

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

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Federal Communications Commission
Office of the Secretary

In the Matter of

Request for Rulemaking
Setting Standards for
Aviation Receivers

93-199 ✓
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RM-7610 ✓

To: The Commission

COMMENTS OF THE
UTILITIES TELECOMMUNICATIONS COUNCIL

Pursuant to Section 1.405 of the Commission's Rules, the Utilities Telecommunications Council ("UTC") hereby submits its Comments in support of the "Petition for Rulemaking" filed by John Furr & Associates, Inc. in the above-captioned matter.^{1/} The petitioner has requested initiation of a rulemaking proceeding to set standards for radio receivers used for air navigation ("avionics").

Introduction

UTC is the national representative on communications matters for the nation's electric, gas and water utilities. Approximately 2,000 utilities are members of UTC, ranging in size from large combination electric-gas-water utilities

^{1/} Public Notice of the Petition was given on February 7, 1991. Pursuant to Section 1.4 of the Commission's Rules, the "date of public notice" was February 8, 1991. These Comments are timely in that they are being filed within 30 days of that date of public notice. See 47 C.F.R. §§1.4 and 1.405 (1990).

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serving millions of customers, to small rural electric cooperatives and water districts serving only a few thousand customers. All utilities depend on secure and reliable communications facilities in carrying out their public service obligations, and many utilities operate extensive private land mobile and private microwave systems to meet these communications needs.

As part of the licensing process for these systems, the antenna structures are reviewed to determine whether notice must be given to the Federal Aviation Administration ("FAA"). UTC understands that the FAA currently reviews the interference potential of such proposed facilities during its airspace review process. UTC is therefore interested in any proceedings which would better define the interference standards for avionics.

Comments

The petitioner notes the difficulties it has experienced in licensing radio facilities occasioned by the FAA's use of a computer modeling program to predict interference based on "worst case" avionics. Instead of requiring use of avionics capable of rejecting unwanted signals, the FAA effectively preempts FCC licensing

decisions through the issuance of "hazard determinations" to FCC license applicants.

Recent rule amendments proposed by the FAA would further exacerbate this problem. Late last year, the FAA proposed significant revisions to Part 77 of its regulations to specifically require FAA review of the electromagnetic interference ("EMI") potential of proposed construction activities.^{2/} UTC filed Comments with the FAA objecting to the proposed rules, primarily on the basis that the proposed rules are beyond the FAA's statutory authority, they set no definite standards for the review of radio license applications, and they would vest too much discretion in the FAA to override legitimate FCC licensing decisions.^{3/}

^{2/} See Notice of Proposed Rulemaking on Objects Affecting Navigable Airspace, FAA Docket No. 26305, Notice No. 90-19, 55 Fed. Reg. 31722 (August 3, 1990).

^{3/} UTC also noted that the FAA's proposed rules could be construed so as to require prior FAA approval for the installation and use of low power communications devices which the Commission permits to be operated on an unlicensed, non-interference basis under FCC Rule Part 15. If adopted and so construed, the FAA's proposed rules would nullify the Commission's carefully-crafted rules for the unlicensed operation of these devices.

The Federal Communications Commission also filed Comments in the FAA rulemaking.^{4/} Voicing many of the same concerns expressed by UTC, the Commission raised perhaps its greatest concern over the lack of any standards for the FAA's review of EMI:

[T]he Commission is firmly opposed to the implementation of any standards the details of which are not made the subject of notice and comment rulemaking, especially as these are applied to Commission licensees or radio frequency matters.^{5/}

The Commission also objected to the FAA's failure to propose coordination with the Commission on EMI matters:

The Commission agrees with the FAA that electromagnetic activities which interfere with air navigation and aeronautical communications should be viewed as an obstruction. The Commission, however, interprets the Amendment to Section 1101 [of the Federal Aviation Act] as requiring, with respect to radio communications towers, a joint FCC and FAA decision-making process regarding the manner in which these determinations should be made. The rules proposed here reflect a unilaterally derived standard which is subject to further, unilateral, changes throughout the evaluation process. Furthermore, it is a matter of record that the FCC objects to the existing EMC determination process.^{6/}

^{4/} See Comments of the Staff of the Federal Communications Commission in FAA Docket No. 26305.

^{5/} Id., p.3.

^{6/} Id., p.7.

Thus, radio applicants and the Commission are confronted with the possibility that the FAA will expand its authority over the licensing of radio facilities, with no standards by which the FAA's actions may be reviewed. Prompt Commission action is therefore required to ensure that at least one element of the FAA review process; i.e., the avionic receiver; is subject to standardization.

The petitioner has identified "third order intermodulation" as one type of avionic interference for which standards should be developed. In the interest of air safety and greater FCC/FAA coordination, UTC urges the Commission to solicit comment on receiver standards for the rejection of other forms of interference. Even if the FAA abandons or otherwise limits the scope of its proposal to regulate EMI, the Commission should adopt receiver standards in order to fulfill its statutory mandate to "encourage the larger and more effective use of radio in the public interest."^{2/}

Conclusion

FAA involvement in the licensing process, as well as the need for greater efficiency in spectrum use, dictates that the Commission promptly act to set standards for

^{2/} 47 U.S.C. §303(g).

avionics. In addition, such standards would benefit the aviation community by improving the overall quality and reliability of these navigation aids.

WHEREFORE, THE PREMISES CONSIDERED, the Utilities Telecommunications Council supports the prompt initiation of a rulemaking proceeding looking toward the adoption of standards for aviation receivers used for navigation purposes.

Respectfully submitted,

**UTILITIES TELECOMMUNICATIONS
COUNCIL**

By:



Jeffrey L. Sheldon
Associate General Counsel

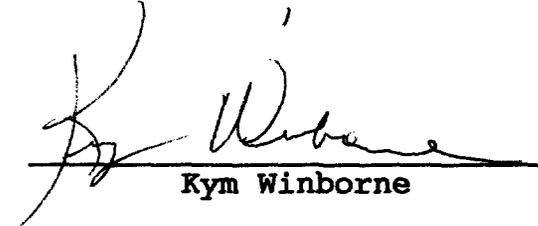
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Dated: March 11, 1991

Certificate of Service

I, Kym Winborne, a secretary with the Utilities Telecommunications Council, hereby certify that I have caused to be sent, this 11th day of March, 1991, by first class mail, postage prepaid, a copy of the foregoing "Comments of the Utilities Telecommunications Council" to the following:

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Kym Winborne