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January 10, 2003

**BY ECFS**

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, SW  
Washington, D.C. 20554

**Re: ET Docket No. 02-135  
Proposal by Warren C. Havens and Telesaurus Holdings GB, LLC  
Regarding Use Of the 902-928 Band for an Advanced  
Technology Land Infrastructure Service (ATLIS)**

Dear Ms. Dortch:

Itron, Inc. ("Itron"), by its attorneys, submits these comments in response to the above-referenced proposal by Warren C. Havens and Telesaurus Holdings GB, LLC (d/b/a and hereinafter referred to as "LMS Wireless") to use the 902-928 MHz band, and other bands, as part of a new Advanced Technology Land Infrastructure Service ("ATLIS").<sup>1</sup> For the reasons discussed below, Itron opposes the creation of the ATLIS service and urges the Commission to reject the proposal offered by LMS Wireless.

Itron is the nation's leading manufacturer and supplier of automatic meter reading ("AMR") technologies using unlicensed Part 15 devices that operate in the 902-928 MHz band. Itron supplies its RF-based AMR systems to electric, gas, and water utility companies nationwide. Itron's AMR systems enable a utility to monitor business and residential meters from a remote location based using a hybrid architecture that employs both licensed and unlicensed frequencies. On the unlicensed side, utility consumption information is transmitted from meter modules via unlicensed Part 15 devices operating in the 902-928 MHz band. To date, Itron has shipped more than 20

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<sup>1</sup> See Reply Comments of Warren C. Havens and Telesaurus Holdings GB, LLC (d/b/a LMS Wireless), ET Docket No. 02-135 (filed Sept. 6, 2002) ("ATLIS White Paper"); see also Supplement to Reply Comments of Warren C. Havens and Telesaurus Holdings GB, LLC (d/b/a LMS Wireless), ET Docket No. 02-135 (filed Nov. 4, 2002) ("Supplement to ATLIS White Paper").

million meter modules to more than 850 utility companies nationwide, and collectively Itron's customers have invested over \$1 billion in their AMR networks.

The ATLIS plan proposed by LMS Wireless represents a radical overhaul of the 902-928 MHz band, and its implementation would threaten the continued existence of Itron's AMR systems in the band. LMS Wireless recommends reallocating the entire 26 MHz of spectrum comprising the 902-928 MHz band between three broad categories of service providers—public safety entities (PS), critical infrastructure providers (CI), and private enterprise users (PE).<sup>2</sup> LMS Wireless further proposes that current and future Part 15 devices used in critical infrastructure wireless systems, such as AMR, should “be switched to Part 90 status, and . . . operate under the CI spectrum allocation in the ATLIS 902-928 MHz band (tuned off of the PS allocation).”<sup>3</sup>

As described above, the 902-928 MHz band provides a critical link in Itron's AMR systems. Thus, Itron has grave concerns about LMS Wireless' scheme to usurp the entire band in flagrant disregard of existing users of the spectrum. The ATLIS White Paper does not explain how existing “critical infrastructure” users of Part 15 devices in the 902-928 MHz band, like Itron and its customers, will continue to coexist free from interference following the implementation of the ATLIS plan.<sup>4</sup> The White Paper further ignores the installed base of tens of millions of AMR-related Part 15 devices already in use in the band, suggesting only that such devices be subject to some type of Part 90 licensing.<sup>5</sup> As the Commission recently has recognized, AMR operators use thousands of fixed sites in any given market.<sup>6</sup> Requiring a separate Part 90 authorization for each of these sites is an unduly burdensome and unrealistic solution for AMR service.<sup>7</sup>

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<sup>2</sup> *See id.* at 27. The ATLIS plan calls for 13 MHz in the 902-928 MHz band to be used exclusively by PS and CI. The remainder of the band is to be allocated to for-profit private enterprise entities on a licensed basis, but secondary to PS and CI. *See id.* at 10.

<sup>3</sup> *Id.* at 29. Other Part 15 devices that are not part of a critical infrastructure wireless system, such as consumer indoor cordless phones and LANS would be phased out of the band entirely by prohibiting sales of such devices after a cut-off date. *See id.*

<sup>4</sup> The safe harbor provision of Section 90.361 currently exempts eligible Part 15 devices from being considered sources of harmful interference to multilateration LMS systems. *See* 47 C.F.R. § 90.361. This protection is essential to the continued operation and coexistence of Part 15 devices in the 902-928 MHz.

<sup>5</sup> *See* ATLIS White Paper at 29.

<sup>6</sup> *See In re Amendments to Parts 1, 2, 27 and 90 of the Commission's Rules to License Services in the 216-220 MHz, 1390-1395 MHz, 1427-1429 MHz, 1429-1432 MHz, 1432-1435 MHz, 1670-1675 MHz, and 2385-2390 MHz Government Transfer Bands*, Report and Order, WT Docket No. 02-8, FCC 02-152, ¶51 (rel. May 24, 2002).

<sup>7</sup> *See id.*

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The ATLAS White Paper represents a radical departure from long-standing Commission policies with respect to the 902-928 MHz band. In adopting the rules applicable to the Location and Monitoring Service which LMS Wireless is seeking to change, the Commission “recognize[d] the concerns of the Part 15 and amateur communities that the expansion of the permissible uses of the LMS service will result in more intensive use of the 902-928 MHz band.”<sup>8</sup> The Commission concluded that “operational restrictions should be imposed to maintain the coexistence of the many varied users of the band.”<sup>9</sup> The rules adopted by the Commission promote cooperation between these many users and encourage spectrum efficiency in an already congested band.

LMS Wireless’ proposal will result in more intensive use of the 902-928 MHz band and will increase the potential for harmful interference to Part 15 devices by allowing continuous transmission at high power levels, resulting in severe spectrum congestion. Thus, the ATLAS plan for a ubiquitous service in the 902-928 MHz band is entirely inconsistent with the Commission’s stated purposes for the band. The Commission should not pursue spectrum flexibility at the expense of interference protection as LMS Wireless has urged.

For these reasons, Itron opposes the creation of a new ATLAS service in the 902-928 MHz band and asks the Commission to reject the proposal by LMS Wireless.

Respectfully submitted,

A handwritten signature in black ink that reads "Henry Goldberg". The signature is written in a cursive, flowing style.

Henry Goldberg  
Joseph A. Godles  
*Attorneys for Itron, Inc.*

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<sup>8</sup> *Amendment of Part 90 of the Commission’s Rules to Adopt Regulations for Automatic Vehicle Monitoring Systems*, Report and Order, 10 FCC Rcd 4965, 4708 (1995).

<sup>9</sup> *Id.*