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June 27, 2001

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

EX PARTE

Magalie R. Salas, Secretary  
Federal Communications Commission  
The Portals Building  
445 12th Street, SW TW-A325  
Washington, D.C. 20554

Re: Itron, Inc.  
ET Docket No. 00-221

Dear Ms. Salas:

In a letter dated June 13, 2001, Itron, Inc. ("Itron") reported that it had met that day with Kathleen Ham, Deputy Chief, Wireless Telecommunications Bureau; D'Wana Terry, Chief, Public Safety & Private Wireless Division; and other Wireless Telecommunications Bureau staff concerning the above-referenced proceeding. In response to questions that the staff raised in the meeting, Itron is submitting the supplemental information that is attached to this letter.

If there are any questions concerning this filing, please contact the undersigned.

Sincerely,



Henry Goldberg  
Attorney for  
Itron, Inc.

Attachment

cc: Kathleen Ham, FCC  
D'Wana Terry, FCC

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List A B C D E

**Supplemental Information Regarding Allocation of 1.4 GHz Frequencies  
ET Docket No. 00-221**

1. *Could utilities use 900 MHz Multiple Address System (“MAS”) frequencies, including the additional MAS frequencies that the Commission made available last year, for their utility telemetry requirements, instead of using 1.4 GHz frequencies?*
  - A. No. MAS systems lack the bandwidth to support the advanced two-way features that fixed AMR networks can provide. Two-way systems establish a direct link between a utility and its customer premises utility meters, creating an information flow that can be used to reduce peak demand, shift usage to off-peak hours, and encourage conservation. Approximately 1 MHz per utility is needed for a two-way utility telemetry network. MAS systems, which are licensed for 12.5 kHz and 50 kHz channels, are inadequate for these purposes. It is also worth noting that relying on MAS frequencies for utility telemetry purposes would present a conflict with Canada, which has allocated 1.4 GHz frequencies for utility telemetry.

2. *Why would an allocation for utility telemetry be exempt from competitive bidding requirements?*

- A. Pursuant to Section 309(j)(2) of the Communications Act of 1934, as amended, private internal radio services used by non-governmental entities for the protection of life, health, or property, which are not made commercially available to the public, are exempt from the FCC’s auction authority. The Conference Report for the Balanced Budget Act of 1997, from which Section 309(j)(2) derives its authority, states that:

[T]he exemption from competitive bidding authority for “public safety radio services” includes “private internal radio services” used by utilities, railroads, [and] ... pipelines... . Though private in nature, the services offered by these entities protect the safety of life, health, or property and are not made commercially available to the public. H.R. Conf. Rep. No. 105-217, at 572 (1997).

To implement the intent of the Congress, the FCC has found specifically that utilities qualify for the auction exemption because they have an infrastructure that they use to provide essential public services to the public at large. *Implementation of Sections 309(j) and 337 of the Communications Act as Amended*, 15 FCC Rcd 22709 at ¶ 5 (2000).

In defining the scope of “private internal radio services” for purposes of the exemption, the FCC stated that the service must be one for which the utility does not make a profit (*i.e.*, a service not provided with the intent of receiving compensation for the radio service) and all messages are transmitted between fixed operating positions controlled by the utility. *Id.* at ¶ 16. Meter reading qualifies on all counts under this definition, since it is used for critical utility functions, such as load management, no subscriber fee is charged for meter reading, and the utility controls both the meter and the point at which the transmissions from the meter are received.

3. *Should Option 2 be expanded to include telemetry applications other than utility telemetry?*

A. For reasons of supply and demand, the telemetry allocation should be limited to utility telemetry.

On the demand side, the record in this proceeding reflects the need for advanced, two-way wireless utility telemetry services, and the increasingly critical nature of these services as energy shortages proliferate. There is virtually no record evidence, on the other hand, suggesting a requirement for non-utility telemetry communications in the 1.4 GHz band, with the exception of medical telemetry communications. Indeed, even though there is a longstanding (albeit secondary) allocation in the 1427-1432 MHz band for telemetry, the only telemetry licensees in the band are utility telemetry licensees and, more recently, medical telemetry licensees.

On the supply side, there is already barely enough capacity to accommodate utility telemetry needs, and opening up the spectrum for additional telemetry purposes would create the potential for a spectrum shortage. As discussed above, approximately 1 MHz per utility is required for two-way utility telemetry purposes. In virtually every market, there are separately metered electric and gas utility services, so that 2 MHz of spectrum are needed to serve the market. The band plan that Itron and the American Hospital Association Task Force on Medical Telemetry have developed leaves utility telemetry with roughly 2 MHz of usable spectrum in each market.<sup>1</sup> There is no room to spare.

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<sup>1</sup> In most markets, the band plan earmarks 2.5 MHz for utility telemetry on a primary basis. The 2.5 MHz, however, would be adjacent to high power mobile operations, making the usable spectrum closer to 2 MHz.

4. *Who holds 1427-1432 MHz utility telemetry licenses and when did they acquire them?*
- A. In the initial rollout phase, the practice has been for Itron to hold the FCC license for 1427-1432 MHz utility telemetry systems. That practice exists largely for historical reasons. Because of concerns with possible interference to government systems that also use the 1427-1432 MHz band, it was initially required that NTIA be notified prior to commencing utility telemetry operation in a new market. Therefore, it made sense for Itron to serve as a clearinghouse for coordinating with NTIA. As utility telemetry systems proved their ability to co-exist with government users, however, NTIA eliminated the notification requirement. Following an allocation for utility telemetry in this proceeding, utilities will hold individual site licenses for their systems.

Itron has been licensed to use the 1427-1432 MHz band for utility telemetry since the early 1990s. In 1993, the FCC granted Itron a nationwide license to develop and test a wireless AMR/utility telemetry system in the 1427-1429 MHz portion of the band.<sup>2</sup> In 1994, the FCC modified Itron's license to add operational authority,<sup>3</sup> and in 1998, it modified the license further to permit operation across the full 1427-1432 MHz band.<sup>4</sup> Itron's license was renewed in 1999 for an additional five-year term.<sup>5</sup>

5. *Where are utility telemetry systems using 1.4 GHz band systems located?*
- A. AMR utility telemetry systems using the 1.4 GHz band are located in the following markets: Santa Ana, California; Baltimore, Maryland; Battle Creek, Michigan; Detroit, Michigan; Long Island, New York; Pittsburgh, Pennsylvania; Austin, Texas; Georgetown, Texas; Norfolk, Virginia; Richmond, Virginia; Springfield, Virginia; and Spokane, Washington.

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<sup>2</sup> File No. 9301081307.

<sup>3</sup> File No. 9401115177.

<sup>4</sup> File No. 9708D090801.

<sup>5</sup> File No. 9904R388949.