

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
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Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698- 806 MHz Band)	WT Docket No. 08-166
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Public Interest Spectrum Coalition, Petition for Rulemaking Regarding Low Power Auxiliary Stations, Including Wireless Microphones, and the Digital Television Transition)	WT Docket No. 08-167
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Amendment of Parts 15, 74 and 90 of the Commission’s Rules Regarding Low Power Auxiliary Stations, Including Wireless Microphones)	ET Docket No. 10-24
)	

**REPLY COMMENTS OF THE NUCLEAR ENERGY INSTITUTE AND THE
UTILITIES TELECOM COUNCIL**

The Nuclear Energy Institute (“NEI”) and the Utilities Telecom Council (“UTC”) on behalf of the nation’s 104 nuclear power plants (collectively “the Utilities”), hereby submit their reply comments in response to the Commission’s *Further Notice of Proposed Rulemaking* in the above-referenced dockets.¹ The Utilities reply to comments filed by CTIA—The Wireless Association, which oppose the use of low power auxiliary stations (i.e. wireless headsets) within nuclear power plants, operating in the 700 MHz band.² Notwithstanding CTIA’s opposition, the Utilities continue to urge the Commission to license, either under Part 74 or Part 90, the use of

¹ Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band, *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket Nos. 08-166, 08-167 and ET Docket No. 10-24, 49 Comm’s. Reg. (P&F) 309 (2010).

² Comments of CTIA – The Wireless Association in WT Docket Nos. 08-166, 08-167 and ET Docket No. 10-24 at 3-4 (filed Mar. 1, 2010).

these mission-critical communications devices at nuclear power plants, as more fully explained in their comments in this proceeding³ and in their Petition for Waiver.⁴

I. The Commission should permit the licensed operation of Part 74 low power auxiliary stations inside nuclear plants using the 700 MHz band, as well as other VHF and UHF frequencies.

The Utilities respectfully disagree with CTIA's opposition to the licensed operation of wireless headsets in the 700 MHz band inside nuclear power plants. Allowing this use of the 700 MHz band will not interfere with commercial and public safety licensees in the band, nor will it obstruct the clearing of the 700 MHz band. It will, however, permit Utilities to use Telex wireless headsets that are uniquely capable of operating within nuclear power plants.⁵ Finally, this proposed operation is distinctly different from other types of uses of wireless microphones, because it supports the generation and production of essential electric services to the public at large, and it is limited in time and isolated in location, such that it does not pose the same threat of interference.⁶ As such, the Commission should permit the licensed operation of Telex

³ See Comments of NEI and UTC in WT Docket Nos. 08-166, 08-167 and ET Docket No. 10-24 (filed Mar. 1, 2010).

⁴ See Wireless Telecommunications Bureau Seeks Comment on Request by Nuclear Energy Institute and Utilities Telecom Council for Waiver to Permit the Use of Part 74 Two-Way Wireless Headsets and Intercom Devices Inside Nuclear Power Plants, WT Docket No. 09-176, *Public Notice*, 24 FCC Rcd 12387 (2009); Petition for Waiver (Expedited Action Requested), Nuclear Energy Institute and Utilities Telecom Council (filed Sept. 23, 2009) (Petition for Waiver).

⁵ As more fully described in the Utilities comments on its Petition for Waiver and in its comments in this proceeding, the Telex equipment is reliable and doesn't cause interference within the plants, unlike other equipment that the Utilities have tested.

⁶ As more fully described in the Utilities comments on its Petition for Waiver, operations in the 700 MHz band would be limited primarily to times of the year during nuclear refueling and would be further limited to indoor use inside nuclear power plants that have thick walls and are located on perimeter-fenced properties that are hundreds of acres wide.

wireless headsets at nuclear power plants, including in the 700 MHz band, as well as other VHF and UHF frequencies.

As the Utilities have explained to the Commission, the Utilities lack suitable alternatives to the use of Telex headsets. It should be noted that the Utilities have been diligently working to comply with the FCC Rules and find suitable alternatives. They have sought and obtained experimental authority to operate in compliance with the FCC Rules, and they are seeking a waiver of the Part 90 rules, as a long-term solution. Given the importance of these communications systems to operations at nuclear power plants, and the importance of nuclear power plants to the nation's demand for electricity, the Utilities need regulatory certainty, which is not provided through experimental licensing or Part 15 unlicensed status.⁷ As such, the Utilities need the Commission to authorize low power auxiliary operations on a licensed basis inside nuclear power plants, using the 700 MHz band, as well as in other VHF and UHF frequencies.

The Utilities merely seek a reasonable extended transition period to use the 700 MHz band on a licensed basis until the nuclear power plants can secure replacement Telex equipment operating in other bands that would meet the Utilities' mission-critical communications requirements.⁸ As the Utilities have recounted in filings with the Commission, only Telex

⁷ See *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 08-166, 49 Comm's. Reg. (P&F) 309 at ¶¶ 71-90 (2010)(allowing a temporary waiver to permit the use of wireless microphones on a Part 15 unlicensed basis).

⁸ The Utilities have suggested that a three-year transition period would provide sufficient time for the nuclear power plants to find replacement equipment. See e.g. Letter from J. Jeffrey Craven, Counsel to the Nuclear Energy Institute to Marlene Dortch, Secretary, FCC, *Ex Parte* in WT Docket No. 08-166 and 09-175 (filed Feb. 26, 2010) and see Letter from J. Jeffrey Craven, Counsel to the Nuclear Energy Institute to Marlene Dortch, Secretary, FCC, *Ex Parte* in WT Docket No. 08-166 and 09-175 (filed Mar. 18, 2010).

headsets meet the Utilities' communications requirements, and Telex does not currently have any meaningful inventory of headsets that operate in other bands.⁹ Also, once Telex is able to produce a sufficient inventory of replacement equipment, the Utilities will need time to coordinate with Telex regarding available frequencies at each location, and the production of replacement equipment on those specific frequencies. Then, the Utilities will need to plan around outage schedules for the installation of the new equipment, as well as the testing and training of personnel to use it. Conversely, there is no need to strictly impose the June 12, 2010 deadline here, because there is no risk of interference to or from these operations, due to the fact that they are low power and are confined inside nuclear power plants that are restricted from public access. As such, a reasonable transition period beyond the proposed June 12, 2010, cutoff would be appropriate, in order to allow Utilities to operate Telex headsets in the 700 MHz band on a licensed basis inside nuclear power plants, during this transition.

CTIA raises only general policy reasons and unsubstantiated interference concerns in opposition to the use of the 700 MHz band. Contrary to CTIA's claims, the Utilities Petition for Waiver does not ignore the DTV transition, nor does it reflect a lack of understanding of the significance of the reallocation of the 700 MHz band for commercial and public safety services. Further, the Utilities have made significant efforts to identify potential alternative equipment, testing 29 separate types of equipment for use inside the challenging environment of the nuclear power plants. Moreover, CTIA's interference concerns lack any technical basis, and ignore the

⁹ See Letter from J. Jeffrey Craven, Counsel to the Nuclear Energy Institute to Marlene Dortch, Secretary, FCC, *Ex Parte* in WT Docket No. 08-166 and 09-175 (filed Mar. 18, 2010)(reporting that Telex does not have much (if any) inventory of replacement equipment in other bands, and that it will require close coordination with Telex well in advance of producing the base stations and belt packs/headsets to determine available spectrum at each plant and order circuit boards for that spectrum).

reality that a low power signal from a Telex headset inside nuclear power plants that are separated from the public by hundreds of acres and perimeter-fencing poses no threat of interference to or from public safety or commercial wireless communications in the 700 MHz band.

Apart from CTIA, there is no other opposition on the record. It is also noteworthy that there has been no opposition from public safety to this use specifically, despite their opposition to the use of wireless microphones in their bands generally.¹⁰ Therefore, consistent with the Utilities' comments in this proceeding, the Commission should permit "Power Licensees" (as defined in Part 90.7 of the Commission's Rules) to obtain licenses under Part 90 for use of mission-critical communications equipment certificated for use under Subpart H of Part 74 of the Commission's Rules, inside nuclear power plants, operating in the 700 MHz band, as well as other VHF and UHF frequencies.

¹⁰ See Comments of APCO in WT Docket No. 08-166 (filed Mar. 1, 2010)(opposing the operation of wireless microphones in the 470-512 MHz bands). See also Letter from Chris Fischer, President, APCO, Christopher Guttman-McCabe, Vice President, Regulatory Affairs, CTIA – The Wireless Association, Dr. Brian Fontes, Executive Director, National Emergency Number Association, and Ralph Haller, Chair, National Public Safety Telecommunications Council to Marlene H. Dortch, Secretary, FCC, *Ex Parte* in WT Docket Nos. 08-166 and 08-167 (filed Apr. 7, 2009).

WHEREFORE, the Utilities respectfully urge the Commission to permit the operation of Telex wireless headsets at nuclear power plants on either a Part 74 or Part 90 licensed basis, operating in the 700 MHz band as well as other VHF and UHF frequencies. The Utilities recognize that the 700 MHz band has been reallocated from broadcast to commercial and public safety communications services. Moreover, the Utilities are working diligently to comply with the FCC's Rules and its larger public policy goals, however, they need to continue to be able to rely on the Telex wireless headsets to limit worker exposure to radiation and promote safe plant operations during this transition period. This will not interfere with primary uses of the band, nor will it obstruct the larger public policy goal of clearing the 700 MHz band for commercial and public safety services. Instead, this is a limited use of the band that will serve important energy and public safety goals.

Respectfully submitted,

SS
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