UTILITIES TELECOMMUNICATIONS COUNCIL

Interest: National representative on communications matters for the nation's electric, gas, water and steam utilities, and natural gas pipelines. (1)

Is further forbearance warranted:

- UTC urges the Commission to impose as few Title II provisions as possible on CMRS providers. (3)

Definition of "small":

- UTC opposes income and net worth standards to determine whether an entity is entitled to relief from Title II obligations, unless the standard separates the CMRS provider from an affiliated non-communications organization. (3)

- UTC supports measurement factors based on objective factors indicating relative size of commercial communications being offered, such as average revenues per CMRS subscriber or percentage of interconnected traffic being carried by a licensee on a CMRS basis. (4)

WATERWAY COMMUNICATIONS SYSTEM, INC.

Interest: Automated Maritime Telecommunications System licensee. Provides telecommunication service to the maritime industry operating along the inland waterway transportation network.

Is further forbearance warranted:

- Urges the Commission to forebear from Title II regulation for Automated Maritime Telecommunications Service providers with regard to Section 226 of the Act, which implements TOCSIA. (2)

- Believes that enforcement of Section 226 is not necessary to assure charges, practices, classifications or regulations are just, reasonable and non-discriminatory and is not necessary for consumer protection. (4)

  -- Argues that passenger use of the WATERCOM system is estimated to account for less than 1% of calls through the WATERCOM system. (4)

  -- Asserts that the OSP environment addressed in TOCSIA and described in the Commission's notice is far different from the maritime (and general mobile) environment. (5)

  -- Points out that WATERCOM is a facilities-based carrier that provides the essential service link between vessel and shore. To the extent that WATERCOM is deemed to provide an OSP function to the itinerant user, it does so in order to recover charges for the radiolink service. (5)

  -- Argues that WATERCOM'S telephones are clearly identified, either on the telephone unit or on the instruction care in the staterooms of cruise ships and that the rates are stated, and in any event are available from the WATERCOM operator. WATERCOM's schedule of charges provides alternative rates for connection to a landline 800- number, from which a customer can reach his IXC of choice, and for end-to-end service. (6)

  -- States that enforcing TOCSIA against Automated Maritime Telecommunications Service providers would be the epitome of futility from the perspective of

insuring charges, practices, classifications and regulations are just, reasonable and non-discriminatory. (6)

-- Asserts that having only one element of a through-service tariffed is wholly meaningless and affords the Commission no opportunity for oversight of rates and practices. (7)

- Maintains that WATERCOM is subject to effective constraints assuring that its rates and charges are reasonable. (7)

  -- WATERCOM's rates and rate structure must be maintained at a reasonable level in order to satisfy the maritime operating industry which comprises 99% of WATERCOM's volume of traffic. (7)

  -- If WATERCOM's rates were unreasonable, the cruise and other vessel operators would receive customer complaints. Therefore, WATERCOM must be sensitive to assure that it does not create ill will for its host vessel operators. (7-8)

  -- Argues that the marketplace serves as an efficient regulator of rates and practices; and Commission regulation is appropriate only where the marketplace does not constrain service providers. (8)

- Believes that the cost of TOCSIA compliance cannot be recouped and that the enforcement of TOCSIA would require WATERCOM to abandon its public access service. (8)

  -- The retrofitting costs far surpass the marginal incremental revenues earned from serving this category of user. (8)

  -- Increasing rates for this service to cover TOCSIA costs would not be acceptable in the marketplace nor consonant with the public interest. (8-9)

WJG MARITEL CORPORATION

Interest: Provider of public coast station services.

Is further forbearance warranted:

- Asserts that further forbearance of Title II provisions for the public coast station industry is warranted and just in view of past restrictive regulation and its damaging effect on the industry. (4)

- Argues that because of the forbearance of Title II provisions achieved in the earlier rulemaking and further modification to the Commission's operational and technical rules, public coast stations may re-gain some lost ground and once again flourish. (4)

- Believes that the unique and specialized nature of public coast service warrants further forbearance of the TRS provisions. (7)

- Suggests that contracting TRS services through a state-certified program is cost prohibitive. (7)

- Notes that unlike other CMRS providers, hearing or speech impaired mariners who may wish to communicate to a party on land, specifically to convey distress or emergency, have other adequate means to communicate. (8)

- Asserts that because public coast station service is initiated from a VHF marine radio, not provided by, or owned and controlled by, a public coast station licensee, public coast stations are not "aggregators" under the meaning of TOCSIA provisions. Therefore, TOCSIA provisions do not apply to public coast stations. (9)

Definition of "small":

- Requests the Commission to find that, as a class, public coast stations are "small" CMRS providers, and to forebear from applying Title II regulation to the maximum extent possible. (5)

- In the alternative, suggests that the Commission adopt a variation of its proposal to review CMRS providers for eligibility for forbearance by numbers of channels. (5)

-- Specifically asserts that rather than using an analysis based strictly on the number of channels, the Commission should grant further forbearance to services based on the percentage of spectrum the class of service has been allotted in the market. (5)

-- Believes that the number of channels a service controls will directly correspond to its ability to control the market. (5)

-- Argues that further forbearance should apply when a CMRS provider controls less than 25% of the total spectrum. (5)

-- Maintains that this proposal is similar to the Commission's policies on dominant and non-dominant common carriers. In that context, the Commission forbears or adjusts the application of some Title II provisions to carriers that "lack the market power necessary to sustain prices either unreasonably above or below costs." (6)