



Federal Communications Commission  
Washington, D.C. 20554

October 23, 2019

Brett Kilbourne  
Utilities Technology Council  
Vice President Policy and General Counsel  
1129 20<sup>th</sup> Street NW, Suite 350  
Washington, DC 20036

Dear Mr. Kilbourne:

This is in response to the Petition for Declaratory Ruling dated July 12, 2018, that you filed on behalf of the Utilities Technology Council (UTC).<sup>1</sup> UTC seeks a declaratory ruling that under sections 90.215, 101.211, and 101.217 of the Commission's rules, radio station licensees must be allowed to conduct their own transmitter measurements and make their own adjustments to equipment as necessary to comply with the Commission's rules.<sup>2</sup> It states that clarification is needed because "some manufacturers are requiring that licensees send the transmitters to the manufacturer for measurements and adjustments instead of allowing the licensees to perform the measurements and make any necessary adjustments themselves."<sup>3</sup>

Wireless Telecommunications Bureau (Bureau) staff met with you and other UTC representatives on August 1, 2018, advised you that the petition did not set forth sufficient information to establish a controversy appropriate for resolution by declaratory ruling, and suggested that UTC supplement the record regarding the scope of the asserted problem. Scot Stone of the Bureau's Mobility Division has followed up with you repeatedly since then, but we have received no further information regarding the petition.

Under section 1.2 of its rules, the Commission "may ... issue a declaratory ruling terminating a controversy or removing uncertainty."<sup>4</sup> Given our broad discretion in determining whether to grant a petition for declaratory ruling,<sup>5</sup> we conclude that, without a complete record, we cannot find a clear controversy to terminate or uncertainty to remove.

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<sup>1</sup> Petition of Utilities Technology Council for Declaratory Ruling (dated July 12, 2018) (Petition).

<sup>2</sup> 47 CFR §§ 90.215, 101.211, 101.217. These provisions provide for the transmitter measurement requirements for private land mobile radio services (§ 90.215) and the operator and station record requirements for fixed microwave services (§§ 101.211 and 101.217, respectively).

<sup>3</sup> Petition at 1.

<sup>4</sup> 47 CFR § 1.2.

<sup>5</sup> See, e.g., *Nevadacom, Order on Review*, 17 FCC Rcd 13157, 13158 n.11 (2002) (citing, e.g., *Yale Broadcasting Co. v. FCC*, 478 F.2d 594, 602 (D.C. Cir. 1973)).

Accordingly, we are unable to rule on this matter based on your failure to provide additional information, and consider the matter closed.

Sincerely,



Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau



John Schauble  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau