

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
Amendment of Part 2 and Part 90 of the) **RM-9854**
Commission’s Rules to Allocate the)
1427-1432 MHz Band for Automatic)
Meter Reading and Utility Telemetry Use)

REPLY COMMENTS OF UTC

Pursuant to Section 1.405 of the Federal Communications Commission's ("Commission") Rules, the United Telecom Council ("UTC"), hereby submits its reply comments in support of Itron’s Petition for Rulemaking appearing in the Commission’s *Public Notice, Report No. 2405*, released April 20, 2000.¹ UTC reiterates that utilities depend on automatic meter reading ("AMR") systems, and it fully supports allocating the 1427-1432 MHz band on a primary basis for AMR and utility telemetry service. Its support is echoed by Southern Connecticut Gas Company, Reliant Energy Minnegasco and EnSite, LP, all of which agree that wireless AMR helps to promote efficient energy use and protect public health and safety.

Final Analysis Communications Services, Inc. ("Final Analysis") and MicroTrax object to Itron’s Petition largely on procedural grounds, claiming that it should be

¹ Amendment of Part 2 and Part 90 of the Commission’s Rules to Allocate the 1427-1432 MHz Band for Automatic Meter Reading and Utility Telemetry Use, Petition for Rulemaking of Itron, Inc. in RM-9854 (Feb. 29, 2000)(hereinafter "Itron’s Petition").

considered as part of a larger rulemaking that includes competing interests for the spectrum, rather than as part of the *WMTS Rulemaking*.²

I. Itron’s Petition is Consistent With the Record in the *WMTS Rulemaking* And Should be Granted.

The fact is that Itron needed to file its own Petition separate from the *WMTS Rulemaking* due to procedural and practical considerations that now militate against consolidating the Petition with other competing petitions for rulemaking. First, Itron was correct to file a formal Petition for Rulemaking because it would have been beyond the scope of the *WMTS Rulemaking* to request in its comments a primary allocation for AMR and utility telemetry services. Second, a separate petition was necessary to obtain immediate action from the Commission to protect critical communications and the significant investment that has been and continues to be made in fixed telemetry systems in this band.

A. Itron Has Consistently Defended Utility AMR From Unnecessary Interference.

Itron did participate in the *WMTS Rulemaking* and informed the Commission of its concerns about potential interference from medical telemetry devices. Its comments were consistent with its Petition, both of which suggested that *WMTS* belonged in other spectrum or could be accommodated with less than the entire 1427-1432 MHz band.

Moreover, Itron’s comments merely requested that the Commission “explore these issues

² See Amendment of Parts 2 and 95 of the Commission’s Rules to Create a Wireless Medical Telemetry Service, ET Docket No. 99-255, *Notice of Proposed Rulemaking*, FCC 99-182, 64 Fed. Reg. 41891 (1999) (“*WMTS Rulemaking*”). See also Comments of Final Analysis on RM-9854 at 2 (May 22, 2000); and Comments of MicroTrax on RM-9854 at 5 (May 22, 2000).

thoroughly,”³ before “jeopardizing the continued operation of utility meter reading services.”⁴

Even though Itron’s comments “never claimed that it needed a primary allocation in the 1427-1432 MHz band,”⁵ UTC read Itron’s comments as notifying the Commission of the presence of telemetry systems in the band, which was apparently overlooked by the Commission when it adopted the *WMTS Rulemaking*. Moreover, as the *WMTS Rulemaking* failed to mention the presence of telemetry operations in the 1427-1432 MHz band, any request for primary status for utility AMR would have been beyond the scope of the proceeding.

B. Itron’s Petition Should Be Granted Without Delay.

In no way is Itron’s Petition “premature.”⁶ Instead, Itron’s Petition is an appropriate response to obtain immediate protection for critical infrastructure communications, as well as the reasonable investment-backed expectations of the utility industry. WMTS appeared to preclude the use of the 1427-1432 MHz band by secondary utility AMR licensees.⁷ However, Itron and the American Hospital Association have recently agreed that they could develop “a framework by which WMTS and [the Critical Infrastructure Industries] could utilize the entire 1427-1432 MHz band on a co-primary

³ Itron Reply Comments on the *WMTS Rulemaking* at 2 (Oct. 18, 1999).

⁴ Itron Comments on the *WMTS Rulemaking* at 3 (Sept. 16, 1999)(noting that an initial analysis indicated that WMTS could not be accommodated in the 1427-1432 MHz band without jeopardizing the continued operations of utility meter reading services).

⁵ Comments of Final Analysis on RM-9854 at 5.

⁶ *Id.*

⁷ Comments of Itron on the *WMTS Rulemaking* at 3.

basis.”⁸ Nonetheless, immediate action on Itron’s Petition is still necessary to protect utility AMR in the 1427-1432 MHz band from “potentially debilitating interference from some less compatible radio services and uses that have also been proposed for this frequency band,” such as Little LEO systems.⁹

The Commission should not adopt MicroTrax’s suggestion to “fold the instant Petition for Rulemaking into a master Notice of Proposed Rulemaking,” to consider other competing applications for the spectrum.¹⁰ Such a consolidation is neither procedurally necessary nor is it prudent policy. First, given the fact that Itron’s Petition addresses the issue of accommodating WMTS with current and future AMR operations in the 1427-1432 MHz band, the Commission should take action on the Petition in conjunction with the *WMTS Rulemaking*. Moreover, the Commitment Letter between WMTS representatives and Itron to develop a “framework” for sharing the 1427-1432 MHz band puts Itron’s Petition directly within the scope of the *WMTS Rulemaking*.¹¹ Finally, consolidating Itron’s Petition as part of a comparative proceeding with other petitions will cause extensive delay, jeopardizing existing operations and undermining investment for the deployment of AMR services that the Commission has promoted since 1974.

⁸ See Letter from Mary Beth Savary Taylor, Director, Executive Branch Relations, American Hospital Association, and Russell N. Fairbanks, Jr., Vice President and General Counsel, Itron, Inc., to Magalie R. Salas, Secretary, FCC, ET Docket 99-255 (May 31, 2000)(“Commitment Letter”).

⁹ *Id.* See Comments of American Hospital Association Task Force on Medical Telemetry to the *WMTS Rulemaking* at iii (concluding that “operating parameters for Little LEOs will make it very difficult, perhaps impossible, for low power WMTS devices to share spectrum with Little LEO operators.”) See also Comments of UTC, RM-9854 at 3-6 (May 22, 2000)(confirming that utilities depend on and have invested heavily in AMR services that use the 1427-1432 MHz spectrum for efficient and reliable delivery of energy services).

¹⁰ Compare Comments of MicroTrax, RM-9854 at 2 (May 22, 2000).

¹¹ See Commitment Letter, *supra* n. 6.

II. The Commission Should Allocate the 1427-1432 MHz Band for AMR and Utility Telemetry Services on a Primary Basis.

UTC continues to support the grant of Itron's Petition which will both protect reasonable investment-backed expectations in AMR and promote its further deployment, thereby "ultimately, lowering utility bills."¹² The same public interest benefits that supported Commission support for the deployment of AMR are equally applicable, if not more so, to wide-area networked AMR systems. Consumers enjoy privacy and convenience, because AMR does not require scheduled meter reads inside the home. It also helps customers monitor their energy consumption, and provides utilities with meter-tampering alerts, pinpoints power outages, and improves load projections. Fixed AMR networks also eliminate the need for numerous field visits by utility personnel, thereby reducing vehicular traffic and emissions, a goal of the Clean Air Act.

Therefore, UTC submits that grant of the Petition is demonstrably in the public interest and is consistent with longstanding Commission policy supporting the critical infrastructure communications needs of the nation's utilities, pipelines and other critical infrastructure industries. Virtually all commenters acknowledge the merits of Itron's Petition.¹³ Given the groundswell of support, particularly from the AHA, which expressed

¹² Amendment of Section 22.501 (g)(2) and 94.65(a)(1) of the Rules and Regulations to Re-Channel the 900 MHz Multiple Address Frequencies, *Report and Order*, 3 FCC Rcd. at 1568.

¹³ See Comments of the American Hospital Association Task Force on Medical Telemetry at 6 ("The AHA Task Force agrees that some sharing of the band as a whole appears feasible and may provide more flexibility in those areas where AMR demand is not substantial."); Comments of EnSite, LP at 2 ("The FCC now should take the next logical step and make the band 'a permanent home for AMR and utility telemetry."); Comments of MicroTrax at 3 ("MicroTrax agrees that wireless technology to read utility meters and to distribute time-of-date pricing information may service efficiency and benefit the economy."); Comments of Reliant Energy Minnegasco at 2 ("Allocating the 1427-1432 MHz band from AMR operations would be fully consistent with the Commission's policies and would complete the process begun by Congress almost ten years ago"); Comments of Southern Connecticut Gas Company at 1 ("By allocating the 1427-1432 MHz band for automatic meter reading technologies, the Commission could

“its commitment to work cooperatively with Itron and other AMR entities to develop a spectrum sharing plan,”¹⁴ the Commission should expeditiously grant Itron’s Petition.

foster the deployment of services that are of vital and growing importance to critical infrastructure industries while promoting efficient spectrum usage.”)

¹⁴ Comments of the American Hospital Association Task Force on Medical Telemetry at 7.

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

Respectfully submitted,

UNITED TELECOM COUNCIL

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CERTIFICATE OF SERVICE

I Brett Kilbourne certify that a copy of the foregoing Reply Comments of UTC were served on the parties below via first class mail, postage prepaid this 6th day of June 2000.

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