UTC
The Telecommunications Association

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March 15, 1996

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Ex Parte

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, N.W.
Washington, D.C. 20554

Re: Microwave Relocation Cost-Sharing, WT Docket No. 95-157
Private Land Mobile Spectrum Refarming, PR Docket No. 92-235

Dear Mr. Caton:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this is to notify you that Thomas E. Goode and Jeffrey L. Sheldon of UTC met today with Michele Farquhar, Ralph Haller, Robert McNamara and D'Wana Speight of the Wireless Telecommunications Bureau.

At this meeting, UTC's position on the Further Notice of Proposed Rulemaking in PR Docket No. 92-235 and the consolidation of the private radio pools was discussed. Attached is a chart describing the three consolidated radio service pools recommended by UTC: emergency response, public services, and business/commercial. UTC also described its position regarding the resale of services and exclusivity proposals as noted on the attached chart, as well as UTC's opposition to the use of auctions and user fees in the private land mobile bands.

UTC also discussed its reactions to the March 1, 1996, letter to Reed Hundt filed by the Cellular Telecommunications Industry Association (CTIA). UTC noted that the CTIA letter mischaracterizes the status of negotiations and misrepresents the facts of the specific negotiations listed. UTC further noted that the CTIA letter illustrates some of the reasons underlying the incumbent community's concern over some of the rules proposed in the FCC's pending *Notice of Proposed Rulemaking* in WT Docket No. 95-157. In particular, UTC is concerned that, if the proposed presumption of bad faith for refusing to accept a relocation offer is adopted, the PCS industry will continue to threaten the incumbents to either accept initial offers without negotiation or discussion or be accused of being a bad actor or "extortionist." CTIA's letter and the attached materials demonstrate that even good faith negotiations during the voluntary period are not sufficient to prevent baseless allegations of "extortion" by the PCS industry.

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Attached are the summary results of a survey UTC conducted of incumbents affected by the Block A and B licensees which was also discussed at the meeting. UTC noted that these results provide a more accurate picture of the status of negotiations, and demonstrate that negotiations are occurring and that deals are being concluded.

During the meeting, Michele Farquhar requested that we provide her with any examples of how UTC has encouraged the parties to negotiate. I have attached a copy of correspondence sent to Ms. Farquhar today on this matter. The correspondence includes an article that UTC published in the December issue of its newsletter, *Reports On*, urging incumbents to act equitably in 2 GHz negotiations.

An original and one copy of this notice are being filed for inclusion in the above-referenced docket.

Should any questions arise concerning this matter, please contact undersigned counsel.

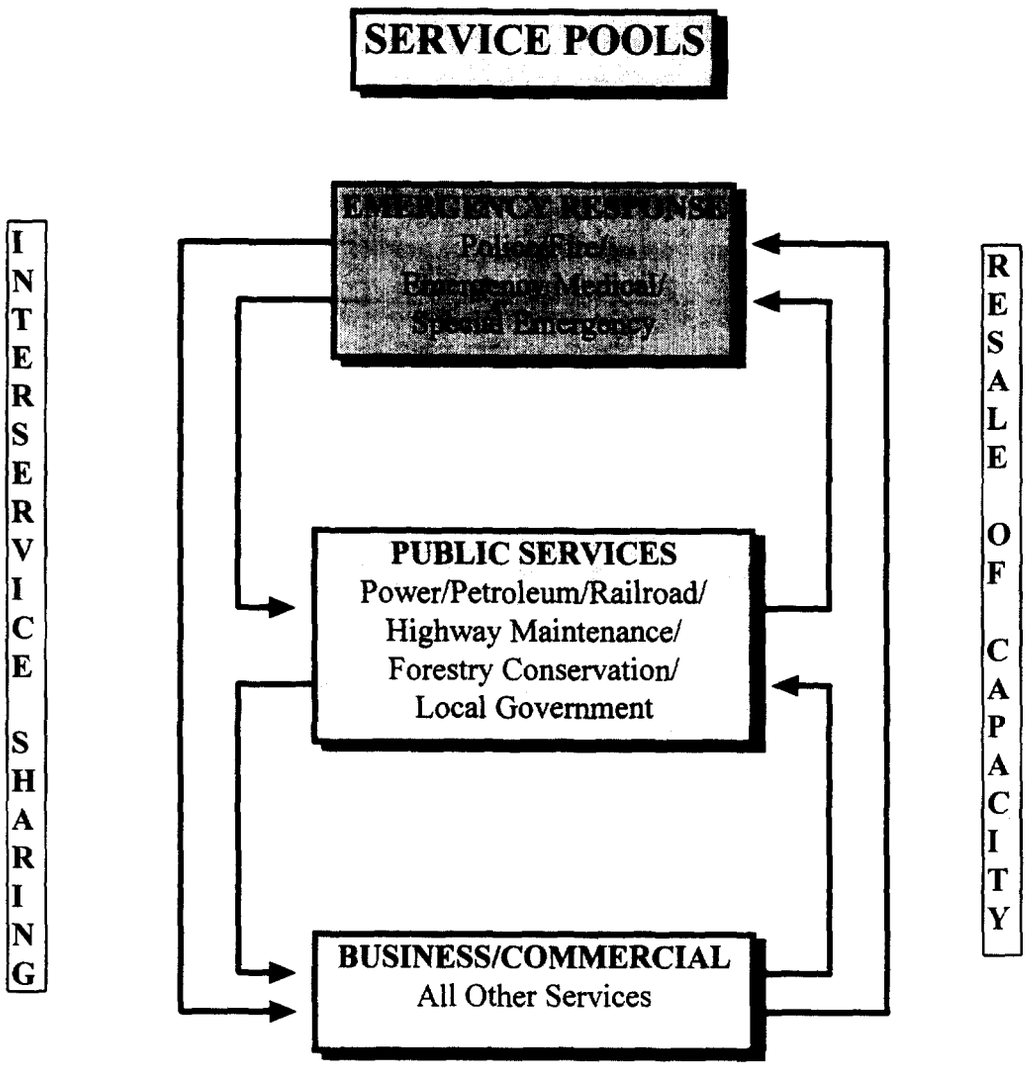
Very truly yours,

Thomas E. Goode
Staff Attorney

Attachments

cc: Michele Farquhar, Chief, FCC Wireless Telecommunications Bureau
Ralph Haller, Deputy Chief, FCC Wireless Telecommunications Bureau
Robert McNamara, Chief, Private Wireless Division, FCC Wireless Telecommunications Bureau
D'Wana Speight, Legal Advisor, FCC Wireless Telecommunications Bureau

UTC SERVICE CONSOLIDATION CHART



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UTC SURVEY OF MICROWAVE INCUMBENTS REVEALS INCUMBENTS ARE NEGOTIATING; DEALS ARE BEING REACHED

In an effort to determine the status of negotiations between microwave incumbents and PCS licensees, UTC, The Telecommunications Association, conducted a survey of all incumbents licensed in the bands affected by the Block A and B PCS licensees. The survey instrument queried incumbents as to whether they operate paths: (1) subject to completed relocation agreements; (2) for which relocation negotiations are underway; and (3) for which they have not been contacted. The survey also inquired as to the number of paths associated with each of these responses, and whether the incumbent has refused to negotiate or withdrawn from negotiations.

Over 400 surveys were mailed to incumbents during early February 1996 and 103 responses, representing incumbents with nearly 1300 paths, were received. The results of the survey were suprising:

- 32% of respondents have entered into relocation agreements with PCS licensees regarding a portion of their microwave paths;
- in less than one year after the voluntary negotiation period began, 19% of respondent microwave paths are subject to a relocation agreement;
- 64% of the respondents are currently in negotiations;
- 42% of respondent paths are the subject of current negotiations;
- 51% of respondents have not been contacted regarding a portion of their microwave paths;
- of those that have been contacted regarding all of their microwave paths, 32% have completed relocation agreements and 62% are currently in negotiations;
- the respondents that have concluded agreements or are currently negotiating with the PCS licensees operate approximately 786 paths, or 60% of the total respondent microwave paths affected by the Block A and B licenses;
- only one respondent has withdrawn from negotiations due to the intractable position of the PCS licensee in its area.

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The survey results offer a stark contrast to the image of negotiations being painted the PCS industry.

- While one PCS association is claiming that the process is not working, the results clearly indicate that it is -- 60% of microwave paths affected by the Block A and B licenses are the subject of either current negotiations or of successfully concluded relocation agreements.
- The PCS association implies that the incumbents are delaying the deployment of PCS, yet the survey results reveal that deployment is not being delayed by refusals to negotiate on the part of incumbents but by the failure of PCS licensees to begin negotiations -- none of the respondents have refused to negotiate with PCS licensees (though one has delayed negotiations to better prepare technical information), yet over half the respondents have not been contacted regarding some or all of their Block A and B paths.
- The PCS association claims that incumbents are taking advantage of the current negotiation period by refusing to negotiate, yet not a single survey respondent indicated that it has refused to negotiate with PCS licensees even during this voluntary negotiation period. The single respondent that did delay negotiations did so simply to provide additional time to analyze its technical requirements.

The survey results offer an objective view of the true status of negotiations. Unlike the inaccurate statements based on exaggerated figures and half-truths that have been spread by one PCS association, the results of the survey demonstrate that the current rules are working and agreements are being reached.