Jill M. Lyon
Vice President & General Counsel
202.833.6808
jill.lyon@utc.org

December 18, 2007

Marlene H. Dortch, Secretary
Federal Communications Commission
445 Twelfth Street, S.W., Room TW A-325
Washington, DC 20554

Re: Ex Parte Notice – WT Docket No. 05-62 – Use of the 896-901 MHz and 935-940 MHz Bands Allotted to the Business and Industrial Land Transportation Pool

To the Secretary:

This is to provide notice that, on this date, the Utilities Telecom Council ("UTC") filed Reply Comments in WT Docket 02-55, *Improving Public Safety Communications in the 800 MHz Band,* concerning proposed frequency allocations for 800 MHz rebanding in regions along the U.S.-Canada border. As part of those Reply Comments, UTC recommended that the FCC act in the above-captioned proceeding in accordance with its previous filings in the docket. A copy of the Reply Comments are attached to this Notice.

This Notice is being filed pursuant to Section 1.1206 of the Commission's Rules and Regulations, 47 C.F.R. § 1.1206. If there are any questions concerning this matter, please do not hesitate to contact me.

Sincerely,

Attachment

Before the

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of		
Improving Public Safety Communications in the 800 MHz Band	)	WT Docket No. 02-55
New 800 MHz Band Plan for U.S. – Canada Border Region	)	

To: The Commission

REPLY COMMENTS OF THE
UTILITIES TELECOM COUNCIL

The Utilities Telecom Council ("UTC" or "the Council") in accordance with Section 1.415 of the Federal Communications Commission ("FCC" or "Commission") rules and regulations, respectfully submits its reply comments in the the above-entitled proceeding.[1] While recognizing the difficulties the FCC faces in trying to complete 800 MHz rebanding along international borders, UTC generally supports the several commenters noting the importance of equitable frequency allocations for all 800 MHz users. It is vital that "Wave 4" licensees operating in the Canadian border regions have the same access to reliable, interference-free frequencies as licensees in non-border areas to the extent possible given the smaller amount of spectrum available for U.S. use.

[1] *Further Notice of Proposed Rule Making,* WT Docket No. 02-55, 22 FCC Rcd 19266 (2007) ("*FNPRM*"). UTC also is filing these Reply Comments in the 900 MHz PLMR docket (WT No. 05-62) due to statements made herein.

I. Introduction

UTC represents the telecommunications and information technology interests of critical infrastructure industry (CII) entities, particularly electric, gas and water utilities and natural gas pipelines. Its members range from large, multi-state investor-owned utilities, to municipalities that are Public Safety entities under FCC rules, to cooperatives serving only a few thousand customers. All of these entities operate private, internal radio systems to support their vital core services, including not only mobile voice and data networks to protect the safety and enhance the efficiency of crews in the field, but advanced wireless metering networks and fixed-service control systems that protect electric, gas and water "grids." Many of UTC's utility members operate wireless systems in the 800 MHz band, and of those, several providing public services to the areas along the upper tier states will be impacted by the Commission's decision on the FNPRM. While many utilities have completed the mandated 800 MHz rebanding process, these members have been waiting, along with all other border-area licensees, for the revised international agreements that would allow completion of Wave 4 rebanding, and therefore, welcome this progress. However, they have been, and remain, concerned that the overall scarcity of frequencies in border regions could be exacerbated if frequency allocations adopted for rebanding do not treat all licensees fairly. UTC therefore appreciates the FCC's efforts to ensure an equitable solution in border areas; however, UTC agrees with commenters that feel more work is needed to protect critical operations. In these Reply Comments, UTC speaks to general principles that should govern rebanding along international borders: UTC's members have broad differences

among their specific utility networks which, when coupled with the differences in proposals among the several border regions, will drive different answers to specific questions for each utility.

II. Discussion

A. Frequency Allocations in U.S.-Canada Border Regions Must Remain Proportionate and Equitable.

Availability of comparable facilities is a key component and guarantee of the FCC's rules governing 800 MHz rebanding, and must not be jeopardized. UTC echoes the urging of commenters that the U.S.-Canada band plan ensure that spectrum allocations be equitable for all licensee types, and that the proportions of available frequencies be retained.[2] While the 800 MHz environment is at least as confused in the border regions as elsewhere, with public safety, private wireless, specialized mobile radio (SMR) and enhanced SMR (ESMR) operations intermingled often on a channel-by-channel basis, maintaining proportional allocations is the only way to ensure rough equity among user groups, both now and in future. At the same time, UTC recognizes that the smaller amount of total spectrum available will make re-creation of user pools impossible exactly as they exist elsewhere in the country. UTC therefore agrees with the Commission that user pools may be located in different portions of the band in different U.S.-Canada regions, so long as the total number of frequency pairs available to public safety, Business/ILT users and others remain the same as existed prior to rebanding.

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[2] *See, e.g.,* Comments of Consumers Energy Company, WT Docket No. 02-55, filed December 3, 2007 (Consumers), at 4-5; Comments of Sprint Nextel Corporation, WT Docket No. 02-55, filed December 3, 2007 (Sprint Nextel), at 3.

B. UTC Opposes Interleaving Between Business/Industrial and ESMR Frequencies.

Multiple commenters indicated severe concern with both the vagueness of the FCC's proposals for Business/Industrial Land Transportation licensees and the likely interleaving of these frequencies with ESMR providers.[3] UTC agrees with these concerns and urges the FCC not to create an atmosphere of harmful interference while seeking to solve the same problem.

As UTC repeatedly reminded the FCC from the onset of this lengthy proceeding, interference is not dependent on user type: it is caused by incompatible technology, in this case the proximity of low-power, cellular-like operations to high-power systems. The proposed interleaving of Business/Industrial-Land Transportation networks, which currently are operating entirely high-site, high-power systems in these areas, with ESMR providers using low-power, cellularized systems, thus seems a guarantee of exactly the kind of harmful interference this proceeding was initiated to resolve. Utilities operating 800 MHz systems to enable the most critical of public services and ensure the safety of their personnel *cannot* suffer this interference. UTC recognizes the FCC's concerns about the need for channel spacing in analog trunked systems to avoid combiner loss; however, the Council is concerned that the Commission has not proposed a specific plan that would protect a large number of its impacted licensees. UTC urges the Commission to revise and clarify its proposed band plans to separate ESMR allocations from those of Business/ILT operations; it also should impose

[3] *See, e.g.,* Consumers at 7-8; Comments of Boeing Corporation, WT Docket No. 02-55, filed December 3, 2007 (Boeing) at 7-8; Comments of NPSPAC Planning Region 43 in Canadian Border Regions 5, 6, and 7 Regarding the Proposed Canadian Border Area 800 MHz Band Plan, WT Docket No. 02-55, filed December 3, 2007 (Region 43), at 4.

interference protection standards and other technical rules similar to those in place in non-border areas. A Guard Band such as that proposed by Region 43 [4] may be an answer where the amount of U.S.-allocated spectrum is sufficient to create it.

C. Current Primary/Secondary Uses Across the Border Should Be Retained.

Because of the scarcity of spectrum along the U.S.-Canada border, licensees have had to make the best use possible of available frequencies, including unusual cross-border licensing arrangements in some cases. UTC recommends that such provisions be retained, including secondary licensing by cross-border operators and Sprint Nextel's access to Canadian frequencies pursuant to a Special Coordination Procedure (SCP).[5] Retaining these arrangements will reduce the inconvenience and expense of unnecessarily moving operations that are operating successfully. However, UTC does not recommend that such arrangements be changed to provide primary protection to licensees now operating on a secondary basis.

D. 800 MHz Scarcity Should Not Be Resolved Through 900 MHz Interference.

While 800 MHz frequencies along the U.S.-Canada border are more scarce than in non-border areas, UTC must disagree with suggestions by some commenters that greater access to 900 MHz private land mobile spectrum, or forcing Sprint Nextel to move to the 900 MHz band, is the answer.[6] Critical infrastructure and other 900 MHz licensees are no more deserving of harmful interference than those in the 800 MHz

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[4] *See,* Region 43 at 4.
[5] *See,* Sprint Nextel at 2-3.
[6] *See,* Id. at 10; Consumers at 12-14.

band, and they currently have much less protection available to them. There are no interference protection standards in place at 900 MHz such as those adopted for 800 MHz licensees. Heavy Sprint Nextel occupation of the 896-901 MHz/935-940 MHz private land mobile frequency band for public, cellularized operations will inevitably lead to substantial interference to existing incompatible systems in that band, including many operated by utilities.

The FCC has initiated a rulemaking proceeding concerning the future of the 900 MHz PLMR band.[7] As part of that docket and at the request of the Commission's Wireless Telecommunications Bureau, private wireless associations, acting collectively and representing nearly all licensees there, provided recommended interference protection standards for the 900 MHz frequency band that are nearly identical to those already adopted for the 800 MHz band.[8] These standards were arrived at following a study of propagation characteristics and tolerances of equipment available specifically in the 900 MHz band and with input from equipment manufacturers. Recognizing that the 900 MHz band must be used to some extent in 800 MHz rebanding, UTC again urges the Commission to complete the 900 MHz proceeding by adopting these measures to protect licensees. This will enable both a more effective completion of the 800 MHz rebanding process and more efficient future use of the 900 MHz band.

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[7] *See generally,* Amendment of Part 90 of the Commission's Rules to Provide for Flexible Use of the 896-901 MHz and 935-940 MHz Bands Allotted to the Business and Industrial Land Transportation Pool, WT Docket No. 05-62.

[8] *See,* Letter from Tracy P. Marshall to Marlene Dortch, WT Docket No. 05-62, filed April 13, 2007 (with attachment)*; see also,* Letter from Jill M. Lyon to Marlene Dortch, WT Docket No. 05-62, filed May 23, 2007.

III. Conclusion

WHEREFORE, THE PREMISES CONSIDERED, the Utilities Telecom Council respectfully requests that the FCC consider these Reply Comments and act in a manner consistent with the views expressed herein.

Respectfully submitted,

UTILITIES TELECOM COUNCIL

Jill M. Lyon
Vice President & General Counsel
1901 Pennsylvania Ave., NW
Fifth Floor
Washington, DC 20006
202.872.0030

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