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

RECEIVED

MAY 1 1997

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of	)	
	)	
Amendment of the Commission's Rules Regarding Multiple Address Systems	)	WT Docket No. 97-81
	)	

COMMENTS OF ITRON, INC.

DOCKET FILE COPY ORIGINAL

Itron, Inc. ("Itron") submits these comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-referenced proceeding.[1] Itron is the world leader in RF-based automatic meter reading systems used by gas, electric, and water utility companies. To date, more than eight million meter reading devices have been placed into operation. Itron's mobile meter reading units transmit wake-up signals to utility meter radios using a low frequency AM tone on a carrier in the 952/956 MHz Multiple Address System ("MAS") band. Itron also manufactures meter reading systems that operate in a fixed network configuration, using 952/956 MHz and other frequencies. Consequently, any changes to the Commission's rules regarding the licensing or use of the MAS frequencies are of critical importance to Itron.

DISCUSSION

In The NPRM, the Commission seeks comment on: (1) whether the various spectrum bands allocated for MAS will, or should, be used to provide "subscriber-based" services; (2) whether the Commission should license MAS services on the basis of geographic regions rather than site-by-site and, if so, whether incumbent licensees should be grandfathered; (3) whether the Commission should allow a greater range of operational flexibility to MAS licensees; and (4) whether MAS authorizations should be licensed by means of competitive bidding.

The ways in which the Commission resolves these issues may have a significant impact on the continued use of MAS frequencies for important services such as the remote mobile meter reading services provided by Itron equipment. To preserve and protect the full complement of these services, Itron urges the

[1] On April 18, 1997, the time for filing initial comments in this proceeding was extended through May 1, 1997. Order, DA 97-839.

Commission to continue to allow licensees in the "928/952/956 MHz" MAS bands to provide meter reading services on a private carrier basis and to continue to use site-specific licensing or, at minimum, to grandfather incumbent licensees under the current rules. Further, to maximize service efficiency, the Commission should license the 952/956 MHz MAS band only for traditional MAS fixed services and mobile master services, such as those used for mobile meter reading, which the Commission already has determined are appropriate and valuable uses for this spectrum. Moreover, the Commission should permit mobile meter reading on an ancillary basis when a fixed meter reading network is in place. Finally, because services will be provided principally on a non-subscription private basis, pursuant to site-specific authorizations, spectrum in the 952-956 MHz MAS frequencies should not be auctioned.

I. The 928/952/956 MHz MAS Bands Should Continue To Be Available For Private And Private Carrier Uses.

In the NPRM, the Commission recognizes that the 1.7 MHz of paired spectrum in the 928-928.85 and 952-952.85 MHz bands and the 200 kHz of unpaired spectrum in the 956.25-956.45 MHz band is allocated for, and used primarily by, private radio licensees.[2] According to the Commission's estimates, approximately 70% of this use is by "private systems to satisfy internal communications needs" and about 30% is used to provide service to third parties on a private carrier basis.[3]

Consequently, in contrast to its conclusion with respect to the other MAS bands, the Commission has tentatively concluded that subscriber-based services would not be appropriate for, and should not be permitted in, the 928/952/956 MHz bands.[4] Curiously, the Commission dismisses the approximately 30% of the licensees in these bands that by the Commission's own estimate are using the frequencies to provide important public interest services on a private carrier basis.[5] To avoid imposing undue hardship on licensees already providing private carrier

---

[2] NPRM ¶ 12.
[3] Id.
[4] Id. ¶ 13.
[5] Id.

services in these bands, however, the Commission has proposed grandfathering existing private carrier services currently being provided in these bands.[6]

Itron urges the Commission to continue permitting private carriers to provide meter reading services in the 928/952/956 MHz bands. As the Commission previously has found, the use of these bands for meter reading services "benefit[s] consumers by reducing billing problems, increasing the accuracy of meter readings and, ultimately, lowering utility bills."[7] Although the vast majority of meter reading in the bands at present is conducted by utilities on a private basis, it is becoming increasingly common for utilities to "outsource" their meter reading functions to third parties. Itron expects this trend to accelerate as states permit more extensive competition in the electric power industry. Depending on the nature of the arrangement, a contractor providing meter reading services on an outsourcing basis may establish its own private network or, alternatively, may serve as a private carrier.

By limiting the ability of utilities to outsource their meter reading, the Commission's proposal to ban private carriage in the 928/952/956 MHz bands could have unanticipated negative consequences. Denying utilities a full range of options for satisfying their meter reading requirements may artificially restrict competition and prevent utilities from serving their customers with maximum efficiency. Accordingly, the Commission should continue to allow private carriage for meter reading services, which have proven to be an extremely successful and efficient use of the MAS spectrum. In any event, the Commission should, if it decides to restrict these bands for private, internal communications services, grandfather the operations of incumbent private carrier licensees.

II. Site-specific Licensing Should Remain An Option For Licensees In The 952-956 MHz MAS Bands.

In the NPRM, the Commission has proposed using geographic area licensing for any MAS bands for which the principal use will involve, or is likely to involve,

---

[6] Id.

[7] In re Amendment of Sections 22.501(g)(2) and 94.65(a)(1) of the Rules and Regulations to Re-Channel the 900 MHz Multiple Address Frequencies, 3 FCC Rcd 1564 (1988).

subscriber-based services.[8] As noted above, the 928/952/956 MHz MAS bands are used principally for services that are not subscriber-based services. Consequently, Itron supports the suggestion in the NPRM that the Commission continue to award MAS licenses in these bands on a site-by-site basis. Site-specific licensing allows a user or private carrier to obtain spectrum tailored for their needs. Geographic licensing, on the other hand, may be more efficient for the providers of publicly-available, subscriber-based services, but results in inefficient resource and spectrum allocation when the frequencies will be used only in more limited areas.

Moreover, because MAS licenses in many markets already have been licensed on a site-specific basis, and because site-specific licensing can facilitate tailored private carriage service offerings, the Commission should continue to make some channels available on a site-specific basis in these bands even if it concludes that geographic licensing would generally prove to be beneficial. For instance, of the sixteen 12.5 kHz channels now available in the 956 MHz MAS band, the Commission could reserve 75% (twelve channels) for site-specific licensing and 25% (four channels) for geographic area licensing. In this way, service providers contemplating broader- based services could acquire adequate spectrum in a cost effective and efficient manner, while service providers seeking to target a particular customer or market niche could do so without obtaining unnecessary spectrum.

Finally, whether or not the Commission adopts a geographic licensing approach generally in these bands, it should, to minimize the deleterious effect of this change on existing users of the bands, affirm its tentative conclusion that incumbent MAS licensees should be allowed to continue operating under their current site-specific authorizations.[9] Requiring existing licensees to obtain geographic area licenses in order to continue operations would impose a significant hardship without any attendant public interest benefit.

---

[8] NPRM ¶ 14.
[9] See NPRM ¶ 19.

III. The Commission Should Preserve The 928/952/956 MHz MAS Bands For Traditional Private And Private Carriage Communications Services.

The Commission has concluded tentatively that providing MAS licensees additional operational flexibility would broaden the array of services offered by these licensees and thus benefit the public through increased competition in telecommunications services.[10] Itron disagrees insofar as the 928/952/956 MHz MAS bands are concerned. To the contrary, although there is a wide range of spectrum available for general subscriber-based telecommunications services, there is a shortage of spectrum available for traditional MAS services.[11] Indeed, due to the scarcity and congestion of MAS frequencies, the FCC in 1989 allocated the 932-932.5 MHz and 941-941.5 MHz bands for MAS services.[12] For administrative reasons, licenses in these new MAS bands have yet to be granted and, today, the scarcity of MAS spectrum is even more pronounced than it was eight years ago when this additional one megahertz was allocated for MAS services.

Consequently, the Commission should not, in this proceeding, further dilute the comparatively thin slice of spectrum that is available for traditional MAS fixed and mobile master services. The Commission has determined that the use of the 928/952/956 MHz MAS frequencies for these services is an appropriate and valuable use of this spectrum. If the Commission were to open these bands for a "broader array of services," it would signal a retreat from this determination and threaten the continued use of these bands for these services. Thus, this limited spectrum should be preserved for fixed and mobile master MAS users.

There is, however, one circumstance in which providing additional operational flexibility would be highly beneficial. Traditionally, meter reading in the MAS bands has employed mobile master stations. As technology and customer requirements evolved, however, fixed systems have become increasingly common,

---

[10] See NPRM ¶ 42.

[11] See Amendment of Parts 1, 21, 22, 74, and 94 of the Commission's Rules to Establish Service and Technical Rules for Government and Non-Government Fixed Service Usage of the Frequency Bands 932-935 MHz and 941-944 MHz, 4 FCC Rcd 2012 (1989) (MAS frequencies are "becoming saturated"); Matter of Amendment of Rules to Eliminate Grandfathering Provisions Applicable to Licensees on MAS Frequencies, 5 FCC Rcd 3079 (1990) (demand for MAS spectrum rising dramatically).

[12] See Amendment of Parts 1, 21, 22, 74, and 94 of the Commission's Rules, 4 FCC Rcd at 2013.

and licensees are needing to conduct both fixed and mobile meter reading operations in the same market. Under present licensing policies, licensees need two separate MAS licenses — one fixed and one mobile — in these circumstances. Itron recommends that the Commission liberalize its procedures by permitting mobile meter reading on an ancillary basis when a fixed meter reading network is in place. Adopting this measure would give licensees additional flexibility and would reduce demands on the Commission's scarce resources.

IV. The Commission Should Not Use Competitive Bidding Procedures To Award Licenses In The 928/952/956 MHz MAS Bands.

For all of the reasons set forth above, Itron urges the Commission to continue to allow for the use of the 928/952/956 MHz MAS bands for private and private carrier services licensed on a site-specific basis. As a result, Itron opposes any suggestion that the Commission use competitive bidding procedures to award licenses in these bands.

To begin with, to the extent that licensees in these bands principally will use authorized spectrum for internal communications needs, a fundamental prerequisite of the Commission's auction authority is not satisfied. Section 309 of the Communications Act permits the Commission to use competitive bidding only when the principal use of the spectrum will involve the "receipt by the licensee of compensation from subscribers in return for enabling those subscribers to receive or transmit communications signals utilizing the licensed frequencies."[13]

Further, even where licensees will use authorized spectrum to provide private carrier services, they likely will, if the Commission continues to permit it, apply for licenses in these frequencies on a site-specific basis. Since private-carriage mobile master MAS services are provided only to a narrow class of customers, *i.e.*, utilities, and since site-specific licenses can be processed on a first-come, first-served basis, it is extremely unlikely that more than one entity will apply for the same authorization at the same time (*i.e.*, mutual exclusivity will rarely, if ever, occur). The Commission's experience with processing applications in these bands to date

[13] NPRM ¶ 47 (citing 47 U.S.C. § 309(j)).

supports this conclusion. Thus, a second prerequisite for competitive biding is lacking.

In short, competitive bidding simply is incompatible with the essentially private services that are, and should continue to be, the principal use of the 928/952/956 MHz MAS bands. The imposition of a competitive bidding overlay as an assignment mechanism in this service will discourage the efficient use of the spectrum and deny important public interest services to the public.

CONCLUSION

For the reasons set forth above, Itron urges the Commission to: (1) continue to allow licensees in the 928/952/956 MHz MAS bands to provide meter reading services on a private carrier basis; (2) award licenses on some or all of the channels in the 956 MHz MAS band on a site-specific basis and, in any case, grandfather incumbent licensees; (3) preserve the 928/952/956 MHz MAS bands for traditional fixed and mobile master MAS services; (4) permit mobile meter reading on an ancillary basis when a fixed meter reading network is in place; and (5) refrain from using competitive bidding procedures to award licenses in these bands.

Respectfully submitted,

ITRON, INC.

By: /s/ Joseph A. Godles
Joseph A. Godles
W. Kenneth Ferree

GOLDBERG, GODLES, WIENER & WRIGHT
1229 Nineteenth Street, NW
Washington, DC 20036
(202) 429-4900

Its Attorneys

May 1, 1997