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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

January 8, 1998

VIA HAND DELIVERY

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

Re: MM Docket No. 97-217 (File No. RM-9060)
Joint Comments of Dallas County Community College District et al.

Dear Mr. Caton:

Transmitted herewith on behalf of Dallas County Community College District, Tarrant County Junior College District, Richardson Independent School District and Education Service Center Region 10 are an original and five copies of their joint comments to the Notice of Proposed Rulemaking in the matter above-captioned.

Should you have any questions, please contact the undersigned.

Very truly yours,

James E. Meyers

James E. Meyers
Counsel for:
Dallas County Community College District
Tarrant County Junior College District
Richardson Independent School District
Education Service Center Region 10

cc: Michael J. Jacobs (By Hand: 2033 M St., N.W., Suite 600)
ITS, Inc.

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Before the
Federal Communications Commission
Washington, D.C. 20554

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JAN - 8 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	
Amendment of Parts 1, 21 and 74 to Enable	)	MM Docket No. 97-217
Multipoint Distribution Service	)	
and Instructional Television Fixed	)	File No. RM-9060
Service Licensees To Engage in Fixed	)	
Two-Way Transmissions	)	

JOINT COMMENTS OF DALLAS COUNTY COMMUNITY COLLEGE DISTRICT, TARRANT COUNTY JUNIOR COLLEGE DISTRICT, RICHARDSON INDEPENDENT SCHOOL DISTRICT, AND EDUCATION SERVICE CENTER REGION 10

Dallas County Community College District ("Dallas County"), Tarrant County Junior College District ("Tarrant County"), Richardson Independent School District ("Richardson ISD") and Education Service Center Region 10 ("Region 10")(collectively, the "Joint Commenters"), through undersigned counsel, submit their comments to the Notice of Proposed Rulemaking in the above-captioned proceeding ("Notice"). The Joint Commenters are local educational institutions that, collectively, are ITFS licensees of 27 channels in the Dallas-Fort Worth, TX Metroplex.[1]

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[1]Dallas County is the licensee of WNC 582, Channels A1 and A2, and WHR 830, Channels G1-G3, Dallas, TX; Tarrant County is the licensee of WHR 506, Channels A1-A4, Fort Worth, TX; Region 10 is the licensee of WHR 695, Channels C1-C4, Ennis, TX and WHR 718, Channels G1-G4, McKinney, TX; Richardson ISD is the licensee of WHR 881, Channels D1-D4, Fort Worth, TX, WHR 882, Channels A3 and A4, Dallas County, TX, and WEF 69, Channels

I. INTRODUCTION

The Joint Commenters have consistently lent their support to the concept of two-fixed ITFS service operations, likewise consistently voicing their concern with interference issues, application processing and procedures issues, and the absence of adequate technical disclosure to justify the promulgation of regulations based on the showings made by the "Petitioners." Those concerns and others were set forth in the comments of the Joint Commenters to RM-9060 (filed May 14, 1997 as above styled) and their letter response, filed July 21, 1997, to the reply comments of the Petitioners, raising specific questions concerning the methodology and its application. Attached hereto as Appendix 1 and 2, respectively, are the Joint Commenters' May 14, 1997, comments to RM-9060 and their July 21, 1997, correspondence, and are made part of these comments for the Commission's consideration in the context of this formal rulemaking proceeding.[2] The Joint Commenters remain persuaded that more

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B1-B4, Dallas County, TX.

[2]We note that the Commission declined to directly address many of the concerns we addressed in our RM-9060 comments and July 21, 1997, correspondence. Notice Passim. As indicated in the attachments, the Joint Commenters reassert their concerns in the context of the Notice that:

(i). There is insufficient information to verify the methodology proposed. Appendix 1 at 3-6.

testing, technical disclosure, and articulation are required before there is sufficient information upon which the regulations proposed in the Notice can be responsibly promulgated in the public interest.

Representatives of Petitioners and Joint Commenters have been in communication to attempt to resolve the concerns of the Joint Commenters. While the Petitioners have in large part satisfied the Joint Commenters' concerns with interference issues in the abstract, Petitioners have yet to show how their "free spacing" methodology is developed and applied within the specific context of their proposal, and now, within the context of these proposed rules. The Joint Commenters further acknowledge the Commission's predisposition in the Notice

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(Footnote 2, Con't.)

(ii). The Tucson test is not adequate for nationwide regulations. Appendix 2 at 2-3; See Comments of EDX Engineering, Inc. (Filed December 8, 1997) conducting additional tests and proposing a PCS-type cellular interference regime. Morever, even within the Tucson test, there has been no testing of how single or multiple transmitter sectorization will behave both with wedge-shaped zones or and in conjunction with annular rings. Appendix 2 at 3.

(iii). Terrain, foliage and data loading, i.e., traffic (and business user data), are ignored in the model. Appendix 2 at 3, 4-6.

(iv). There is no indication of how the sampling is statistically representative. Appendix 1 at 4; Appendix 2 at 5.

(v). There are no evaluation tools, such as, sample calculations or equations, by which the results of the field test can be verified by peer review, or by which the potential for harmful interference from an application for two-way service can be validated. Appendix 1 at 3-4; Appendix 2 at 6-7.

to proceed with Petitioners' proposed two-way fixed ITFS service, recognizing many of the same concerns with the Tucson field test as did the Joint Commenters as well as additional concerns. Notice, ¶¶39-44; Appendix A at 1-6; Appendix B at 1-7. As set forth below, the Joint Commenters have attempted to further address their additional areas of concern.

II. INTERFERENCE CONCERNS

A. There Should Be An Actual Interference Safety Net -- Including For Interference From ITFS Stations During Their ITFS-Use

In light of the Commission's determination to go forward "despite the complications and uncertainties which could arise," Notice, ¶40, there should be an actual interference safety net available to ITFS operators who experience harmful interference from two-way fixed service operations. Any operator of two-way fixed service should be required to resolve such interference at its sole cost and expense, and to cease interfering operations near the affected ITFS receive site(s) if the interference cannot be resolved.

The Commission has indicated that its prior orders provide interference protection to ITFS licensees. Notice, ¶44. However, those prior orders should be clarified expressly to extend to interference caused not only by MDS stations and by ITFS stations during non-ITFS use, but as well by ITFS stations during

ITFS use.[3] An ITFS licensee should have the same measure of protection from interference from other ITFS licensees as it does from MMDS operators and ITFS lessees and others operating the station during non-ITFS periods. See Appendix 1 at 8 and note 2 thereto.

In light of the admittedly uncertain nature of the manner in which two-way fixed transmissions will behave, the Commission should establish an absolute interference protection standard like it established in the Interactive Video and Data Service (IVDS) rules to protect broadcast channel 13. See 47 C.F.R. § 95.861. Both IVDS and broadcast television are primary services thereby providing precedent to this approach for ITFS vis-a-vis MMDS (and ITFS as utilized for ITFS and non-ITFS purposes).

There should be no objection to an IVDS-type absolute interference standard given the Commission's recognition that the interference thresholds in the Notice are conservative. Moreover, the IVDS-type solution provides the

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[3]The Notice (¶44 and n.45) refers to interference protection requirements in Rule Sections 21.902(b)(2), 21.938(d), and 21.939. Those regulations, however, only address interference from MDS licensees. The Notice (Id. n.46) refers to the prior order in Amendment of Parts 21, 74 and 94 of the Commission's Rules with regard to the technical requirements applicable to the Multipoint Distribution Service, the Instructional Fixed Television Service and the Private Operational-Fixed Microwave Service (OFS), 98 F.C.C.2d 68, 93 (1984). There, however, as the Commission recognizes in the Notice (¶44), the requirement for the offending station to cease operations until the interference is eradicated extends to "MDS stations and ITFS facilities being leased or used for non-ITFS purposes." Id. (Emphasis added). See 98 F.C.C.2d at 93.

parties an opportunity to resolve the actual interference before cessation of service is required. See 47 C.F.R. § 95.861(a).[4] The Commission should declare, however, that implementation of interference agreements that fail to resolve the interference are a matter of Commission concern, subject to safety net protection, and not solely subject to action on the contract.

Should actual interference reveal itself in light of, for example, insufficient consideration of foliage, terrain, data traffic, etc. in the values derived in the rules for the applicant's interference calculations, then a clear and immediate remedy exists to those receiving harmful interference. We note the need to protect existing ITFS operations from interference that may likely emanate from the unanticipated or the overlooked. Late in the comment period, for example, the "brute overload factor" was identified which pertains to non-adjacent and non-co-channel licensees within the service area. See The Catholic Television Network's "Request for Supplemental Comment Period and Extension of Time" (filed November 25, 1997), addressed below.

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[4]No licensee should be required to consent or to render its consent to harmful interference if the result would substantially impair it from meeting its license obligations. In this regard, the Commission should establish a minimum service threshold below which ITFS licensees may not descend in considering whether to consent to interference. The Commission has articulated this concern analogously. See Notice, ¶¶48, 50.

B. Brute Force Interference

As G-channel licensees, the Joint Commenters share The Catholic Television Network's ("CTN") concern with brute force overload which is a phenomenon of many radio services. We question whether the retirement of what the Joint Commenters understand is 20 MHZ of spectrum to establish guard bands is the best approach. Rather, it would seem that victims of brute force overload, as with any other interference from an offender, would be protected under an absolute interference safety net, as discussed above. Victims' ITFS receive sites can be equipped by the offender with, for example, better filters that will confine brute force susceptibility to the frequency bands intended. The offenders should have the incentive to utilize, if not indeed to develop, adequate technology to resolve this problem if the affected geographic area near the ITFS receive site is important to their service.

Because of the admittedly experimental nature of the service proposed under the Notice, spectrum should not be arbitrarily refarmed. Indeed, it is yet to be seen whether the Petitioners' proposed service will even work, much less whether it will be viable. Until more experience is obtained under fixed two-way operations (and interference-resolving techniques), it seems premature to refarm spectrum a priori.

As with any other interference, resolution of brute force overload should be at the expense of the offender, and, with the consent of the ITFS licensee, could include relocation to other frequency, including replacing any non-tunable equipment of the G-Channel (or any other) licensee. If such a measure required wholesale changeout, or, indeed, digitization, of the ITFS system and all receive sites in order for the licensee to retain its system at the same capability of operation prior to the interference, that would be the price to be paid by the offender. The interferer should likewise be responsible for any equipment modifications or replacements necessary for the ITFS licensees' response station operations (as is the case in many ITFS license areas where the response station is utilized under current rule 74.939 for transmissions directly to the main transmitter for voice return, etc.). Retuning should be accomplished with a minimum of disruption to ITFS operations. Conditional support for ad hoc refarming and attendant retuning assumes that refarmed frequency results in no spectrum loss and that there will be no material adverse impact on the ITFS station's operations and capabilities upon retuning to a refarmed frequency. Further, the absolute interference safety net, discussed in Part II.A., above, would apply.

C. There Remain No Evaluation Tools for Incumbent Licensees (and the Commission) to Assess Two-Way Applications.

The regulations need to set forth some manner in which an incumbent can with certainty and reasonable convenience evaluate the interference analysis in the applicant's two-way fixed service FCC application. At present, there are not sufficient details for an incumbent to evaluate or validate the conclusions as to no potential interference from a two-way fixed service application. The Petitioners should make available to the Commission for application evaluation purposes a set of step-by-step calculations for all to follow, including all assumptions and equations, if not the derivative software itself. This application information should be self-contained and in sufficient detail, including sample calculations for at least one grid point (or "measurement point" as referred to by Petitioners in their Petition) so that the incumbent licensee (and the Commission) and any practitioner in the radio engineering profession can perform its own analysis on the applicant's proposal. The Commission should also require that the applicant provide or have developed for public use the derivative software embodying this information. In a somewhat analogous context, the Commission developed software to enable compliance with its cable television rate regulations (e.g., FCC Forms 393 and 1200). We note the comments of EDX Engineering, Inc.

(Filed December 8, 1997) which address (and propose solutions to) many of the same concerns raised by the Joint Commenters, including with respect to utilizing available predictive tools in the methodology as well as establishing a basis for evaluating compliance. Likewise, consistent with the fulfilment of its mandate, the Commission's tentative conclusion to reject automatic grants of rolling applications is correct. Notice, ¶¶48, 50, 52-57.

III. CONCLUSION

In light of the above, the Commission should strive to make compliance and compliance evaluation as straightforward and simple as possible within the context of the Commission's oversight and a safety net to protect incumbent operations from harmful interference caused by two-way fixed service licensees.

Respectfully submitted,

DALLAS COUNTY COMMUNITY COLLEGE DISTRICT
TARRANT COLLEGE JUNIOR COLLEGE DISTRICT
RICHARDSON INDEPENDENT SCHOOL DISTRICT
EDUCATION SERVICE CENTER REGION 10

By: James E. Meyers
James E. Meyers,
Their Counsel

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APPENDIX I

FILE

LAW OFFICE OF JAMES E. MEYERS
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May 14, 1997

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Federal Communications Commission
Office of Secretary

VIA HAND DELIVERY

William Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, DC 20554

Re: RM-9060 — Joint Comments of Dallas County Community College District et al.

Dear Mr. Caton:

Transmitted herewith on behalf of Dallas County Community College District, Tarrant County Junior College District, Richardson Independent School District, and Education Service Center Region 10 are an original and five copies of its comments to the Petition for Rulemaking, above-captioned.

Should you have any questions, please contact the undersigned.

Very truly yours,

James E. Meyers

James E. Meyers
Counsel for Joint Commenters

cc (w/enc.): Michael J. Jacobs (By Hand: 2033 M Street, Suite 600)
ITS Inc. (By Hand)

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 21 and 74 To Enhance	)	File No. RM-9060
The Ability of Multipoint Distribution Service	)	
And Instructional Television Fixed Service	)	
Licensees to Engage in Fixed Two-Way	)	
Transmissions	)	

JOINT COMMENTS OF DALLAS COUNTY COMMUNITY COLLEGE DISTRICT, TARRANT COUNTY JUNIOR COLLEGE DISTRICT, RICHARDSON INDEPENDENT SCHOOL DISTRICT, AND EDUCATION SERVICE CENTER REGION 10

Dallas County Community College District ("Dallas County"), Tarrant County Junior College District ("Tarrant County"), Richardson Independent School District ("Richardson ISD") and Education Service Center Region 10 ("Region 10")(collectively, the "Joint Commenters"), through undersigned counsel, submit their comments to the Petition for Rulemaking in the above-captioned proceeding ("Petition"). The Joint Commenters are local educational institutions that, collectively, are ITFS licensees of 27 channels in the Dallas-Fort Worth, TX Metroplex.[1]

[1]Dallas County is the licensee of WNC 582, Channels A1 and A2, and WHR 830, Channels G1-G3, Dallas, TX; Tarrant County is the licensee of WHR 506, Channels A1-A4, Fort Worth, TX; Region 10 is the licensee of WHR 695, Channels C1-C4, Ennis, TX and WHR 718, Channels G1-G4, McKinney, TX; Richardson ISD is the licensee of WHR 881, Channels D1-D4, Fort Worth, TX, WHR 882, Channels A3 and A4, Dallas County, TX, and WEF 69, Channels B1-B4, Dallas County, TX.

I. Introduction

The Petitioners have undertaken a difficult task and one that shows tremendous effort and achievement in attempting to develop and articulate service rules that will accommodate novel and innovative use of the ITFS spectrum. Understandably, their task is not complete. The Joint Commenters, for their part, have focused these comments on the interference protection aspect of the Petition.

As incumbent local educators with extensive ITFS curricula, the Joint Commenters support the Petitioners' objective of assuring interference protection (Petition at 3; Id. at 18). Irrespective of the absence of "Input-based" limitations on spectrum use, the expectation that licensed spectrum use will be free from interference has long been inherent in frequency licenses. The public (not to mention the licensee) has a right to expect interference-free, predictable service from technologies that utilize the airwaves, whether they be customers of an Internet service provider or students of a public educational institution.

In pursuit of interference-free amendments to the regulations, the Petitioners have sought: (i) to develop and justify a "method" for assessing the potential for interference (Petition at 32; Id., Appendix C); and (ii) to apply it in the context of procedural rules (e.g., Appendix B, proposed §§74.939(d),(g),

74.985(a),(e)). In each of these two aspects, the Joint Commenters have been unable to reconcile the Petition with the objective of interference protection, and, constructively, have identified areas of concern they have with the Petition and its underlying methodology.

II. There is Insufficient Information to Verify the Methodology.

The Petition (including its Appendices and the Field Test) does not provide sufficient information necessary to undertake an analysis that the proposal has satisfactorily addressed interference. The Petition is not self-contained, either literally or through references, which is an axiomatic requirement going to the sufficiency of any proposal to address interference issues for a substantial change in service requirements for spectrum use.

The "Methodology" (Petition, Appendix C) is undescribed in several crucial respects and where there is description, there is often no substantiation. For example, there is not enough information provided to replicate Petitioners' results in order to validate their conclusions. Rather we must accept, a priori, the "series of software packages" used to generate the theoretical data and the contour maps (Petition, Appendix D at 24). Without knowing the specific nature of this software, it is not possible to independently validate and verify the results

Petitioners advance. Nor are there any sample calculations for checking purposes. Sample calculations are necessary to independently validate and verify any proposal.

By way of further example, the measurement procedure for gathering field strength data is advanced in a vacuum (Ibid. at 21). There is no discussion of why this such procedure was selected over other procedures which is a rudimentary element in any methodological development.

The "Methodology" describes "a grid of points statistically representative of the distribution of transmitters to be expected within the response service area" (Ibid. at 1). Yet the Petition fails to explain how and to what extent the sample points are statistically representative of the universe of points, indispensable information for any evaluation of potential interference or of potential system performance. One missing parameter is optimum sample size, i.e., how many points are needed to successfully and most efficiently model a given market scenario. Related to sample size is the matter of confidence intervals, i.e., within what range is the estimate accurate within a certain level of confidence. Without this information it is not possible to validate through a process of peer review whether Petitioners have advanced the best solution, much less, have performed the optimum analysis.

There appears to be essentially no consideration of system traffic and the manner in which interference could increase (and system capacity decrease) as total traffic loading per cell increases (See Petition, Passim), other than the simplistic, vague assumption of a "maximum number of simultaneous transmissions from response stations associated with each class and each region" (Petition, Appendix C at 1). Nor is there any discussion of what population database was used. Were U.S. Census Bureau data used? If so, did Petitioners use additional data to measure business versus residential user density to avoid the inherent bias in residential data which would underestimate business usage and hence the level of likely interference?

To the extent empirical data were used, they were not representative of the entire (35 mile) protected service area. Testing occurred in only one five mile cell. There are no data, for example, on propagation (and interference) characteristics within a service area with simultaneous adjacent cell operations. While the absence of these data is not condemnatory, the discernable existing data do not support the several possible frequency reuse and transmission/reception plans for the multi-celled response/booster environment envisioned for the service area by Petitioners. For example, the impact has not been addressed of response stations that would occupy primary ITFS spectrum,

yet which would not be required to transmit to the main transmitter location as is presently required (Petition, Appendix B, proposed § 74.939).

Accordingly, it is not ascertainable from the Petition that adequate interference protection measures have been developed, and more work and technical disclosure are needed before the Commission can responsibly implement the measures as requested by Petitioners.

III. The Procedural Application of the Proposed ITFS Response Station and Booster Amendments Are Unduly Burdensome on the Incumbent Licensee in the Quiet Enjoyment of Its License Rights And Do Not Provide For an Actual Interference Standard for Protection.

The Petitioners propose automatic licensing without Commission engineering (or other) review. Presumably batches of "rolling applications" can be filed daily. Expanding upon present service and public notice procedures in effect for applications affecting main channel operations, which already impose an extensive burden on incumbent licensees to police their license rights, the Petitioners have proposed a plan which, if implemented in its full context, will overload incumbent licensees seeking to assure themselves that the likelihood of interference will not result. Incumbent licensees will be forced to evaluate numerous applications (assuming vagaries of the U.S. Postal system are

overcome and the applications are in fact received by the licensees) conceivably as frequently as daily. Moreover, they will be required to assume an extraordinary level of vigilance in Washington, D.C. to monitor numerous public notices to assure that they do not miss petition dates if a problem were present. Inordinate expense and staff will be diverted from ITFS licensees' primary mission of education and without assurance that such additional policing measures would in all cases identify a necessary application or public notice which implicates their license rights. A different, less cumbersome and more effective procedure needs to be developed that places the burden of non-interference on the "output" licensee.

The Joint Commenters urge that, irrespective of such formal procedures that give rise to a deadline for filing petitions to deny, an actual interference standard be established. An actual interference safety net is appropriate and necessary. The requirement that parties cooperate in good faith to resolve actual interference can only go so far in achieving a solution. It does not accommodate the scenario of irreconcilable interference problems, the likelihood for the presence of which are suggested by the new uses of the spectrum both under the currently-proposed application and yet-to-be applications under "output" flexibility.

Several actual interference protection options should be explored, ranging from an absolute duty of the "output" licensee to resolve interference experienced by the incumbent licensee, akin to the requirements of the Interactive Video and Data Service (IVDS) rules (e.g., 47 C.F.R. §§ 95.861(c) and (d)),[2] to extending the actual interference standard in the current ITFS Booster standard (47 C.F.R. §74.985(g)) to the proposed booster and response station operations if interference is experienced anywhere within the incumbent licensee's protected service area, irrespective of the distance of the offending booster or response station from a transmitter of the incumbent licensee. By the same token there should be no preemption of the Commission's regulations by agreement if such agreement causes actual interference at odds with respective

[2]The Joint Petitioners advanced this suggestion in their comments to the Request for Declaratory Ruling from which the Digital Order emanated. The Commission did not adopt the suggestion with respect to digital transmissions because it found that digital signals were no more likely to cause actual interference than analog signals and therefore current Commission policies were adequate, including the policy that requires an MMDS station or an ITFS station being leased or used for Non-ITFS purposes causing non-diminimus interference to cease operations until the interference is eradicated. See Declaratory Ruling and Order, Docket No. DA 95-1854, FCC 96-304 (Released July 10, 1996) at ¶¶35,36 and Comments of "Tarrant County" thereto at 2-3. The Commission's determination in the Digital Order is not analogous here: (i) the scenario for interference is far more complex under the Petitioners' proposals; (ii) it appears that proposed rule amendments (Petition, Appendix B) will supersede the 1984 authority underlying the Commission's determination of actual interference protection (See Digital Order at ¶36 citing and quoting 98 F.C.C.2d 68, 93 (1984)); and (iii) in any event the Commission's policy did not explicitly extend to ITFS stations causing the interference during ITFS use (Id.).

(ITFS/non-ITFS/MMDS) service requirements.[3]

IV. Conclusion

The Petition requires additional development. The Commission should evaluate the Petition in light of concerns with developing the optimum methodology that ensures interference protection.

Respectfully submitted,

DALLAS COUNTY COMMUNITY COLLEGE DISTRICT
TARRANT COUNTY COMMUNITY COLLEGE DISTRICT
RICHARDSON INDEPENDENT SCHOOL DISTRICT
EDUCATION SERVICE CENTER REGION 10

By: James E. Meyers

James E. Meyers
Their Counsel

LAW OFFICE OF JAMES E. MEYERS
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Washington, DC 20009-1024
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[3]The Joint Commenters question whether the Commission has the authority under the Communications Act to in effect abdicate its statutory duty by deferring to private agreements that have preemptive effect.

APPENDIX 2

FILE

RECEIVED
JUL 21 '97
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

LAW OFFICE OF JAMES E. MEYERS
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July 21, 1997

VIA HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
Washington, DC 20554

Re: RM-9060 - Petition For Rulemaking to Amend ITFS Rules to Permit Two-Way Fixed Service

Dear Mr. Caton:

On behalf of Dallas County Community College District, Tarrant County Junior College District, Richardson Independent School District and Education Service Center Region 10 ("joint commenters"), we are submitting this correspondence with five copies to clarify the record with respect to points raised and addressed by the petitioners in their reply comments dated May 29, 1997, in the above-referenced proceeding.

The petitioners dedicated an entire section at pages 42 through 49 of their 50-page reply comments to address the interference concerns the joint commenters raised in their comments. While we appreciate that the petitioners sought to address our concerns, we want to point out that the concerns addressed by petitioners were not in each case the concerns advanced. Moreover, we do not wish the adequacy of the petitioners' proposal to be assessed solely on whether it subsequently and satisfactorily addresses the points we raised. Our comments were not intended to be inclusive, but rather to show that the proposal as disclosed is inadequate to be the basis of amended regulations.

Both the petition and the reply comments still do not address our fundamental concerns with technical disclosure. Rather, the reply comments lament that we

either "fail to appreciate" or have "fundamental misunderstandings" of the methodology or "as is typical," we "criticize, without advancing any indication of how the process was flawed or suggesting how the process could have been improved" (Reply Comments at e.g., 43, 44, 48). Rhetoric aside, the petitioners need to tell us what the "process" is.

In the Rationale[1] to the petition, the petitioners recognize that of "paramount importance in evolving the basis for such a far-reaching rulemaking is ensuring that the assumptions made and the techniques developed reflect reality" (Rationale at 2). They state: "This assurance of reality can only be achieved through extensive and thorough testing" (Ibid.). They advance the case that standards (as are typically developed for changes in permissible service regulations) are not appropriate for "closed systems" such as the proponent system (where the provider also supplies the system-specific reception equipment (Ibid. at 6)). Yet they recognize that since the technology to be used in providing service over these frequencies:

> will certainly develop over time and likely will include a variety of modulation schemes, a method for handling different modulation techniques, different modulation densities, different bandwidths, and similar technical differences should be built into the Rules as adopted

(Ibid. at 1). By the same token they admittedly limited their testing to establish, in effect, an interference base-line from which these various anticipated developmental variables (which are not proposed to be built into the Rules as adopted) must adhere (Ibid. at 2). Thus the results of the test of the five-mile cell in Tucson, Arizona, are proffered to provide the basis for regulations, nationwide, that will satisfactorily address interference considerations while prescribing the limits that will define the characteristics of all "output" systems irrespective of application.

We assert that there is not information in the record to ensure the adequacy of the test results for nationwide standards. First, there is no discussion of why Tucson, Arizona, is typical of the various service areas throughout the nation that

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[1]"Rationale for Two-Way & Distributed Transmission Operations of Wireless Cable Systems" accompanying the Field Test Report annexed to the Petition.