to protect public safety.

The regulations proposed herein are unprecedented and conservative. They consistently err on the side of avoiding any harmful interference to CMRS users outside of corrections facilities and to all other legitimate spectrum users. Recognizing CMRS operators' concerns about an expansion of jamming beyond the scope of this petition, Petitioners propose to carefully limit the scope of jamming to corrections facilities.

Affected facilities range from small local jails to large prisons with thousands of inmates. Most are in isolated rural areas with large buffer spaces, but a few are in densely populated urban areas with little horizontal buffer space. Most are in low buildings, but a few urban units are in the upper level of high rise buildings. Petitioners look forward to working with the CMRS industry to explore practical solutions to this problem. Petitioners stress that funding in correctional systems is a real constraint. Alternatives to jamming like cell phone sniffing dogs or detection equipment can provide only partial relief from the threat created by cell phones, and these alternatives are more expensive and less effective than jamming. Accordingly, Petitioners maintain that jamming must be part of the package of solutions to protect public safety.

The CMRS industry has repeatedly stated that § 333 of the Communications Act of 1934, as amended,[1] precludes the Commission from ever authorizing any jamming.[2] Petitioners assert that the legislative history of § 333 proves that this is an incorrect conclusion. Nonetheless, the present use of jamming without Commission authorization is illegal.

At a minimum, Petitioners recognize the following protections for the CMRS industry and CMRS users:

- Jamming should be subject to a license with strict eligibility requirements which require approval of a coordinator who verifies eligibility, coordinates with nearby CMRS licensees, and reviews the technical details of the proposed installation.

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[1] 47 U.S.C. § 333.

[2] *See Petition to Deny of CTIA,* Docket 09-30 (March 13, 2009) (available at http://files.ctia.org/pdf/filings/090313_FINAL_CTIA_Petition_to_Deny_CellAntenna_STA_Request.pdf ("It is well-established that intentional interference with wireless telephones is prohibited by Section 333.").

• Jamming must result in no harmful interference on *any* CMRS users outside the property of correctional facilities. Thus, there will be no impact on E-9-1-1 systems.

• Jamming must result in no harmful interference on *any* legal non-CMRS spectrum user anywhere - licensed or unlicensed.

• Strict technical standards and equipment authorization procedures should be implemented for all jamming equipment.

• The sale of jamming equipment must be strictly controlled and limited to state and local governments with direct shipment of equipment from the manufacturer/importer to the FCC licensed correctional facility where it is to be used.

• Equipment must be permanently labeled with a warning of criminal penalties if used without a license and a requirement to return to manufacturer/importer for destruction.

• Eligibility requirements should be strict and preclude any "slippery slope" expansion. The cornerstone of Petitioners' proposed eligibility requirement is that the licensee must show that possession and use of cell phones within the area covered by jamming is illegal under state and/or local law. This distinction clearly differentiates correctional facilities from other locations where owners and managers might wish to block CMRS communications for various reasons.

I. The CMRS Use In Corrections Facilities Problem

Corrections facilities are established by state and local government to protect the public. All corrections facilities control and restrict inmate communications in order to prevent possible illegal activities. In general, inmates are permitted restricted communications under controlled circumstances. Uncontrolled access to communications through contraband CMRS equipment bypasses the control system that was established to protect the public. The public information in Attachment I describes some of the impact of the present CMRS use problem.

In an ideal world, correction facilities with unlimited budgets would not have any contraband problems. Drugs, weapons, and CMRS equipment would be prevented from entering these facilities. However, Petitioners do not operate in an ideal world, and Petitioners have serious problems controlling CMRS use within the reality of budget constraints, staffing levels, and existing physical facilities. Petitioners seek to use CMRS jamming only in cases where it can be shown that it will not result in harmful interference to either CMRS services within the correction facilities or to other radio services.

Cell phones and wireless technology illegally possessed by inmates within the corrections facilities are a serious threat to safety within the institutions and are increasingly used to

conduct criminal activity outside those walls. Inmates have used wireless technology to coordinate escapes, run gangs, make threats, extort money, engage in credit card and tax fraud, and make drug deals.

II. Options for Countermeasures to Illicit CMRS Use in Corrections Facilities

While this petition focuses on jamming as a countermeasure for CMRS use in corrections facilities, Petitioners recognize other countermeasures should not be abandoned. Such countermeasures include, but are not limited to:

- Improved interception of all contraband items;[3]

- Search for contraband using "sniffer dogs;" and

- Timely detection and localization of actual CMRS transmissions within correction facilities.[4]

There also are possible countermeasures CMRS operators could implement, including but not limited to:

- Blocking calls that E-9-1-1 location technology determines to be originating or terminating in correction facilities and blocking calls served by cellular base station near correctional facilities unless the electronic serial number (ESN) of the equipment is on an approved list.

- Use of modified "parasitic" femtocells in corrections facilities that "suck up" nearby calls from cell phones and do not connect them to the public switched telephone network (PSTN)

- Avoiding locating base stations near corrections facilities. While base station location by itself does not facilitate illicit CMRS use in corrections facilities, placing a base station close to a rural corrections facility will complicate CMRS jamming at the facility since the high CMRS signal level will require high

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[3] Metal detectors, X-ray machines and visitor searches used at prison entrances to stop the flow of drugs, weapons and other illegal contraband are being circumvented by inmates with wireless technology. Instead of sneaking disruptive and dangerous contraband into prisons through the front door, inmates use wireless technology to coordinate precise times and locations to have it thrown over fences when they know it is more difficult for security staff to intercept.

[4] Petitioners note that for this option to be fully effective, adequate corrections staff must be available at all hours to respond quickly to CMRS signal detection before the mobile unit is relocated. Also this option generally requires locating detection sensors throughout prisons including areas not under continuous surveillance by corrections staff, thus exposing them to damage by inmates.

jamming signal levels. Voluntary actions by the CMRS industry to avoid such proximate siting would be in the public interest, particularly if it results in marginal or inadequate signal strength inside correction facility buildings in rural areas.

•Eliminating the sale of anonymous prepaid CMRS mobiles.

With respect to this last point, Petitioners note virtually all mobile units used illicitly in corrections institutions are anonymous prepaid units that are presently sold widely at discount and convenience stores. There is anecdotal evidence that such anonymous prepaid phones are the communications system of choice for a wide variety of criminal activities outside of corrections institutions and have been used by terrorists for communications, at least outside of the U.S. Petitioners also note Japan has banned anonymous prepaid cell phones as a crime prevention policy and requires strict identification for purchases of prepaid phones.[5] While prepaid cell phones are popular and serve a useful function, the ability to purchase and use them without *any* record keeping and with complete anonymity is questionable as a desirable public policy in the present era.

The alternatives listed have widely varying costs, which in some cases are directly proportional to the size of the facility. The first group of options has direct implications for correction facilities' budgets and staffing levels. The budgets and staffing levels for these institutions are controlled by state and local governments, and economic reality limits what is available. Petitioners' mission in administering the facilities with which they are entrusted is to protect the safety of the public, their staff, and their inmates within available resources. In theory, staffing levels could be increased to a level that reduced all contraband to zero. However, such levels are not practical. Prompt detection of the use of a small CMRS mobile unit is of limited value if adequate staffing is not available immediately to respond before the location of the mobile changes. Some options involve placing key equipment in areas where inmates have little supervision during much of the day and hence could be damaged.

Petitioners contend decisions about how best to use state and local funds to protect the public from inmates with CMRS should be made by state and local corrections officials who have experience with the management of corrections facilities. Petitioners believe the appropriate role of the Commission is to set out a framework that protects other legitimate spectrum users.

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[5] Japan, Act on Identification, Etc. by Mobile Voice Communications Carriers of Their Subscribers, Etc. and for Prevention of Improper Use of Mobile Voice Communications Services, Act No. 31 of 2005, often referred to as "Act for Prevention of Improper Use of Mobile Phones." *Available at* http://www.soumu.go.jp/main_sosiki/joho_tsusin/eng/Releases/Telecommunications/news080826_1.html

Again, petitioners acknowledge that CMRS jamming is not a "magic bullet" that will solve the illicit CMRS problem in all cases and that jamming may not be feasible in all corrections institutions. However, if jamming is properly regulated by the Commission, it is an essential, constructive, and cost-effective tool for combating this threat to public safety. In the sections below, Petitioners outline a specific proposal that we believe balances the concerns of the CMRS industry and public safety issues.

III. Area of Likely Agreement with the CMRS Industry

Petitioners recognize the CMRS industry has a variety of concerns about rules allowing jamming. This section addresses the areas of agreement.

A. No Harmful Interference Should be Permitted to CMRS Services Outside of Corrections Institutions and No Harmful Interference Should be Permitted to Any Other Radio Service

The CMRS industry and other user groups are concerned that poorly implemented jamming might cause harmful interference to legitimate users of their systems or to other radio services. Petitioners accept as a precondition that this should not be allowed. CMRS jamming should be secondary in allocation status to *all* other radio services except CMRS use within correction facility property where possession and use of CMRS equipment is illegal under applicable state and local laws.

B. "Pandora's Box"/"Slippery Slope" Concerns

Petitioners recognize that the CMRS industry has a legitimate concern that letting jamming out of the present "Pandora's box" might open a new series of problems if jamming systems are illegally diverted for use in non-correctional facilities such as hotels, restaurants, and theaters, or if the Commission were to authorize such use at a later date.

Such non-correctional facility use could adversely impact both the business plans of the industry by making CMRS services less attractive and the vital public safety aspect uses of CMRS such as E-9-1-1 and Amber Alerts. Diversion is similar to the ongoing "underground" market for jamming equipment by certain private entities. Such activities are illegal and should be addressed through rigorous enforcement activities including criminal prosecutions as appropriate.

Petitioners also assert the appropriate action for the Commission is not to rule out limited, strictly regulated use of jamming in correction facilities. Rather, the Commission should adopt a strict framework that restricts jamming only to those correctional facilities where it can be configured to eliminate any impact on *any* legitimate spectrum users.

C. Equipment Diversion Issues

The CMRS industry has a legitimate concern that when jamming is authorized some equipment might get diverted to non-correctional locations. Such diversion could possibly expand the present situation of occasional illegal unauthorized use of jammers.

In some ways, the use of jamming in correction facilities is like the question FDA faced in recent years in authorizing use of thalidomide for certain limited medical conditions.[6] Like jamming, thalidomide can have unique benefits in the right contexts, but horrendous consequences when used in other contexts. FDA addressed this challenge by authorizing narrowly limited use of the drug and imposing unprecedented restrictions on the details of distribution. Similarly, Petitioners urge the Commission to address the issue of jamming misuse through enforcement of its present rules, unprecedented restrictions on the distribution of jamming equipment, and Rules that recognize the benefits of jamming are unique to the corrections environment.

In the proposed rules in Section V, Petitioners make proposals that include unprecedented steps to prevent equipment diversion to address that concern.

IV. Areas of Likely Disagreement with CMRS Industry

A. The Limits of Section 333

CTIA has stated, "The Commission cannot ignore Section 333 of the Act or its extensive history of declaring wireless jamming technology illegal."[7] Yet, it is CTIA who ignores the legislative history of Section 333.[8] It is clear that Congress, in deliberating this matter, did not intend to limit the jurisdiction of the Commission by forbidding it from ever authorizing any jamming. Indeed, it is clear that the Commission requested this legislation in response to a series of intentional jamming incidents in which the jammer was using a licensed transmitter and thus could not be prosecuted for criminal violation of Section 301. The Senate report summarized the impact of the new legislation by stating, "The reported bill remedies this situation by giving the FCC the explicit authority to halt willful or malicious interference..." This is a far cry from a Congressional mandate to never authorize any jamming.

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[6] FDA Talk Paper T98, *FDA Approves Thalidomide for Hansen's Disease Side Effects, Imposes Unprecedented Restrictions on Distribution* (July 16, 1998) (available at http://www.fda.gov/bbs/topics/ANSWERS/ANS00887.html).

[7] *CTIA Petition* at p.4.

[8] The Senate and House committee reports on the legislation that adopted Section 333 have been submitted to the Commission as an attachment to Comments of South Carolina Department of Corrections, March 16, 2009, Docket 09-30 (available at http://gullfoss2.fcc.gov/prod/ecfs/retrieve.cgi?native_or_pdf=pdf&id_document=6520201301).

With respect to the Commission's "extensive history of declaring wireless jamming technology illegal," it is clear that the Commission *per se* has never spoken on any interpretation of Section 333 and that all the statements have been staff interpretations taken under delegated authority. But even these statements have generally focused on a point of agreement: that under *present* FCC Rules the sale and use of jammers is not authorized and hence is illegal. None of the staff documents cited by CTIA explicitly agree with CTIA's interpretation that section 333 is a "statutory prohibition...on interference."

CTIA first presented this interpretation of Section 333 in its 2007 petition that the Commission never acted on.[9] Petitioners urge the Commission not to adopt this overly broad interpretation of language CTIA requested for a different purpose. Rather, Petitioners request the Commission seek public comment if it contemplates such an interpretation.

Petitioners also observe that even if the language of Section 333 is broader than its original intent, the question of whether CMRS devices have a valid FCC license (and are hence subject to any interference protection under this section) within a correctional institution where their mere possession violates state or local criminal statutes probably gives the Commission the option of modifying its rules to permit such jamming. Section 22.3(b) of the Commission's Rules exempts CMRS customers from the § 301 licensing requirement. Petitioners propose § 22.3(b) be modified so it is clear that where state and local law make CMRS subscriber equipment illegal in corrections facilities, such use is also illegal under federal law.

B. Inevitability of Harmful Interference to Legitimate Spectrum Users

The CMRS industry has contended jamming in correction facilities will inevitably lead to harmful interference to legitimate services and users. However, Petitioners assert that while poorly designed jamming installations could cause such interference, the same frequency reuse concepts and detailed propagation analysis that allows high spectral efficiency in cellular systems can be used to plan corrections jamming systems that do not cause harmful interference to legitimate CMRS users off the property of corrections facilities or to any other spectrum users. Petitioners acknowledge such jamming will not be possible in some corrections facilities with little or no spatial buffer with their neighbors. The rules proposed in Section V are conservative and require a positive showing that operation free of harmful interference is possible in a specific facility before jamming can be authorized.

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[9] The Wireless Association, *Petition for a Declaratory Ruling of CTIA* (Nov. 2, 2007) (available at http://files.ctia.org/pdf/filings/FINAL--CTIA--_Jammers_Petition_for_Declaratory_Ruling.pdf).

In a statement attached to a filing by CTIA Dr. Charles Jackson wrote:

> **"Unintended Consequences**
>
> Jamming a commercial wireless system *can* have multiple unintended consequences. A jamming system deployed to silence wireless handsets in a movie theater *may* also block a wireless telemetry system in use by an ambulance outside the theater or may cause dropped calls for people walking or driving by the theater.
>
> A system designed to jam commercial wireless calls inside a prison *may* also jam important public safety communications nearby. The 800 MHz public safety band is adjacent to the cellular band and the 700 MHz public safety band is near the 700 MHz bands. The as-yet-unlicensed 700 MHz D block frequencies are intended for shared use by commercial and public safety entities. *It is quite conceivable* that a system designed to jam commercial wireless signals within a correctional facility would not jam the wireless communications of the facility but would jam wireless communications used by fire departments or other public safety agencies – a fact that *might* not be discovered until a fire or other incident required those agencies to operate at or near the prison."[10] (Italics added)

All these things *might* happen in a poorly designed, poorly regulated system, but Dr. Jackson presents no arguments or evidence that they are inevitable.

In a recent interview, Christopher Guttman-McCabe, CTIA's Vice President for Regulatory Affairs, describes several cases where jamming resulted in interference to other users. [11] His examples include illegal jamming equipment use in a U.S. high

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[10] CTIA's Petition for Reconsideration and Request for Referral to the Full Commission, Exhibit B (Jan. 6, 2009), (available at http://files.ctia.org/pdf/filings/Petition_for_Reconsideration_DC_Jammer_Demonstration.pdf).

[11] "And what we've seen in Asia, in Pakistan and India, we've seen jails [using jammers] that have had significant impact outside the area. We've seen it in South America where a jammer in the jail knocked out service to several hundred thousand people. Not five or ten.

"We've seen it in Spokane, Washington, where a high school put it in and caused impact and the Sheriff had to shut it down, because not only was it impacting the wireless network for consumers outside; it was impacting the Sheriff's service and they installed a network in the school and it was knocking out that network.

"The school was just trying to do something correct and proper in their minds, but it has a spillover effect.

"We just saw it recently in Colorado, in a high school where the impact was felt thousands of meters outside the school on a major highway because the school had installed three jammers. They didn't know it was illegal. They were just trying to control usage. The problem was that it does have an impact." http://arstechnica.com/tech-policy/news/2009/05/jamming-cell-phones-in-prisons-were-not-there-yet.ars.

school and alleged jamming equipment use in prisons in Asia, Pakistan, India, and South America. He does not cite any reports of harmful interference in France where the FCC's counterpart has explicitly authorized prison jamming.[12]

While Petitioners do not dispute his examples and the fact that poorly implemented jamming might cause interference to other services, Petitioners see nothing in any of CTIA's filings that demonstrates that such interference is the inevitable consequence of jamming. Petitioners note CTIA has vigorously opposed any experimental licenses that would allow empirical testing of corrections facility jamming under reasonable safeguards.

As CTIA correctly points out, "the 800 MHz public safety band is adjacent to the cellular band and the 700 MHz public safety band is near the 700 MHz bands." This argument supports Petitioners' position. These bands do not have interference today precisely because of the Commission's regulation that is intended to both prevent harmful interference and allow multiple uses of the spectrum. There is no legitimate use of CMRS spectrum within correction facilities where the possession and use of CMRS equipment is illegal. Authorizing jamming emissions within those facilities under *strict regulation* will prevent the ill effects CTIA is concerned about just as it prevents interference between their members and public safety systems.

Petitioners agree that jamming, like any other co-channel or adjacent channel use, *can* have multiple unintended consequences if it is not done with adequate planning. However, Petitioners note the explosive growth of the CMRS industry in the past quarter century has resulted from large scale frequency reuse and co-channel and adjacent channel use of the same spectrum by multiple carriers in the same area and adjacent areas. This very frequency reuse could also have "multiple unintended consequences" if done ineptly. Such unintended consequences of present frequency reuse have not materialized because it is done well with careful planning. Rather than causing interference, it enables the great benefits of increasing spectrum utilization. Similarly, careful planning of CMRS jamming in corrections facilities where it is possible will result in the intended jamming within the facilities and no harmful interference to other legitimate spectrum users.

The feasibility of this issue can be seen in the common case of an isolated corrections facility with a large buffer around it with a width of a few hundred meters.[13] While this

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[12] France, Article L33-3, *Code des postes et des communications électroniques*, as amended by *Loi n°2002-1138 du 9 septembre 2002 - art. 47 JORF* (Sept. 10, 2002) (available at http://www.legifrance.gouv.fr/affichCodeArticle.do;jsessionid=0499C13ADD7473A4BDB2F318C7E2B6C9.tpdjo15v_3?cidTexte=LEGITEXT000006070987&idArticle=LEGIARTI000006465759&dateTexte=20090315&categorieLien=id). France allows jamming in both correction facilities and theaters/concert halls.

[13] In contrast, the Arlington County (Virginia) Detention Facility near Court House Metro Station, is a facility where CMRS jamming is probably not feasible due to its location in a high

case is used to establish feasibility, it is not a necessary condition. This rule proposal does not focus on geometry *per se*, rather the interference potential to other systems.

Figure 1, below shows a correction facility building surrounded by a high security fence and then a larger restricted area. At the corners of the high security fence are directional antennas with beam downtilt that transmit the jamming signal into the correction facility. The jamming signal is strictly bandlimited and only covers the CMRS bands. (For purposes of this simple feasibility discussion, we will not treat here the more complicated cases of the 800 MHz SMRS "Nextel" bands with their interleaved channels and the 700 MHz D block.[14])

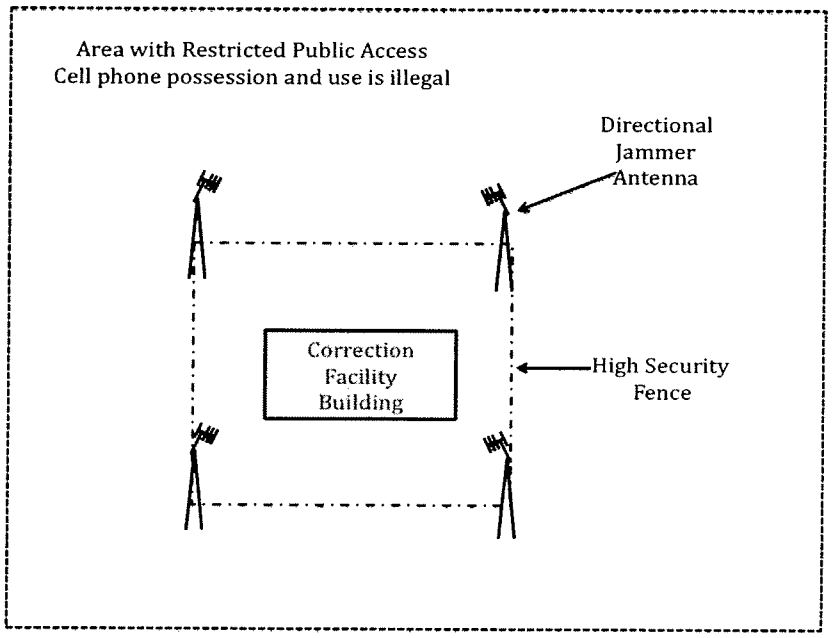

Figure 1: Jamming Concept Configuration

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rise building in a dense area. But such facilities are a small minority of all the corrections facilities in the U.S. that are generally in more isolated areas. The proposed rules would effectively prohibit jamming at locations such as the Arlington County Detention Facility where it is likely to cause harmful interference to legitimate radio services.

[14] Usually "jamming" refers to broadband jamming of communications channels. This is clearly impossible in 800 MHz SMRS where CMRS spectrum is interleaved with private land mobile users including public safety. However, narrowband jamming of SMRS control channels and individual SMRS communications channels is still possible without impacting neighboring legitimate users. In the 700 MHz D block, petitioners note that technical standards have not yet been established due to the ongoing rulemaking activity. Petitioners are very interested in participating in the standards development for this band with the Public Safety Spectrum Trust to assure that any authorized jamming of this band will focus on nonpublic safety control channels that will not impact public safety users.

Despite hand waving by the industry that jamming will inevitably lead to interference outside of corrections facilities, there are no technical arguments in the record that documents this using as an inevitable consequence.

V. Proposed Rules

A. Amend §22.3(b)

The Commission should modify § 22.3(b)[15] of its Rules to read as follows:

> (b) Authority for subscribers to operate mobile or fixed stations in the Public Mobile Services, except for certain stations in the Rural Radiotelephone Service *and except for subscriber units located in the property of corrections facilities where their possession or use is illegal under applicable state or local law*, is included in the authorization held by the licensee providing service to them. Subscribers are not required to apply for, and the FCC does not accept applications from subscribers for, individual mobile or fixed station authorizations in the Public Mobile Services, except that individual authorizations are required to operate rural subscriber stations in the Rural Radiotelephone Service under certain circumstances. See Sec. 22.703.

(Addition to present text shown in italics.)

This change will confirm that CMRS use in corrections facilities' property is a violation of § 301 of the Act and will remove any doubt as to whether § 333 of the Act applies to CMRS jamming authorized by the Commission.

Petitioners note there is a present ambiguity in § 22.3(b) as to whether it applies to only Public Mobile Services authorized in Part 22 or to *all* CMRS services. We assume that this is an anachronism that was overlooked in the rapid evolution of CMRS regulation in the past decade. The Commission might wish to change this reference to "Public Mobile Services" to "Commercial Mobile Radio Services" or to add a similar paragraph to other rule parts such as Parts 20, 24, and 27.

B. Authorize CMRS Jamming as a Licensed Service with Strict Eligibility Requirements

The Commission should add a new Subpart BB to Part 90 of its rules authorizing state and local governments operating corrections facilities to transmit jamming signals in all CMRS bands on a secondary basis to all legal spectrum use.[16]

Eligibility for jamming licenses should be restricted to state and local government entities that operate corrections facilities and can document that they have the legal power to

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[15] 47 C.F.R. § 22.3(b)

[16] Note that under the proposed revision of § 22.3(b) CMRS use in corrections facilities would no longer be legal.

forbid CMRS unit possession or use within their facilities. All licenses should be site based and both initial licenses and modifications should require the approval of a coordinator designated by the Commission. Multiple coordinators should be authorized under strict eligibility requirements and accountability to the Commission.

The coordinator should be required to review the technical details of the proposed jamming system and calculations that show it will not cause harmful interference to other parties. The Commission should determine the minimum CMRS signal strength for each CMRS band that must be protected from harmful interference outside the corrections facility property. The Commission has already determined for the case of PCS that this level is -96 dBm/1.25 MHz.[17]

The coordinator shall notify all CMRS operators in the area of the proposed jamming and allow them to comment on the application. Upon finding that an application has no risk of harmful interference to CMRS operations outside corrections facility property or to other radio services, the coordinator shall certify the application to the Commission.

C. Strict technical standards and equipment authorization procedures for all jamming equipment.

The rules for jamming should require low emissions on all non-CMRS frequencies. The limits presently in § 15.209 would appear to be appropriate here.

Similarly to present procedures for controversial equipment such as UWB transmitters and TV Band Devices, equipment authorization should require FCC Laboratory testing of each model and should not be delegated to Telecommunications Certification Bodies/TCBs at this time.

D. Restrictions of Equipment Marketing

The Rules should restrict marketing and sale of jamming equipment to state and local government entities holding licenses for its use. No retail sale and delivery should be allowed. All sales must result in direct shipment from the manufacturer or importer to the licensed end user.

E. Equipment Labeling

Equipment must be permanently labeled with a warning of criminal penalties if used without a license and a requirement to return to manufacturer/importer for destruction.

Conclusions

The requested rules are urgently needed to protect the public safety. While Petitioners agree with the CMRS community on several issues relating to preventing interference to

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[17] *Report and Order*, Docket 98-153 (April 22, 2002) at paragraph 162.

legitimate spectrum use, Petitioners assert the decision as to whether CMRS jamming is the most cost-effective method to prevent illicit CMRS use within corrections facilities must be left to the public officials entrusted with the management of those facilities subject to strict Commission regulations preventing harmful interference to legitimate spectrum users. While Petitioners acknowledge the "slippery slope" concerns of the CMRS industry and have structured our proposal supportively, we do not feel that these concerns should be dispositive of this critical issue affecting public safety.

Questions concerning this petition should be addressed to:

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David Tatarsky
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Columbia, S.C. 29210
803-896-1736

Date: July 13 2009

Attachment I
Press Reports of CMRS Use in Corrections Facilities and Their Consequences

Grand jury report on prison cell phone use:
http://www.fox40.com/pages/landing_local_headlines/?Grand-Jury-Prison-Cell-Phone-Use-A-Dange=1&blockID=256890&feedID=190

Drug dealing with cell phone behind bars:
http://www.sheffieldtelegraph.co.uk/news2/Dealer-spent-drugs-money-.5087538.jp

N.J. inmates indicted for possessing cell phones:
http://www.nj.com/news/ledger/jersey/index.ssf?/base/news-13/1237610713212910.xml&coll=1

Cell phone problem examined in California prison system:
http://www.pe.com/localnews/inland/stories/PE_News_Local_S_cellphone15.2932b38.html

Pennsylvania inmate charged with having instrument of escape: cell phone:
http://www.sharonherald.com/local/local_story_061210515.html

Cell phone smuggling into Texas prisons discussed:
http://www.statesman.com/news/content/region/legislature/stories/02/15/0215cellphones.html

Phone removed from inmates innards:
http://calcoastnews.com/news.php?viewStory=172100

Maryland inmate stands trial for ordering murder with cell phone from behind bars:
http://www.baltimoresun.com/news/local/baltimore_city/bal-md.byers25mar25,0,3788772.story

Florida inmate charged with sneaking cell phone into prison:
http://www.firstcoastnews.com/news/strange/news-article.aspx?storyid=132175&catid=82

Arkansas legislation aimed at curbing inmate cell phone use (similar bill introduced in N.C.): http://arkansasnews.com/2009/02/17/two-inmate-cell-phone-bills-filed/
(N.C. bill) : http://www.newsobserver.com/news/story/1389638.html

Inmates in Pakistan plot attack on government from behind bars, with cell phones:
http://www.sananews.com.pk/english/2009/02/04/beyond-criminal-connectivity/

APPENDIX A

The corrections directors, commissioners and cabinet secretaries below represent state and regional prison systems and are co-signers to this petition. Their individual signatures follow on subsequent pages.

Alabama – Richard F. Allen

Tennessee – George M. Little

Arkansas – Larry B. Norris

Georgia – Brian Owens

Washington – Eldon Vail

Virginia – Gene Johnson

Massachusetts – Harolde W. Clarke

Pennsylvania – Jeffrey A. Beard

Wyoming – Bob Lampert

Kansas – Roger Werholtz

Rhode Island – A.T. Wall II

California – Matt Cote

New Mexico – Joe Williams

Minnesota – Joan Fabian

New York – Brian Fischer

South Dakota – Tim Reisch

Oklahoma – Justin Jones

Louisiana – James Le Blanc

Iowa – John Baldwin

North Carolina – Alvin W. Keller

Indiana – Edwin Buss

Nevada – Howard Skolnik

Mississippi – Christopher B. Epps

District of Columbia – Devon Brown

New Hampshire – Bill Wrenn

Philadelphia Prison System – Louis Giorla

Idaho – Brent Reinke

APPENDIX A

Cosigners

Richard F Allen
Name

Commissioner, Alabama DOC
Title

5/31/09
Date

Name

Commissioner, Tennessee DOC
Title

5/31/09
Date

Name

Director, ARKANSAS DOC
Title

5-31-09
Date

Name

Commissioner GDC
Title

5-31-09
Date

APPENDIX A

Cosigners

Name

Secretary Washington D.O.C.

Title

7/7/09

Date

APPENDIX A

Cosigners

Name

Title: Director, Virginia Department of Corrections

Date: July 8, 2009

APPENDIX A

Cosigners

Jim. Clark

Name

Commissioner

Title

6-26-09

Date

APPENDIX A

Cosigners

J. Pearl
Name

Secretary, Pa. Dept. of Corrections
Title

7/7/2009
Date

APPENDIX A

Cosigners

Robert O. Lampert

Name

Director, Wyoming DOC

Title

7/7/09

Date

APPENDIX A

Cosigners

Name

Secretary, Kansas Department of Corrections
Title

July 7, 2009
Date

APPENDIX A

Cosigners

A. T. Wall

Name Ashbel T. Wall, II

Director, Rhode Island Department of Corrections
Title

July 1, 2009
Date

APPENDIX A

Cosigners

Matt Lee

Name

Secretary, California Dept. of Corr. & Rehab.

Title

6/29/09

Date

APPENDIX A

Cosigners

Name

Secretary of Corrections
State of New Mexico
Title

4/29/04
Date

APPENDIX A

Cosigners

Joan Fabian
Name

Commissioner, MN Department of Corrections
Title

6-29-09
Date

APPENDIX A

Cosigners

Name

Commissioner · NYS Dept of Correctional Services

Title

6-26-09

Date

APPENDIX A

Cosigners

Tim Reisch
Name

Cabinet Secretary
South Dakota Department of Corrections
Title

6-29-2009
Date

APPENDIX A

Cosigners

Name

Title Director

Date 6/28/09

APPENDIX A

Cosigners

Name

Secretary, La. Public Safety & Corrections

Title

6/25/09

Date

APPENDIX A

Cosigners

John Baldwin
Name

Director
Title

25 June 09
Date

APPENDIX A

Cosigners

Alvin W. Keller

Alvin W. Keller

Name

Secretary, North Carolina Department of Correction

Title

25 June 2009

Date

APPENDIX A

Cosigners

Name

Commissioner - Indiana DOC

Title

6-24-09

Date

APPENDIX A

Cosigners

Howard Skolnik

Name

Director, Nevada DOC

Title

6/26/09

Date

APPENDIX A

Cosigners

Name

Commissioner

Title

06/26/09

Date

Name

Title

Date

Name

Title

Date

Name

Title

Date

APPENDIX A

Cosigners

Devon Brown

Name

Director, District of Columbia Department of Corrections
Title

July 7, 2009
Date

APPENDIX A

Cosigners

Name

Commissioner, New Hampshire DOC
Title

July 7, 2009
Date

APPENDIX A

Cosigners

Lou R. Giusti

Name

Commissioner - Phila. Prison System

Title

6/25/09

Date

APPENDIX A

Cosigners

Name

Director

Title

7-9-09

Date