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EX PARTE OR LATE FILED

March 31, 1998

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
1919 M Street
Room 222
Washington, D.C. 20554

Ex Parte

RECEIVED

MAR 31 1998

RE: WT Docket No. 94-148

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Dear Ms. Salas:

Pursuant to Section 1.1206 of the Commission's Rules, this is to notify you that Jeff Sheldon and Sean Stokes representing UTC, met today with Peter Tenhula in the Office of Commissioner Powell to discuss UTC's pending "petition for reconsideration" in WT Docket No. 94-148. The substance of UTC's discussion concerned UTC's request that the Commission eliminate the current restriction on the type of communications traffic that can be carried over a private microwave system.

A copy of the written presentation used during this meeting, which also summarizes the points addressed, is attached to this notice. Two copies of the notice are submitted for filing.

If you have any questions concerning this matter, please let me know.

Cordially,

Sean A. Stokes
Associate General Counsel

Attachment

cc: Peter Tenhula

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List A B C D E

**PRIVATE MICROWAVE LICENSING RULES SHOULD
BE MODIFIED TO FACILITATE COMPETITION**

**Ex Parte WT Doc. No. 94-148
March 31, 1998**

- I. Private microwave licensees may carry a range of communications traffic**
- Primarily utilized to carry private internal communications of an organization
 - Private microwave licensees may offer service on a private carrier basis
- II. Currently Section 101.603(b)(1) prohibits stations licensed as private systems from carrying common carrier communications traffic**
- Private microwave licensees may not use a portion of their network to offer common carrier services
 - Private microwave licensees may not enter into carrier's carrier arrangements
 - Private microwave licensees may not interconnect or backhaul CMRS traffic for themselves or a third-party (e.g., PCS, SMR, LMDS)
- III. This prohibition runs counter to the overall goals of the Telecommunications Act**
- It acts as a barrier to facilities-based competition by precluding the provision of additional telecommunications capacity
 - It is inconsistent with regulatory parity by making an artificial distinction between identical services based on the technology utilized
 - Under the Act entities may lease fiber optic capacity as a carrier's carrier on a private carrier basis without being subject to common carrier requirements
 - The Telecommunications Act only allows for the imposition of common carrier requirements to the extent a telecommunications carrier provides telecommunications services
 - It is an outdated and unnecessary regulatory requirement now that private users and common carriers share the same spectrum
- IV. UTC's Petition for Reconsideration in WT Docket 94-148 has been pending for close to two years**
- The issue was raised in UTC's initial comments in the underlying docket
 - FCC indicated it wanted other suggestions for amending/eliminating rules
 - It is a logical outgrowth of the proceeding
 - FCC did not oppose – simply failed to act
 - No party objected to petition for reconsideration
- V. If not in WT 94-148 then the rule should be eliminated on some other basis**
- FCC's own motion
 - Biennial review of FCC rules
 - Forbearance
 - Deployment of Advancement Infrastructure