

With respect to the fixed/mobile dichotomy, it is UTC's opinion that this distinction is only relevant from a licensing standpoint and that there is no need to have separate offices within the Bureau for the development of policy or rules on fixed or mobile services.^{14/} Moreover, from a practical standpoint many mobile services cannot be considered apart from the need for fixed radio links to interconnect the system. Therefore, the proposed table of organization only provides for separate "Fixed" and "Mobile" Branches within the Licensing Division.

The new Bureau would be headed by a Chief, assisted by a Deputy Chief for Policy and Planning and an Assistant Bureau Chief for Management. For example, UTC envisions that the Deputy Chief for Policy and Planning would be responsible for balancing the competing demands of the "Commercial" and "Safety/Industrial Services" Divisions for spectrum allocations.

Although the Wireless Services Bureau would be primarily responsible for developing rules and policies for most non-broadcast radio services, certain related matters would remain vested in the Common Carrier Bureau. For example, review of tariffs, if any, filed by "commercial mobile service providers" or common carrier microwave operators, would be performed in the Common Carrier Bureau. Likewise, complaints brought under

^{14/} At present, for example, policies and rules for both private mobile and microwave are developed in the same branch within the Private Radio Bureau.

Section 208 would be resolved in the Common Carrier Bureau. This division of responsibility could also be beneficial if and when the issue of competition between landline and mobile services comes to the forefront.

UTC's proposed reorganization would appear to be consistent with the underlying goals of Commissioner Ervin Duggan's suggestion that the FCC consider the creation of a "Mobile Services Bureau."^{15/} However, by including both fixed and mobile radio services within the new bureau the FCC will achieve greater overall management efficiencies and will allow the Commission to take advantage of a trend that has already begun to take place among some radio services. For example, a convergence of regulations for fixed point-to-point microwave radio services can be seen in the FCC's recent adoption of regulations applying the same coordination and interference criteria for common carrier and private microwave licensees in the 4 GHz, 6 GHz, 10 GHz and 11 GHz bands.^{16/} Indeed, the Commission announced in that decision its intention to consolidate the rules for private and common carrier microwave.^{17/}

^{15/} Concurring Statement of Commissioner Ervin Duggan, NPRM 93-252.

^{16/} Second Report and Order (Second R&O) in ET Docket No. 92-9, 8 FCC Rcd 6495 (1993).

^{17/} Second R&O in ET Docket No. 92-9, 8 FCC Rcd 6520.

Finally, such a reorganization will streamline FCC policy, licensing and enforcement activities in a manner consistent with Vice President Albert Gore's call to "reinvent government." The Licensing Division of the Private Radio Bureau is already responsible for common carrier microwave licensing as well as other "non-private" services. It only makes sense for the Commission to carry through with further consolidations to more efficiently handle the regulations and licensing of non-broadcast radio services.

VII. CONCLUSION

In attempting to specify the definition of what constitutes a commercial mobile service the Commission should confine its focus to those services for which regulatory parity is needed and should not narrowly define private mobile services. Accordingly, the FCC should categorically exempt traditional private land mobile radio services in which licensees operate mobile radio systems solely for their own private, internal use. The FCC should also allow "non-commercial" private radio licensees to lease reserve capacity without being deemed to be acting on a for-profit basis for purposes of commercial mobile service classification, provided that at least 51% of the system is used to meet the licensee's own internal requirements.

"Interconnected service" should be interpreted as a service under which subscribers are provided with the ability to directly control access to the public switched network.

The FCC should make a distinction between "limited-eligibility" services that are available to a "substantial portion of the public" such as SMRs and private carrier paging services that have such broad eligibility service rules as to effectively allow them to provide service to almost anyone, and such services that have significant eligibility requirements that restrict service to small or specialized user groups.

The "functional equivalency" provision should be interpreted as an "escape valve" for classifying services as private even if they meet the literal definition of commercial mobile service. Issues of functional equivalency should be resolved on a case-by-case basis.

PCS should not be uniformly treated as a commercial mobile service, since there are many potential private, non-commercial applications of PCS that would constitute private mobile service under the Budget Act's statutory definition.

The FCC should undertake a reorganization of its Private Radio Bureau into a new "Wireless Services Bureau" that would be charged with greater responsibility for developing policy for most non-broadcast radio services. Such a reorganization will be necessary to effectively carry out the provisions of the Budget Act, and will streamline FCC policy, licensing and enforcement activities.

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

Respectfully submitted,

**UTILITIES TELECOMMUNICATIONS
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APPENDIX A

**TABLE DEPICTING REORGANIZATION OF FCC'S
PRIVATE RADIO BUREAU INTO "WIRELESS SERVICES BUREAU"**

**REORGANIZATION OF PORTIONS OF THE FCC'S COMMON CARRIER BUREAU AND PRIVATE RADIO BUREAU
INTO WIRELESS SERVICES BUREAU**

CURRENT FCC TABLE OF ORGANIZATION^{1/}

COMMON CARRIER BUREAU

Enforcement Division
Domestic Facilities Division
 Domestic Radio Branch
 Domestic Services Branch
 Satellite Radio Branch
Tariff Division
Mobile Services Division
 Legal Branch
 Public Mobile Radio Branch
 Cellular Radio Branch
 Public Reference/Information Branch
Accounting and Audits Division
Industry Analysis Division
Policy/Program Planning Division
Asst. Bureau Chief/International
International Facilities Division
International Policy Division

PRIVATE RADIO BUREAU

Land Mobile and Microwave Division
 Rules Branch
 Compliance Branch
 Policy and Planning Branch
Licensing Division
 Land Mobile Branch
 Special Services Branch
 Microwave Branch
 Data Services Branch
 Support Services Branch
 Consumer Assistance Branch
 Fee and Mail Branch
Special Services Division
 Personal Radio Branch
 Aviation and Marine Branch
 International Staff

PROPOSED FCC TABLE OF ORGANIZATION

COMMON CARRIER BUREAU

Enforcement Division
Domestic Facilities Division
 Domestic Services Branch
Tariff Division
Accounting and Audits Division
Industry Analysis Division
Policy/Program Planning Division
Asst. Bureau Chief/International
International Facilities Division
International Policy Division

WIRELESS SERVICES BUREAU

Chief^{2/}
Deputy Chief Policy and Planning
Assistant Bureau Chief for Management
Commercial Services Division^{3/}
 Legal Branch
 Engineering Branch
 Policy and Planning Branch
Safety/Industrial Services Division
 Legal Branch
 Engineering Branch
 Policy and Planning Branch
 Personal Radio Branch
 Aviation and Marine Branch
Licensing Division
 Fixed Services Branch
 Mobile Services Branch
 Special Services Branch
 Data Services Branch
 Support Services Branch
 Consumer Assistance Branch
 Fee and Mail Branch
Enforcement Division

^{1/} The table is abridged to highlight only those bureaus/divisions that would be impacted by the proposed reorganization. All other bureaus and divisions would remain as they currently exist.

^{2/} The International staff would be an office within the Office of Bureau Chief.

^{3/} Tariff filings, if any, required of Commercial Service Providers would continue to be filed with the Tariff Division of the Common Carrier Bureau.

CERTIFICATE OF SERVICE

I, Kim Winborne, a secretary with the Utilities Telecommunications Council, hereby certify that a copy of the foregoing comments was hand delivered, this 8th day of November, 1993, to each of the following:

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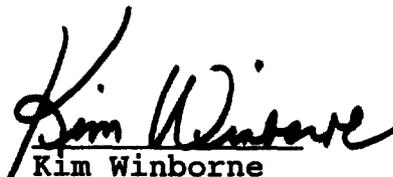
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