

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

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In the Matter of)
)
Amendment of Section 2.106 of the) ET Docket 95-18
Commission's Rules to Allocate)
Spectrum at 2 GHz for Use by) RM-7927
the Mobile Satellite Service)

To: The Commission

Comments of UTC

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UTC, The Telecommunications Association (UTC), hereby submits its comments on Comsat Corporation's (Comsat) "Supplemental Comments" in the above-captioned proceeding to allocate the 1990-2025 MHz and 2165-2200 MHz bands for Mobile Satellite Service (MSS).¹ Comsat claims in its Supplemental Comments that recent actions by the 1995 World Radiocommunications Conference (WRC-95) indicate that MSS and fixed point-to-point microwave services (FS) can and should share the 2 GHz band. Comsat also proposes that the FCC abandon the current 2 GHz relocation rules to require FS licensees to bear the costs of relocating from the 2 GHz band. As explained below, UTC strongly opposes Comsat's proposals.

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¹ Filed March 14, 1996, in ET Docket No. 95-18. On April 17, 1996, the FCC issued a *Public Notice*, DA 96-577, soliciting comments on Comsat's Supplemental Comments.

UTC's involvement in this proceeding has been extensive. UTC has participated in all stages of the current proceeding, as well as in the underlying proceeding regarding the more general issue of the reallocation of the 2 GHz band for emerging technology services.² As the trade association representing the communications interests of the nation's electric, gas, and water utilities, and natural gas pipelines, UTC has noted the need to protect microwave incumbents, many of which are UTC's members, in the transition of the 2 GHz band from FS to emerging technology services. UTC does not express an opinion as to the desirability of reallocating a portion of the 2 GHz band for MSS. UTC's only interest is in ensuring that the incumbent systems are protected, regardless of which emerging technology service is licensed.

UTC strongly objects to the proposals made by Comsat which threaten the relocation framework established for emerging technology licensees in ET Docket No. 92-9. In its Supplemental Comments, Comsat requests that the Commission abandon the fundamental principles of the emerging technology transition rules and instead allow MSS to obtain shared access to the 2110-2200 MHz band (upper 2 GHz band) until 2005, at which point MSS would obtain exclusive use of the spectrum on a primary basis. Under this proposal, the cost and responsibility for relocating incumbent microwave systems to comparable facilities would be borne completely by the incumbent microwave licensees.

² *Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies*, ET Docket No. 92-9.

I. FCC Must Not Deviate From Previously-Established Transition Rules

The existing transition rules for the 2 GHz band were developed after a lengthy public proceeding in which all parties, including the MSS industry, had an opportunity to participate. The rules were adopted to balance two objectives: (1) the promotion of "emerging technologies;" and (2) the protection of incumbent licensees' vital communications systems.³ The carefully-crafted rules accomplish these objectives by permitting emerging technology licensees to negotiate the relocation of incumbent FS operations and by requiring that, in the end, the incumbent systems may be forced off the spectrum. In exchange for the right to relocate incumbents from the spectrum and begin operations, the emerging technology licensees must make the incumbent FS licensees "whole" both operationally and financially by: (1) providing the incumbent with comparable replacement facilities; and (2) paying all relocation expenses.

The Commission has recognized in its recommendations in this proceeding that the emerging technology transition rules encompass the 2110-2200 MHz portion of the 2 GHz band (upper 2 GHz band), and are intended to apply to MSS operators seeking to occupy this spectrum. The FCC confirmed its intention to apply the same basic transition rules to the upper 2 GHz band just recently in its *Report and Order* regarding PCS cost-sharing.⁴

³ *First Report and Order and Third Notice of Proposed Rulemaking*, ET Docket No. 92-9, 7 FCC Rcd 6886 (1992).

⁴ *First Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 95-157, ¶92 (adopted April 25, 1996). The FCC noted that "the microwave relocation rules already apply to all emerging technology services."

Even Comsat cites the FCC's decisions regarding the existing transition rules in ET Docket No. 92-9 as the source for the underlying goals of the relocation, though Comsat argues that the rules specifically promulgated to accomplish these goals somehow do not apply to MSS spectrum.⁵ UTC urges the FCC not to abandon these rules at this late date based on Comsat's speculations regarding sharing.

UTC will not waste the FCC's time by restating its objections to the MSS industry's proposals to force microwave incumbents to bear the costs of relocating their systems. UTC and numerous other parties have addressed this issue in detail in their comments to the *NPRM*.⁶ Comsat has provided no new information on why it is more equitable for utilities, pipelines and other public service/public safety entities operating in the 2 GHz band to bear the costs of relocation -- a cost which will undoubtedly find its way down to all ratepayers and taxpayers -- than for this cost to be borne by the commercial MSS licensees.

II. Comsat Has Provided No Information To Prove That Sharing Between MSS And FS In The U.S. Is Feasible

Comsat provides no new compelling information to justify changes to the relocation rules or to prove that sharing between MSS and FS operations in the U.S. is possible. Instead, Comsat attempts to argue that the results of the 1995 World

⁵ Reply of Comsat Corporation to Motorola and UTC (Comsat Reply), ET Docket No. 95-18, filed April 11, 1996, p. 9.

⁶ See, e.g., Comments/Reply Comments of UTC, the Association of Public-Safety Officials-International, Inc. (APCO), the Association of American Railroads (AAR), and the American Petroleum Institute (API).

Radiocommunications Conference (WRC-95) compel the adoption of its revised transition plan. However, as UTC noted in its opposition to Comsat's motion, an examination of the Final Acts reveals that WRC-95 did not specify how or if MSS and FS can share the 2 GHz band in the U.S. Instead, WRC-95 merely adopted general principles aimed at facilitating the development of MSS in the 2 GHz band worldwide.

To support its claims regarding the feasibility of sharing, Comsat mischaracterizes the Final Acts of WRC-95 as specifying the process for coordinating MSS and FS operations at 2 GHz. The Final Acts in no way specify the process for coordinating or sharing spectrum between fixed microwave and MSS. At most, Resolution Com5-10 references unnamed theoretical studies concerning the feasibility of sharing during the short term. Importantly, Resolution Com5-10 goes on to state that "in the long term sharing will be complex and difficult in both bands..."

API agrees with UTC that Comsat mischaracterizes the conclusions of WRC-95. API notes that Comsat "apparently overlooks three vital documents ... [which] clearly explain that additional studies are 'urgently' needed to resolve the question of the feasibility of sharing between MSS and FS ..." ⁷ API correctly notes that, contrary to Comsat's assertions, WRC-95 actually calls upon the international community to study this complex issue and submit studies to WRC-97. ⁸

⁷ Response of the American Petroleum Institute to Supplemental Comments of Comsat Corporation (API Response) ET Docket No. 95-18, filed April 5, 1996, p. 5.

⁸ API Response, p. 5.

Comsat's reply to UTC's comments on this issue tries to downplay the significance of the WRC-95 recognition of the need for further study of this issue, claiming that the Final Acts support its conclusions and provide a "framework to coordinate MSS downlinks with terrestrial fixed microwave under a gradual transition plan."⁹ However, Comsat does not provide any details regarding how MSS and FS can share the 2 GHz band nor does Comsat provide a reference to these details in the WRC-95 documents. Comsat also fails to point to any reference to the feasibility of MSS and FS sharing in the United States, which has one of the most heavily-congested microwave bands in the world. Comsat appears to ignore the international plea for additional studies on this issue, and the particular need for studies on sharing in the U.S. The FCC cannot.

In its Reply Comments, Comsat claims to have "previously demonstrated in the record of this proceeding that it is feasible to share for MSS to share the downlink band at 2165-2200 MHz with existing fixed microwave systems for an extended period of time."¹⁰ However, UTC has yet to uncover any studies by Comsat or other MSS proponents which conclusively demonstrate that MSS and FS can coexist in the U.S. API agrees, noting in its response to the Comsat's comments that it has "not seen a single study by COMSAT, or any other party, which shows that sharing is, in fact, feasible between Comsat's proposed

⁹ Comsat Reply, p. 7.

¹⁰ Comsat Reply, p. 7.

system and FS user in the 2.1 GHz band."¹¹ In fact, as UTC noted previously, some studies may indicate that MSS would interfere with FS operations.¹²

WRC-95's acknowledgment of the need for additional study on MSS and FS sharing should not be interpreted as anything but a request for further information, not (as Comsat would have it) as a means to justify a foregone conclusion that such sharing is feasible. The feasibility of sharing is especially tenuous in the U.S. where numerous FS licensees exist in the upper 2 GHz band and where MSS operations are likely to quickly flourish. Therefore, sharing studies must focus on the unique operational aspects of FS and MSS systems in the U.S.

UTC strongly urges that, prior to the adoption of any rules allowing shared use of the 2 GHz band between FS and MSS, interference and coordination standards be established through an appropriate body such as the Telecommunications Industry Association (TIA).¹³ At a recent meeting between FS and MSS representatives, it was agreed that TIA's microwave section would be the appropriate forum to discuss these standards, and that, should sharing prove feasible, the standards could be incorporated into TIA's Bulletin 10-G.

¹¹ API Response, pp. 6-7.

¹² UTC Reply Comments, ET Docket No. 95-18, filed June 21, 1995, p. 9.

¹³ UTC understands that TIA will file separate comments on this issue. In recognition of TIA's vital role in establishing standards for PCS-to-microwave interference, the FCC should take careful note of TIA's recommendations regarding the feasibility of MSS and FS sharing.

Finally, UTC notes that, even if sharing were possible, it would at best be a short term solution.¹⁴ Therefore, the FCC's rules will have to provide an equitable transition of incumbent systems out of the upper 2 GHz bands. The FCC has established this framework in the existing rules and Comsat has provided no basis to justify a radical departure from these rules or to require incumbents to bear the costs of the relocation. The FCC should apply the safeguards in its existing rules to the MSS and other emerging technology bands.

III. Conclusion

The Commission must reject the proposal by Comsat to abandon the established 2 GHz transition framework for the upper 2 GHz bands as established in Et Docket No. 92-9. Comsat's proposal is based on speculation regarding the feasibility of sharing between MSS and FS licensees in the U.S. and on a mischaracterization of the activities of WRC-95. The FCC cannot jeopardize the important communications carried by utilities, pipelines, and other public safety/public service providers on their 2 GHz microwave systems based on such speculation. Instead, the FCC should permit the parties to develop mutually-acceptable studies and standards on MSS/FS sharing while retaining the relocation framework established in ET Docket No. 92-9.

¹⁴ See WRC-95 Resolution Com5-10.

WHEREFORE, THE PREMISES CONSIDERED, UTC requests the Federal Communications Commission to take action in accordance with the views expressed above.

Respectfully submitted,

UTC

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Dated: May 17, 1996

CERTIFICATE OF SERVICE

I, Thomas E. Goode, hereby certify that I have caused to be sent, this 17th day of May, 1996, by first class mail, postage prepaid, copies of the foregoing to the following:

Nancy J. Thompson
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A handwritten signature in black ink, appearing to read 'T. Goode', written over a horizontal line.