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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Implementation of Section 9 of the Communications Act)	MD Docket No. 96-186
)	
Assessment and Collection of Regulatory Fees for Fiscal Year 1997)	
)	
To: The Commission		

COMMENTS OF UTC

Pursuant to Section 1.415 of the Commission's Rules, UTC, The Telecommunications Association (UTC) hereby submits its Comments on the Federal Communications Commission's (Commission) *Further Notice of Proposed Rule Making (FNPRM)*.¹ UTC opposes any changes to the Commission's regulatory fee collection procedures that would impose new and unnecessary requirements on licensees. Therefore, UTC opposes the proposed change to the Commission's fee-collection procedures that would require exempt non-profit entities to submit IRS determination letters or other documentation of non-profit status in order to qualify for the statutory exemption from regulatory fees.

¹ *Further Notice of Proposed Rulemaking*, MD Docket No. 96-186 (released July 18, 1997).

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I. Introduction

UTC is the national representative on communications matters for the nation's electric, gas, water and steam utilities, and natural gas pipelines; UTC also represents other organizations that use communications to support essential public service obligations. UTC's members range in size from large combination electric-gas-water utilities that serve millions of customers, to smaller, rural electric cooperatives and water districts that serve only a few thousand customers each. Serving on UTC's Board of Directors are representatives from the following associations:

- American Gas Association
- American Public Power Association
- American Water Works Association
- Association of Edison Illuminating Companies
- Edison Electric Institute
- Interstate Natural Gas Association of America
- National Rural Electric Cooperative Association

All utilities and pipelines depend upon reliable and secure communications to assist them in carrying out their obligations to provide service to the public. Many of UTC's members are non-profit entities that are exempt from regulatory fees and would be affected by the information collection procedure proposed in this proceeding. Therefore, UTC is pleased to have the opportunity to submit these comments.

II. It is Not Necessary for the Commission to Require Submission of Non-Profit Documentation

In 1993, Congress amended the Communications Act of 1934 to provide for the payment of regulatory fees by radio licensees. Section 9 of the Communications Act of 1934, as amended, requires that the Commission assess and collect regulatory fees to cover the costs of enforcement, policy, rulemaking and international activities, as well as user information

services.² However, government entities, nonprofit entities and amateur radio licensees are exempt from this regulatory fee requirement.³ In applying these statutory provisions, the Commission determined that non-profit entities would only be required to supply documentation of non-profit status "upon request."⁴

In the *FNPRM*, the Commission proposes to change the established procedures for determination of non-profit status to require all exempt non-profit entities to submit current IRS determination letters or other current documentation of non-profit status in order to qualify for the exemption from regulatory fees. UTC opposes this requirement under the provisions of the Paperwork Reduction Act of 1995 and notes that a less burdensome alternative exists.

Pursuant to the Paperwork Reduction Act of 1995, Federal agencies must solicit comments on new information collections to:

- (i) evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
- (ii) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information;
- (iii) enhance the quality, utility, and clarity of the information to be collected; and
- (iv) minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology.⁵

Agencies must certify that new information collections are necessary, are not duplicative to information already collected by the agency and reduce to the extent practicable or appropriate

² 47 U.S.C. §9.

³ 47 U.S.C. §9(h).

⁴ *FNPRM* at para. 4.

⁵ 35 U.S.C §3506.

the burden on those providing the information, including small entities. Under the Paperwork Reduction Act, therefore, the Commission has an obligation to demonstrate that the proposed collection is necessary and to minimize the burden on entities providing information to the agency.

The Commission has not demonstrated that the new information collection procedure is necessary or that the proposed procedure minimizes the burden on entities that must provide information. The Commission's current procedure requires that licensees only provide proof of non-profit status "upon request."⁶ The Commission has not indicated what problems have arisen from this procedure that require a new, more burdensome requirement other than its statement that the requirement has become "unduly burdensome as we seek to implement more efficient methods to improve our collections systems."⁷ This statement does not amount to evidence that the proposed collection of information is "necessary for the proper performance of the functions of the agency." Under the Paperwork Reduction Act, no change in procedure should be implemented.

If the Commission determines that a change in procedure is warranted, it should consider a less burdensome alternative. As UTC noted in its comments to the initial *Report and Order* establishing the regulatory fee payment procedures, the Commission could require entities seeking a nonprofit exemption to file their Federal Employee Identification Numbers (EINs). EINs are sufficient to permit verification of an entity's nonprofit status, but will not require

⁶ *FNPRM* at para. 4.

⁷ *Id.*

entities to locate specific documentation or to request additional paperwork from the IRS in cases where the documentation cannot be found.

Conclusion

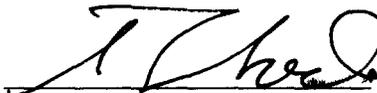
UTC urges the Commission to reduce the administrative burden on licensees seeking to prove non-profit status. UTC urges the Commission to retain its current procedures, which require that licensees provide documentation only upon request. Alternatively, UTC urges the FCC to adopt a less burdensome alternative procedure by requiring licensees only to file their EINs.

WHEREFORE, THE PREMISES CONSIDERED, UTC, The Telecommunications Association, respectfully requests the Commission to take action in this docket consistent with the views expressed herein.

Respectfully submitted,

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