

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

<b>In the Matter of</b>	)	
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<b>Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service</b>	)	<b>ET Docket No. 95-18</b>
	)	
	)	

**To: The Commission**

**PETITION FOR CLARIFICATION**

Pursuant to Section 1.429 of the Federal Communications Commission's (Commission) Rules, UTC, The Telecommunications Association (UTC), hereby submits its *Petition for Clarification (Petition)* in response to the Commission's *Memorandum Opinion and Order (MO&O)*, FCC 98-309, released November 25, 1998, in the above-referenced docket. UTC requests clarification of statements regarding the obligation of mobile-satellite service (MSS) licensees to relocate incumbent terrestrial fixed microwave licensees. In particular, UTC urges the FCC to confirm its long-standing policy that all new applicants in the emerging technology band, including MSS applicants, have the obligation to avoid harmful interference with incumbent users and must relocate any incumbents before commencing operations which could cause such interference.

## **I. Background**

UTC is the national representative on communications matters for the nation's electric, gas, water and steam utilities, and natural gas pipelines. Approximately 1,000 such entities are members of UTC, ranging 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 its affiliated trade associations, including:

- American Gas Association
- American Public Power Association
- American Water Works Association
- 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, and many operate 2 GHz microwave systems that are subject to relocation by emerging technology licensees. To protect its members' vital interests in these systems, UTC has been an active participant in this proceeding, and in the related proceeding involving the relocation framework, ET Docket No. 92-9. As an association representing one of the largest segments of 2 GHz incumbents, UTC has a vital interest in ensuring that all parties understand the rights of incumbent microwave users.

## II. The FCC Should Confirm the Obligation of MSS Licenses to Avoid Interference with Incumbent Licensees

UTC supports the Commission's decision not to disrupt the relocation framework protecting incumbent operations in the bands reallocated for emerging technology services, including MSS. This framework was developed after exhaustive public comment in ET Docket No. 92-9 and was intended to apply to all emerging technology services deployed in the 2 GHz band. The FCC correctly concluded in the *MO&O* that the licensing MSS in the 2 GHz band "does not affect the goals of providing for the fair and equitable sharing of the 2 GHz spectrum, preventing the disruption of incumbent operations, and minimizing the economic impact on incumbent licensees."<sup>1</sup>

UTC requests clarification of Commission statements in the *MO&O* that could be misconstrued to undermine the protections afforded incumbent licensees. These statements could lead to misunderstandings regarding an emerging technology licensee's obligation to protect incumbent operations from interference and relocate incumbents with which it interferes before the interference takes place.

"In rejecting the proposal by Southwestern Bell that the Commission reconsider the allocation of 70 MHz for MSS, the Commission finds that the allocation of this spectrum for MSS would not detrimentally affect rural customers, noting that 'should new MSS licensees interfere with Southwestern Bell's systems, or any other incumbent systems, the MSS licensees will share the cost of relocating those incumbent to other spectrum.'"

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<sup>1</sup> *MO&O* at ¶26.

Elsewhere, the FCC states that “MSS licensees will not be required to relocate incumbent FS licensees unless and until the incumbent receive harmful interference from, or cause harmful interference to, MSS.”<sup>2</sup>

These statements could mislead MSS licensees into a belief that they may wait until after interference has begun before they have an obligation to relocate incumbents. However, the established relocation rules require otherwise. According to Section 101.69 of the Commission’s Rules, fixed microwave operations in the emerging technology bands remain co-primary until they are relocated from the band. Co-primary status confers on licensees protection from interference from later-licensed systems. Indeed, to permit new licensees to begin to cause interference before relocating incumbents would defeat the purpose of the FCC’s 2 GHz relocation framework, and run contrary to the concept of co-primary licensing. Moreover, the Commission affirms the established policy elsewhere in the *MO&O*, recounting that “[i]n the First R&O/Further Notice, the Commission stated that ‘MSS cannot begin operations until its spectrum is cleared of all FS licensees who would receive harmful interference from MSS ...’”<sup>3</sup>

UTC therefore requests that the FCC clarify its statements in the *M&O* to affirm the policy that MSS licensees must relocate incumbents if, based on established interference and coordination guidelines, interference would be caused to the incumbent operations.

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<sup>2</sup> *MO&O* at ¶28.

<sup>3</sup> *MO&O* at ¶27 (emphasis added).

**WHEREFORE, THE PREMISES CONSIDERED,** UTC requests the Federal Communications Commission to take action in accordance with the views expressed in this petition.

Respectfully submitted,

**UTC**

By: \_\_\_\_\_  
Jeffrey L. Sheldon  
Thomas E. Goode

**UTC**  
1140 Connecticut Avenue, NW  
Suite 1140  
Washington, D.C. 20036

(202) 872-0030

Dated: January 19, 1999