Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band	)	WT Docket No. 08-166
	)	
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
	)	
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

To: The Commission

REPLY COMMENTS
OF THE NUCLEAR ENERGY INSTITUTE
AND UTILITIES TELECOM COUNCIL

The Nuclear Energy Institute ("NEI") and the Utilities Telecom Council ("UTC") on behalf of the operators of the nation's 104 nuclear power plants (collectively the "Reactor Licensees"), hereby submit reply comments in the above-reference proceeding.[1]

[1] *Revisions to Rules Authorizing the Operation of Low Power Auxiliary Stations in the 698-806 MHz Band*, WT Docket No. 08-166, *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, *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, Report and Order and Further Notice of Proposed Rulemaking, 25 FCC Rcd 643 (2010).

I. The Commission Should Codify Existing Waivers of Part 15 Conditions for Nuclear Power Plants and Expand Part 74 Eligibility to Include Nuclear Power Plants.

Based upon an extensive record, the Commission previously granted the Reactor Licensees a waiver to use wireless Telex headsets, *indoors only*, on television band frequencies without regard to distance separation, and at up to 100 mW. This Part 15 waiver is justified by nearly a decade-long record of non-interference, as well as a clear and unrefuted demonstration that there is no viable alternative equipment, especially in the unique and challenging environs of the nuclear plant buildings. The Reactor Licensees have further requested, and the Commission has proposed in this rulemaking, that the Reactor Licensees be made eligible under Part 74 of the Commission's rules for the licensing of Telex equipment for use indoors at nuclear power plants as well as outside (but still within the plants' security perimeter). As more fully set forth in the Reactor Licensees' Comments, the codifications of that waiver into the rules, together with Part 74 eligibility are essential to the Reactor Licensees' ability to protect their workers from unnecessary radiation exposure and ensure the safe operations of the nuclear facilities.

A. Public safety and health, operational considerations.

It is easy to envision, for example, that, if the plants were forced to replace their Telex headsets with a device that did not allow for reliable, hands-free, full-duplex communications capabilities, vital communications in and around the plant would take longer, and would require more workers to perform the tasks involving radiation exposure. Similarly, if the plants were forced to turn to a communications device that inadvertently caused spurious actuation, interference, or equipment desensitization, these communications breakdowns could result in more safety-significant operational events and even unscheduled partial (or complete) nuclear plant shut-downs. Continued use of Telex headsets is therefore critical to public safety and

health for workers who maintain nuclear generating facilities that collectively supply about 20 percent of this nation's electricity.

B. No threat of interference from operations in and around nuclear power plants.

NEI and UTC are pleased to receive the support from many Commenters in this proceeding, including the National Association of Broadcasters ("NAB") and the Society of Broadcast Engineers ("SBE"), for Reactor Licensee Part 74 eligibility.[2] NAB and SBE are well versed in the public health and safety impact that Telex headsets bring to the operations of the nuclear plants, as well as the practical reality that the plants' use of this equipment creates absolutely no risk of interference. Indeed, NAB and SBE have been working with NEI and UTC for over eight (8) years in order to balance the demonstrable public health and safety benefits of the Reactor Licensees' use of the Telex equipment, with the broadcast licensees' rights to be free from interference. Together, we framed the 2007 Consensus Plan through which the plants were permitted to operate the Telex equipment indoors, without frequency coordination, and outside, with frequency coordination. As a result of the Consensus Plan, the nuclear power plants have had no instances of spurious actuation or partial shut-down due to communications equipment "tripping" vital plant equipment, and hundreds of plant workers have experienced lower doses of radiation, for shorter periods of time, as they perform the critical outage operations as well as critical maintenance operations.

Unlike Commenters Microsoft Corporation and the Engineers for the Integrity of Broadcast Auxiliary Services Spectrum, who merely offer decades old criticisms and incongruous metaphors, rather than meaningful or substantive objections to the Commission's limited expansion of Part 74 license eligibility to include Reactor Licensees, NAB and SBE

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[2] *See* Comments of the National Broadcasters Association at 4, n. 7; Comments of the Society of Broadcast Engineers at 15-17.

understand that nuclear power plants' intermittent use of Telex headsets, at 100 mW or less power, is not an interference threat to any licensee. In fact, since the Consensus Plan was signed six (6) years ago, there has not been a single report of interference. And, when one considers the critical public health and safety benefits derived from the use of Telex headsets, it would seem, from a regulatory perspective, not even to be a close call.

C. Regulatory certainty.

Guidance for balancing the competing interests of relevant industry parties, as well as the current operational realities, can be found in the Commission's recent *Signal Booster R&0*,[3] in which the FCC recognized that signal boosters are here to stay and turned its attention of how to best limit interference, promote spectrum efficiency, public health and safety, and improved communications facilities, especially in rural areas, including indoors (e.g. hospitals) where signal strength is sometimes too low or too unreliable. We urge the Commission to follow the same game plan here, and adopt rules that will enhance spectrum efficiency, and promote public health and safety, by codifying the Reactor Licensees' Part 15 waiver rights and granting Part 74 eligibility. As the Commission demonstrated in the *Signal Booster R&O*, these important public health and safety enhancements can be managed while at the same time protecting the incumbent licensees through "tight regulatory controls to mitigate their potential for interference."[4]

II. New and Existing Part 15 Operations Should be Permitted to Continue to Operate Below 698 MHz.

CTIA asserts without any basis that new, licensed wireless use of the broadcast bands would be incompatible with the Reactor Licensee's current use of Telex equipment inside the

[3] *Amendment of Parts 1, 2, 22, 24, 27, 90 and 95 of the Commission's Rules to Improve Wireless Coverage Through the Use of Signal Boosters*, WT Docket No. 10-4, Report and Order, FCC 13-21 (rel. Feb. 20, 2013) ("*Signal Booster R&O*").

[4] *Id.* at ¶ 13.

nuclear plant facilities. As demonstrated over the past decade, this premise has never been the case for broadcast and broadcast auxiliary use. With due respect, given the essential public health and safety functions advanced by Telex headsets (and of record in this rulemaking), CTIA's position seems less designed to protect worker health and safety, or advance the most efficient use of the spectrum, than to protect its members' interests.

The Reactor Licensees also respectfully disagree with CTIA's position that would deny unlicensed users the rights to use the Guard Bands. The commenters in this rulemaking broadly endorse the unlicensed users' right to access the Guard Bands, in order to expand service and bring increased spectrum efficiency, at a time of diminishing spectrum availability. As such, CTIA seems once again to be out of the mainstream in advocating positions that would preclude the most efficient usage of the available spectrum and thereby deny certain unlicensed users, such as the nuclear plant workers, access to critically needed spectrum, while conferring no benefit on any other parties.

As demonstrated in their Comments, the Reactor Licensees need both a codification of the Part 15 waiver and licensing eligibility under Part 74 in order to assemble adequate spectrum at each plant for the operation of Telex headsets and thereby maximize worker health as well enhance safe operations of the plant facilities. NAB and SBE know the score, having worked for years directly with the plants on this very issue. We respectfully suggest that their comments should carry more weight than any others when it comes to balancing the licensees' rights to protection from interference and the public health and safety benefits associated with enabling the Reactor Licensees access to adequate levels of spectrum in order to continue to carry-out their important public health and safety communications requirements.

For the foregoing reasons, the Reactor Licensees urge the Commission to expand the eligibility under Part 74 to include Reactor Licensees, and codify the waiver of Part 15 previously granted to the Reactor Licensees so that Reactor Licensees can meet their mission-critical communications requirements with Telex wireless headset equipment. Only with this range of regulatory relief in place will the Reactor Licensees have a real opportunity to find enough spectrum to maintain their current operations and thereby promote worker health and safe plant operations.

Respectfully submitted,

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March 12, 2013