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

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Advanced Television Systems)
and Their Impact Upon the)
Existing Television)
Broadcast Service)

MM Docket No. 87-268

To: The Commission

COMMENTS OF THE
UTILITIES TELECOMMUNICATIONS COUNCIL

Pursuant to Section 1.415 of the Federal Communications Commission's (FCC) Rules, the Utilities Telecommunications Council (UTC) hereby submits its comments with respect to the Memorandum Opinion and Order/Third Report and Order/Third Further Notice of Proposed Rulemaking (Third Report/Third Notice), 7 FCC Rcd 6924, FCC 92-438, released October 16, 1992, in the above-captioned proceeding.^{1/}

I. Introduction

UTC is the national representative on communications matters for the nation's electric, gas, water, and steam utilities. Approximately 2,000 utilities are members of UTC, ranging in size from large combination electric-gas-water utilities serving millions of customers to small, rural electric cooperatives and water districts serving only a few thousand

^{1/} By Order, DA 92-1714, released December 18, 1992, the deadline for filing Comments was extended to January 7, 1993.

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customers. All members of UTC are eligible for licensing in the Power Radio Service, and all utilities rely on private land mobile radio systems to assure reliable and secure communications for the safe and efficient operation of their public service utility systems. UTC is also the certified frequency coordinator for land mobile frequencies in the Power Radio Service. UTC is therefore pleased to have this opportunity to comment on the Commission's preliminary conversion date for Advanced Television (ATV) stations.

II. Background

The Third Report/Third Notice is part of the FCC's on-going proceeding to implement ATV in the U.S. The Commission plans to introduce ATV through a transitional conversion program in which broadcasters will maintain service to existing National Television System Committee (NTSC) receivers until ATV becomes the prevalent medium. To facilitate this conversion, broadcasters will be provided with a second 6 MHz UHF channel to allow them to operate both ATV and NTSC services simultaneously. At the end of the conversion period broadcasters will be required to relinquish the original NTSC service VHF channels.

III. The Conversion Date Must Not Be Subject To Periodic Reviews

In the Third Report/Third Notice the Commission adopted, as a preliminary decision, a deadline for conversion that is 15 years from adoption of an ATV system or a final table of ATV

allotments, whichever is later. Further, the FCC clarified that broadcasters who fail to meet the ATV conversion date will nevertheless be required to cease broadcasting in the VHF band. However, in adopting the 15 year conversion date, the Commission also announced its preliminary decision to schedule three periodic reviews of its conversion deadline in order to "preserve flexibility in the overall conversion process."^{2/}

UTC supports a firm date for the conversion to ATV and the mandatory relinquishment of VHF broadcasting channels, as this will allow the Commission to reallocate the VHF band to those services, such as private land mobile radio, that are in dire need of additional spectrum. UTC is therefore troubled by the Commission's announced intention to review the conversion date several times. In announcing its intention to review the conversion date several times the FCC is sending a mixed signal to broadcasters regarding the firmness of the conversion deadline.

Scheduled reviews of the conversion date will weaken the incentive for broadcasters to expedite the conversion process. As the National Telecommunications and Information Administration (NTIA) noted in its Comments on the Second Report and Further Notice of Proposed Rulemaking, existing broadcasters will obtain the majority of the available ATV channels and as a result, will

^{2/} Third Order/Third Notice, para. 43.

not face competition from new entrants that would have a strong economic interest in speeding ATV development, thus pressuring broadcasters to keep pace.^{3/} Accordingly, there is a need for certainty in the Commission's conversion timetable so as act as a surrogate for competition in speeding the implementation of ATV, and the freeing of valuable spectrum.

Elimination of the proposed scheduled reviews would not foreclose the Commission from determining at a later date that circumstances warrant an extension of time for individual broadcasters or for the industry generally. If unforeseen complications effectively delay the ability of broadcasters to make the conversion to ATV, the Commission could then take appropriate action. However, to schedule a series of reviews in advance of known difficulties will virtually invite delay.

IV. The FCC Should Commence A Separate Proceeding To Reallocate Vacant VHF Broadcast Spectrum

In the Third Order/Third Notice the Commission concluded that it is beyond the scope of the present proceeding to determine the appropriate use for the VHF broadcast spectrum that it will reclaim at the time of the full conversion.^{4/} While the Commission's decision may be procedurally correct, UTC submits that the FCC is squandering an important opportunity if it delays

^{3/} NTIA Comments, p. 11.

^{4/} Third Report/Third Notice, para. 31.

its consideration of the appropriate use of this spectrum. The FCC should commence a separate proceeding concerning the reallocation of this valuable spectrum.

The Commission recently adopted a First Report and Order (First R&O) in ET docket No. 92-9, reallocating the 1850-2200 MHz band to establish a "spectrum reserve" for emerging technologies.^{5/} The spectrum reserve mechanism will enable the Commission to provide necessary spectrum for emerging technologies as they develop, without experiencing the attendant delays of attempting to identify and clear new spectrum to accommodate technologies that have already been developed.

The Commission should utilize the spectrum reserve concept in its treatment of the VHF broadcast reversion spectrum. Specifically, the FCC should recognize that there is a vital long-term need for a reserve of private radio spectrum to meet anticipated requirements in private mobile and wireless data communications.

The utility industry currently has over 43,000 private land mobile transmitters representing an investment of over \$4.3

^{5/} First R&O, ET Docket No. 92-9, FCC 92-437, released October 16, 1992.

billion.^{6/} It is anticipated that the utilities' demand for private land mobile radio spectrum will continue to increase over the next 10-to-20 years. Moreover, utilities predict a dramatic increase in the need for mobile data applications in the future.

Unfortunately, the spectrum that is currently available for these and other vital private land mobile communications systems is extremely congested in most of the major urban areas of the country. Moreover, the demand for new private land mobile radio (PLMR) licenses shows no signs of abating. According to the FCC's Annual Reports the number of licensed PLMR radio stations has increased over 400 percent since 1968, and has increased at a rate of 10 percent annually over the last five years.

UTC is well aware of the Commission's on-going proceeding to "refarm" the PLMR spectrum to make more effective and efficient use of the bands below 470 MHz through the use of new narrowband technologies and innovative licensing schemes.^{7/} UTC applauds the Commission's initiative and fully intends to be an active participant in that proceeding. However, at best the refarming of the PLMR spectrum below 470 MHz will only result in moderate improvements in overall PLMR congestion, and if PLMR use

^{6/} These figures are based on FCC licensing records. The number of transmitters represents fixed base stations and repeaters licensed to utilities and does not include associated mobiles or portables.

^{7/} Notice of Proposed Rulemaking, PR Docket No. 92-235, FCC 92-469, released November 6, 1992.

continues to grow as expected, these gains will quickly be eviscerated. Therefore, it is imperative that additional spectrum be made available for use by the private land mobile radio community.

In addition to providing much needed relief for the congestion in the currently available PLMR spectrum, a new allocation of spectrum for PLMR use will facilitate the development and implementation of new and advanced technologies and more efficient licensing schemes without disrupting existing land mobile operations of those entities that are unable to convert to more spectrum efficient technologies. Utility companies and other PLMR users are eager to implement mobile systems with advanced technologies, enhanced network capabilities, and greater overall spectrum efficiency.

In addition to mobile communications, there is currently a large push in the utility industry for new and emerging wireless data and distribution automation applications. Defined broadly, distribution automation is a system that permits a utility to remotely monitor, coordinate, and operate distribution (and transmission) components from centralized locations. In fact, the recently enacted "Telephone Disclosure and Dispute Resolution Act" directs the Department of Energy (DOE) and NTIA to submit to Congress a proposal for demonstrating the ability of new and innovative communications equipment and services to further the

national goals concerning energy and protecting health and safety.^{g/}

Unfortunately, as is the case with private land mobile frequencies, the existing radio frequencies available to utilities for licensing radio systems for their internal purposes such as distribution automation are extremely congested, and available spectrum for new or expanding systems is nearly exhausted. A designation of the VHF reversion spectrum as a reserve for future private land mobile and wireless data communications would be an ideal solution to meeting the anticipated spectrum needs of the utility industry and other "core" private users.

A designation of the VHF reversion spectrum as a private radio spectrum reserve would also speed the implementation of ATV, since it would force consumers and manufacturers of television receivers to recognize the definite nature of the conversion deadline. Further, as in ET Docket No. 92-9, the Commission could allow new private radio entrants to negotiate with incumbent VHF broadcasters regarding early entrance to the band in return for compensation to fund the broadcasters' conversion to ATV.

^{g/} Telephone Disclosure and Dispute Resolution Act, 106 Stat. 4181, Public Law 102-556 (1992).

V. Conclusion

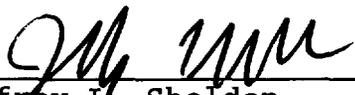
The FCC should require all broadcasters to relocate to the UHF band and surrender their existing VHF channels on a date certain. By adopting a planned series of reviews to determine the need to shift the conversion date the FCC will send a mixed signal to broadcasters and manufacturers regarding the finality of the conversion deadline, and should therefore be avoided.

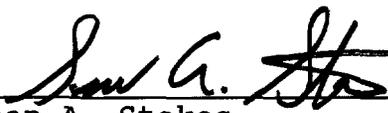
The Commission should commence a separate proceeding to reallocate the VHF reversion spectrum. Specifically, the FCC should designate the VHF reversion spectrum as a "private radio spectrum reserve" to accommodate anticipated private land mobile radio and private wireless data communications requirements.

WHEREFORE, THE PREMISES CONSIDERED, the Utilities Telecommunications Council respectfully requests the Federal Communications Commission to take action consistent with the views expressed herein.

Respectfully submitted,

UTILITIES TELECOMMUNICATIONS
COUNCIL

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