

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

In the Matter of )  
 )  
Modification of Sections 90.20(d)(34) and 90.265 ) RM - 11635  
of the Commission’s Rules to Facilitate the Use of )  
Vehicular Repeater Units – Petition for )  
Rulemaking filed by Pyramid Communications, )  
Inc. )

**REPLY COMMENTS IN OPPOSITION OF THE UTILITIES TELECOM COUNCIL**

Pursuant to Section 1.405 of the Commission’s Rules, the Utilities Telecom Council (“UTC”) hereby files its reply comments in response to the Commission’s Public Notice in the above-referenced matter.<sup>1</sup>

As UTC explained in its comments,<sup>2</sup> the 173 MHz splinter frequencies that Pyramid Communications (“Pyramid”) proposes to use for VRS voice communications are widely used by utilities and other critical infrastructure industries (“CII”) for data communications that support the safe, effective and secure delivery of essential services to the public at large. Making these frequencies available for VRS will likely lead to interference with mission critical data communications, and this interference will be difficult if not impossible to mitigate against due to the temporary fixed and itinerant nature of VRS operations. Moreover, contrary to assertions by Pyramid, the LMCC has not adopted coordination procedures that would address the interference risk from VRS.<sup>3</sup> Instead, LMCC continues to develop coordination procedures for adjacent channel interference involving trunked systems, but these

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<sup>1</sup> *PSSSB Seeks Comment on Rulemaking Petition on VHF Vehicular Repeaters*, Public Notice, RM-11635, DA 11-1717 (rel. Oct. 14, 2011).

<sup>2</sup> *See generally* Comments of UTC in RM-11635 (filed Nov. 4, 2011).

<sup>3</sup> *See* Petition for Rule Making by Pyramid Communications, RM-11635, at 6-7 (filed Aug. 16, 2011)(stating that the “LMCC...has developed frequency coordination standards by which radio systems can be coordinated on adjacent frequencies where bandwidths overlap” and that “[o]n this basis, Pyramid believes that the time is appropriate for removing the thirty year old restriction on voice operation, allowing for low power VRS operation on 173.2375, 173.2625,173.2875,173.3125,173.3375 and 173.3625 MHz.”)

procedures don't account for differences between voice and data.<sup>4</sup> As such, the proposed VRS operations pose a serious interference risk to utilities' mission critical communications on the 173 MHz splinter frequencies that is not mitigated by the potential for frequency coordination.

The frequencies at issue were created in 1977 by the Commission in response to requests by UTC and others for additional spectrum for non-voice operations.<sup>5</sup> There are very few other frequencies that are designated for telemetry purposes.<sup>6</sup> Moreover, since the Commission consolidated the PLMR pools below 512 MHz and auctioned off other bands that utilities used for fixed data, congestion has been an increasing problem at a time when utilities are facing increasing demand for spectrum to support smart grid and other communications needs. The Commission should not be considering any proposals that would further erode utility access to spectrum. Utilities need greater access to spectrum, not less.

UTC recognizes that comments by public safety organizations have expressed support for VRS use of the 173 MHz splinter frequencies.<sup>7</sup> However, as suggested in UTC's comments, there are other frequencies that could be used and/or improvements in filter technologies that could be employed that would enable VRS to operate with less frequency separation. Comments by some public safety organizations recognize this, and share the same concerns as UTC.<sup>8</sup> Thus, Pyramid has failed to demonstrate that it lacks alternatives to using the 173 MHz splinter frequencies, and it has not adequately

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<sup>4</sup> See Letter to Marlene H. Dortch, Secretary, FCC from Douglas Aiken, President, Land Mobile Communications Council (filed June 3, 2011)(explaining the ongoing discussions and recommending revisions to its previously filed recommendations for coordinating trunked operations below 512 MHz.).

<sup>5</sup> *Amendment of Parts 89 and 91 of the Commission's Rules and Regulations to make available four 173 MHz splinter frequencies to the Local Government and Manufacturers Radio Services for telemetry and remote control operations*, Second Report and Order, Docket No. 20149, 65 F.C.C.2d 898 (1977).

<sup>6</sup> See 47 C.F.R. 90.238 (authorizing the use of telemetry on discrete frequencies in the PLMR bands, many of which are secondary and subject to restrictions on power).

<sup>7</sup> See e.g. Comments of APCO at 2 (filed Nov. 4, 2011); and Comments of the Virginia Department of State Police at 3 (filed Nov. 4, 2011).

<sup>8</sup> Comments of the Forestry Conservation Communications Association, Inc. at 3 (explaining that "filter technology is not sufficient justification" for Pyramid's proposed relief, and that "if the equipment operated with a lesser frequency spread, many more channels would automatically become available, as potentially every channel specified in Section 90.20 could be considered." See also Comments of the International Municipal Signal Association and the International Association of Fire Chiefs at 5 (explaining that expanding the use of the 170 MHz band frequencies as Pyramid suggest would increase the possibility of interference, and rejecting Pyramid's claims that coordination and interference would not be problematic.)

demonstrated that its use of the 173 MHz splinter frequencies would not cause interference to incumbent operations, particularly those by utilities and other CII that are used for mission critical communications. The Commission should not adopt a rulemaking proceeding unless and until Pyramid has made the requisite technical showing that it needs the 173 MHz splinter frequencies and that its operations won't interfere with incumbent operations.

## **CONCLUSION**

In conclusion, UTC reiterates its opposition to the Petition, and appreciates the opportunity to provide these reply comments in response to the Commission's Public Notice and opposes the Petition for Rule Making by Pyramid. UTC urges the Commission to deny the petition and not allow voice operations on 173.2375, 173.2625, 173.2875, 173.3125, 173.3375 and 173.3625 MHz frequencies. UTC looks forward to working with Commission on this issue going forward.

Respectfully submitted,

### **Utilities Telecom Council**

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