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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of the Commission's	)	
Regulatory Policies to Allow Non-U.S.	)	IB Docket No. 96-111
Licensed Space Stations to Provide	)	
Domestic and International Satellite	)	
Service in the United States	)	

To: The Commission

**COMMENTS OF UTC**

Pursuant to Section 1.415 of the Commission's Rules, UTC hereby submits the following comments on the *Further Notice of Proposed Rulemaking (FNPRM)*, FCC 97-252, in the above captioned matter.<sup>1</sup> By this *FNPRM*, the FCC is seeking additional comment on the proper framework to allow satellites licensed by other countries to provide service in the United States. UTC's comments are limited to its support of the FCC's recommendation that all non-US satellite systems operating within the US comply with all technical and service rules applicable to US satellite operators.

UTC is the national representative on communications matters for the nation's electric, gas and water utilities, and natural gas pipelines. Over 1,200 such entities are members of UTC, ranging in size from large combination electric-gas-

<sup>1</sup> UTC was formerly known as the Utilities Telecommunications Council.

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water utilities which serve millions of customers, to smaller, rural electric cooperatives serving only a few thousand customers each. All utilities depend upon reliable and secure communications to assist them in carrying out their public service obligations, and as a result many operate extensive private microwave networks in the 2 GHz band.

In the current *FNPRM* the Commission proposes to apply all applicable Commission technical and service rules and policies to non-US satellite systems that are eligible to serve the United States. UTC fully supports this proposal and in particular urges its adoption with regard to the Commission rules relating to the relocation of incumbent microwave licensees as specified in Section 101.69.<sup>2</sup>

The FCC has adopted a *First Report and Order (First R&O)* allocating spectrum for US licensed mobile satellite services (MSS) in the upper portion of the 2 GHz microwave band, ET Docket No. 95-18.<sup>3</sup> In that decision the Commission allocated 70 megahertz of spectrum at 1990-2025 MHz and 2165-2200 MHz to MSS. In order to accommodate MSS while at the same time protecting incumbent point-to-point microwave systems and broadcast auxiliary systems, the FCC adopted general transition rules consistent with those established in its “emerging technology” proceeding.<sup>4</sup> Under these rules spectrum sharing is encouraged between emerging technology service providers such as MSS and incumbent microwave systems whenever technically feasible.<sup>5</sup> At such point as sharing is not possible the FCC’s

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<sup>2</sup> 47 C.F.R. Section 101.69.

<sup>3</sup> *First R&O*, ET Docket No. 95-18, released March 14, 1997.

<sup>4</sup> *First Report and Order*, ET Docket no. 92-9, 7 FCC Rcd 6886 (1992).

<sup>5</sup> The MSS and microwave industry groups are currently working under the auspices of the Telecommunications Industry Association to adopt a set of mutually agreed sharing criteria. UTC has

rules require the MSS operator to relocate the incumbent microwave system to comparable facilities at the MSS licensee's expense.

The emerging technology relocation rules for the 2 GHz band have been developed on the basis of extensive industry input over several years, and recognize the fundamental point that incumbent licensees should emerge "whole" both operationally and financially from any reallocation of their spectrum. It would defy logic to adopt such a policy with regard to US licensed satellite providers and not apply it to non-US systems operating in the US. Just as the transition rules of ET 92-9 are meant to apply equally to both terrestrial and satellite based emerging technologies, they should also apply equally to US and non-US licensed services. It is completely irrelevant to the incumbent microwave licensee whether the source of interference to its operations is a US or non-US licensed satellite service.

It is important to recognize that the majority of the incumbent 2 GHz microwave licensees are the police, fire, utilities, pipelines and railroads, that utilize their systems to maintain public safety and the nation's critical infrastructure. For example, utilities rely on private microwave systems to coordinate and control the country's interconnected power grid. These licensees cannot tolerate interference to their critical communications networks. Moreover, it would be completely inequitable to require US taxpayers, ratepayers and corporate shareholders to pay for relocation expenses resulting from the operation of non-US licensed MSS operators.

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been actively participating in these meetings. The FCC has indicated that it will consider such criteria for inclusion in its rules as the standard for evaluating the likelihood of harmful MSS/microwave interference.

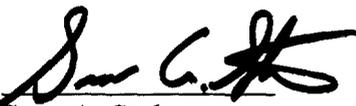
The application of the MSS relocation rules to non-US satellite services is not inconsistent with the WTO Basic Telecom Agreement as it would not impose any obligations on non-US systems that are not equally applicable to all similarly situated US licensed MSS operators. Moreover, the uniform application of the transition rules to US and non-US satellite licensees would ensure that US licensed MSS operators do not disproportionately bear the expense of relocating incumbents.

**WHEREFORE, THE PREMISES CONSIDERED,** UTC requests the Federal Communications Commission to apply the MSS/microwave relocation rules adopted in ET 95-18 to non-US licensed systems operating within the US.

Respectfully submitted,

**UTC**

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