

or contrary to the public interest, nor has it argued that it has no reasonable alternative.”⁴

Because Itron has merely rehashed its unsupported assertion that its proposed operations will not result in harmful interference, while failing to grapple with the other fundamental flaws that preclude grant of a waiver, the Bureau should summarily deny Itron’s Petition.

Reconsideration of a Bureau decision under Section 1.106 of the Commission’s rules is appropriate only where the petitioner proffers a “material error or omission in the original order or raises additional facts not known or not existing until after the petitioner’s last opportunity to respond.”⁵ The Bureau also may dismiss or deny a petition on the ground that it “rel[ies] on arguments that have been fully considered and rejected by the Commission within the same proceeding.”⁶ Here, Itron attempts both to expand the record by offering an additional internal technical analysis, and to restate past assurances of compliance with interference-protection requirements that have already been rejected by the Bureau. Itron’s attempt to obtain a second bite at the apple based on a mere supplement to its superficial technical showing does not come close to justifying reconsideration.

Even apart from Itron’s failure to comply with the requirements of Section 1.106, its Petition plainly fails to justify repurposing Itron’s one-way paging frequencies for use in a two-way communications architecture. *First*, the interference risks identified by the Bureau remain a serious concern. The Denial Order recognizes that the rules governing 931 MHz systems embody an interference-protection paradigm that “presumes that transmissions will be solely

⁴ *Id.* at 5.

⁵ *Petition for Reconsideration by National Association of Black Owned Broadcasters, Inc.*, Order on Reconsideration, DA 15-146 ¶ 7 (rel. Feb. 2, 2015); *see* 47 C.F.R. §§ 1.106(p)(1), (3).

⁶ *Id.* § 1.106(p)(3).

through base transmitters.”⁷ Itron’s Petition asserts that its mobile readers “will be capable of satisfying” the requirements of Section 22.503 and 22.537 of the Commission’s rules.⁸ But the fact remains that one-way paging systems simply were not designed to operate in an environment with mobile transmitters. While base stations are sufficiently removed from one another to prevent harmful interference, Itron’s operation of mobile transmitters in proximity to paging devices—particularly in outdoor environments where weather conditions and other factors can cause equipment to malfunction⁹—may well cause critical paging messages to be dropped. Unlike the case with base-station interference, Spok would be unable to detect and respond to such intermittent interference from mobile readers because its source would be impossible to identify. Accordingly, Itron’s suggestion of relying on “coordination agreements” to mitigate co-channel interference is unrealistic.¹⁰ Particularly given the critical public safety uses associated with Spok’s paging network, this interference risk cannot be justified, as the Denial Order recognizes.

Second, even apart from these serious interference concerns, Itron’s Petition wholly fails to provide a valid public interest justification for granting the requested waivers. Most fundamentally, Itron does not even attempt to show that it lacks reasonable alternatives for operating a two-way communications network—which is not surprising, given that such alternatives are readily available.¹¹ Indeed, not only do other smart grid operators rely on two-

⁷ Denial Order at 5.

⁸ Petition at 5.

⁹ For this reason (among others), Itron’s heavy reliance on its “equipment design” as a safeguard against harmful interference, Petition at 5, is unavailing.

¹⁰ Petition at 5.

¹¹ See Comments of USA Mobility, Inc., WT Docket 13-195, at 7-8 (filed Sept. 9, 2013).

way paging licenses and other appropriate two-way spectrum bands,¹² but Itron itself makes use of such alternatives.¹³ Moreover, as Spok explained previously, granting Itron's waiver request would encourage other entities to game the auction process by seeking waivers after acquiring one-way spectrum rights. Any fundamental repurposing of one-way spectrum bands should occur only through a broader rulemaking process that adequately accounts for interference risks and other relevant factors. Itron's Petition provides no response to these concerns.

CONCLUSION

For the foregoing reasons, Spok urges the Commission to deny Itron's petition for reconsideration of the core service rules applicable to the one-way paging licenses it acquired at auction.

Respectfully submitted,

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¹² See, e.g., Sensus, "A Side-by-Side Comparison of Licensed and Unlicensed Spectrum for Utility Communications," (July 2010), http://sensus.com/documents/10157/31008/WP-100_Licensed%20vs%20Unlicensed%20Spectrum_Sensus_2010.pdf

¹³ Waiver Request at 2.

CERTIFICATE OF SERVICE

I, Alexander L. Stout, hereby certify that on February 23, 2015, I caused a true and correct copy of the foregoing Opposition to be served on the following via next-day FedEx:

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