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TEL +1-202-872-0030  
FAX +1-202-872-1331  
WEB PAGE: www.utc.org  
(202) 872-0031x214

January 4, 1999

Magalie Roman Salas  
Secretary  
Federal Communications Commission  
445 Twelfth Street, SW,  
Washington, D.C., 20554

Ex Parte

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Re: RM-9405

Dear Ms. Salas:

Pursuant to Section 1.1206(a)(2) of the Commission's Rules, this is to notify you that Thomas Keller representing the Association of American Railroads, Wayne Black representing the American Petroleum Institute and Jeffrey Sheldon and Thomas Goode representing UTC, The Telecommunications Association, met with Ari Fitzgerald, Legal Advisor to Chairman Kennard. The purpose of this meeting was to discuss the pending proposals by the nation's critical infrastructure industries to establish new safeguards against interference in the private land mobile bands below 800 MHz, including the pending *Petition for Rulemaking* to establish a new Public Service Pool (RM-9405). Attached is a copy of an outline of issues that was provided to Mr. Fitzgerald.

Two copies of this notice are being filed for inclusion in the above-referenced docket. Should any questions arise concerning this matter, please contact undersigned counsel.

Very truly yours,

Thomas E. Goode  
Associate General Counsel

Enclosure

Cc: Ari Fitzgerald, Legal Advisor to Commissioner Kennard

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## The FCC Must Protect Critical Private Land Mobile Operations Below 512 MHz

### ***I. Background.***

- As part of its rulemaking proceeding on private land mobile "refarming," PR Docket No. 92-235, the FCC consolidated private land mobile services operating below 512 MHz into two radio service pools: Public Safety and Industrial/Business. The Power, Petroleum and Railroad Radio Services were consolidated into the Industrial/Business Pool.
- While the FCC's new licensing rules did provide for some protection for channels previously allocated to the Power, Petroleum and Railroad Radio Services, important protections were eliminated for other channels on which many critical communications systems operate.
- Under the previous rules, "interservice" coordination ensured that the FCC-authorized frequency advisory committees for the Power, Petroleum and Railroad Radio Services had the authority to recommend that the FCC deny licensing if the addition of a user to one of these channels would jeopardize public safety.
- Under new rules, no advance notice is required by new applicants to incumbents on the channel and instead the exchange of coordination information is required only after applications have been filed.

### ***II. Threats to Public Safety***

- Since the new consolidation/sharing rules took effect, many critical infrastructure entities have suffered numerous incidents of harmful interference from new mobile users that have been coordinated on the same frequencies as emergency mobile dispatch units.
- Documented instances of interference affecting operations of at least ten utilities have been reported in seven states – Massachusetts, Missouri, New Jersey, New York, North Carolina, South Carolina and Wisconsin.

### ***III. The Critical Infrastructure Industries' Proposals***

- In June 1998, UTC and the American Petroleum Institute (API) filed an "Emergency Request" asking the FCC to suspend licensing on channels used by utilities unless the applicant obtained the prior concurrence of nearby utilities and/or pipelines or of the appropriate frequency advisory committee.
- In August 1998, UTC, the API and AAR filed a petition with the FCC asking for rule changes that would place most utility, pipeline and railroad radio channels into a separate "Public Service" pool so that these critical infrastructure industries would have greater control over channels used for public safety purposes. The proposal was based on an accurate and thorough analysis of the current usage of private land mobile bands and sought an equitable reallocation based on this usage analysis.

### ***IV. Congressional Support for Additional Protection***

- HR4813, The Critical Infrastructure Radio Systems Protection Act of 1998 (CIPA 98), urged the FCC to suspend any further licensing on channels used by utilities or pipelines unless the applicant obtains the prior concurrence of the appropriate frequency advisory committee or any nearby critical infrastructure entity with whom it would share the channel. The bill also called for the FCC to implement a long-term solution to the problem of interference.
- Congress included language in the Conference Report accompanying the Commerce, Justice and State appropriations bill emphasizing the need to protect public safety by preventing interference on channels used for emergency dispatch crews by encouraging the FCC to consider measures to address this concern through prior coordination of radio systems.
- The House Commerce Committee has submitted questions to the Wireless Bureau inquiring as to what actions the FCC is taking to protect critical infrastructure systems from interference and when it will act on the petition to establish a new Public Service Pool of radio frequencies.

UTC, API and AAR, as representatives of the Critical Infrastructure Industries, urge the FCC to act now to protect critical land mobile operations in the bands below 800 MHz by granting the "Emergency Request" for a limited licensing freeze and by initiate a rulemaking proceeding to establish a Public Service Pool as a long term solution to this serious problem.