

Before the

FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Implementation of Sections 309(j) and	)	WT Docket No. 99-87
337 of the Communications Act of 1934	)	
as Amended	)	
	)	
Promotion of Spectrum Efficient	)	RM-9332
Technologies on Certain Part 90	)	
Frequencies	)	
	)	
Establishment of Public Service Radio	)	RM-9405
Pool in the Private Mobile	)	
Frequencies Below 800 MHz	)	

COMMENTS OF WESTERN RESOURCES

Pursuant to Section 1.415 of the FCC's Rules, Western Resources hereby submits

its Comments in response to the Notice of Proposed Rulemaking, released March 25,

1999, in the above-referenced docket. Western Resources operates Electric and Gas

utilities with 1.5 million customers in the states of Kansas and Oklahoma. In 1996, we

installed a state-of-the-art Trunked Radio System, licensed by the FCC, operating as a

private land mobile radio system (PLMRS) in the 900 MHz band. We urge the FCC to

protect the availability of spectrum for critical infrastructure industries such as Western

Resources. Western Resources supports the position of UTC, and offers the following

additional comments in support.

Introduction

Western Resources operates centralized System Operations Centers, that are

manned 24 hours per day, 7 days a week, in Topeka, Wichita and Kansas City KS.  
From these

centers, System Operators and Dispatchers use the Trunked Radio System to  
communicate

with any crew or vehicle in our service area. The radio system is exclusively  
for internal

communications and uses voice and data to achieve following functions:

1) To assure rapid response to emergency conditions such as downed power  
lines,

gas leaks and natural disaster like tornadoes and lightning storms. Most 911

jurisdictions within our service area request that we respond to all fire  
calls and

auto accidents involving poles or wires. Telephone and cable companies no  
longer

have the facilities to provide rapid response and police and fire crews do  
not try to

distinguish between power and communications lines.

2) Centralized system operators issue all switching orders to de-energize  
and tag

field equipment to protect maintenance personnel. This requires complete  
and

accurate radio communications. These procedures are required by OSHA  
to

protect workman safety.

3) Provide communications for nuclear plant operations, nuclear plant  
security

and nuclear emergency response capabilities.

4) Provide communications for natural gas pipeline operations, monitoring  
and

pipeline emergency response capabilities.

5) Day to day business operations such as directing the work force by  
dispatching

service orders, diverting personnel or vehicles, coordinating the activities of

workers and equipment on location.

#### Comments

On May 3, 1999 an F5 tornado hit Oklahoma City and Haysville KS, a suburb of

Wichita KS. This disaster was the focus of the national news media for several days. In

the first few hours following the storm City and County emergency response teams from

fire, police and civil defense had to either standby or proceed with extreme caution, until

Western Resources crews were able to contain numerous gas leaks and downed power

lines. Rapid utility crew response would not have been possible without our internal radio

system as the local commercial systems were totally overloaded for several days.

While our licenses to operate a PLMRS in the 900 MHz band have traditionally

been in the Business or Industrial categories, we think the uses of our system put it into

the realm of Public Safety Radio Service. We believe that the above functions meet the

criteria of protecting the safety of life, health, or property of both the general public and

our own work force. Indeed, Congress further clarified the definition of "Public Safety

Radio Service" to include utilities and pipelines. The Trunked Radio System is a private

internal service and is not made commercially available to the public. Therefore our

licensed frequencies should be exempt from competitive bidding. We note from the

Notice Of Proposed Rule Making paragraph 21 states in part "the exemption for public

safety radio service includes private internal radio services used by utilities". We note

that if the UTC proposal to create a third radio pool known as the Public Service Radio

Pool is feasible in the 900 MHz band then that may be an acceptable alternative.

The power industry as a whole is moving toward an open market for energy.

However the distribution or power delivery part of the industry will likely always be

regulated by state Public Service Commissions and carry the "obligation to serve" and to

"provide reliable service". Radio communications is a critical tool in meeting these

regulatory requirements.

To date, we have invested approximately \$16.9 million in the Trunked Radio System and have 2300 users. If we were to lose the use of our licensed frequencies

through the competitive bidding process this would become a stranded investment that

would have to be absorbed by utility rate payers. We do not believe that is in the

public interest.

Part C of the NPRM discusses Band Manager Licenses. As we understand this proposal it would insert a "for profit" third party between the FCC and a PLMRS end

user. This in effect shifts the management responsibilities of frequencies allocation and

license into a "for profit" private enterprise. Depending on how much the Band Manager

pays for a section of the spectrum, and how much profit he is allowed to make, this could

raise the cost of operation for a PLMRS by several million dollars. As the operator of a

public utility we do not believe that it is in the public interest to increase operating cost

that must be passed on to utility rate payers.

Site-by-site licensing should be maintained for those bands used primarily by

utilities and pipelines since their service territories do not coincide with predetermined

auction territories. Our trunked radio system covers the eastern 2/3 of the state of Kansas

and the southern 1/3 of western Kansas plus approximately 2 counties in northeast

Oklahoma and a small part of Kansas City, MO.

#### Conclusion

In conclusion, Western Resources urges the FCC to take action in accordance with the view expressed in these comments.

Respectfully submitted,

Western Resources

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Dated: August 2, 1999

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing "Comments of Western Resources" was sent by

first-class mail, postage prepaid, to the following persons this second day of August, 1999.

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