

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

In the Matter of	)	
	)	
Public Notice, DA 14-897	)	
Consumer & Government Affairs Bureau	)	CG Docket No. 14-97
Seeks Comment on Termination of	)	
Certain Proceedings as Dormant	)	

**OPPOSITION OF ITRON, INC. TO  
COMMENTS OF PCS PARTNERS, L.P.**

Itron, Inc. (“Itron”), by its attorneys, opposes the request by PCS Partners, L.P. (“PCSP”)<sup>1</sup> that the Federal Communications Commission (“FCC” or “Commission”) re-open WT Docket No. 06-49 (“Docket 06-49”) to take comment on whether the proceeding should be terminated. The Commission has acted within its authority in determining that it is unnecessary to revise the Multilateration Location and Monitoring Service (“M-LMS”) rules, and in so doing has provided much needed regulatory certainty to millions of potentially-affected users.<sup>2</sup> There is no legal basis on which it would be required to take public comment on this decision, and the request should be denied.

Itron is the nation’s leading manufacturer and supplier of Advanced Metering Infrastructure (“AMI”) and Automatic Meter Reading (“AMR”) technologies, many of which operate in the 902-928 MHz band. Itron participated extensively in Docket 06-49, both separately and as part of the Part

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<sup>1</sup> *In the Matter of Public Notice, DA 14-897, Consumer & Government Affairs Bureau Seeks Comment on Termination of Certain Proceedings as Dormant, Comments of PCS Partners, L.P., CG Docket No. 14-97 (filed Aug. 20, 2014) (“PCSP Comments”).*

<sup>2</sup> *In the Matter of the Commission’s Part 90 Rules in the 904-909.75 and 919.928 MHz Bands, Order, WT Docket No. 06-49, 29 FCC Rcd 6361 (2014) (“Order”).*

15 Coalition, with regard to the potential impact of the proposed rule changes on unlicensed users that operate in the band.

The Order challenged by PCSP is a substantive decision by the Commission, after a full notice and comment proceeding, in which proposed changes to the M-LMS rules were considered. The Commission concluded that these proposals “do not merit further consideration,” finding that rule changes are “not warranted” and “not necessary.”<sup>3</sup> The Commission explained that “we believe that the existing M-LMS framework can provide M-LMS licensees with sufficient opportunities to provide service offerings. . . . Accordingly, we conclude that terminating this rulemaking serves the public interest at this time.”<sup>4</sup>

PCSP now asserts that this dismissal was error on the part of the Consumer and Government Affairs Bureau (“Bureau”), to which the Commission has granted delegated authority to review and close dormant proceedings *via* a public notice process, essentially as a “housekeeping” task. In particular, PCSP claims that, because the Order was not listed on a public notice issued by the Bureau in the above-captioned docket, the Commission has denied the opportunity “for meaningful input that is guaranteed by the rules.”<sup>5</sup> In addition, PCSP challenges the Order as “not supported by any record,” and states that interested parties “had no opportunity to discuss developments” with regard to M-LMS technology.<sup>6</sup> For these reasons, PCSP believes that the Bureau should issue a new public notice allowing for comment on all of these issues.

PCSP’s true concern, however, is not actually about the Bureau’s housekeeping action in this proceeding, but about the Commission’s substantive

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<sup>3</sup> Order at ¶ 8.

<sup>4</sup> *Id.*

<sup>5</sup> PCSP Comments at 2.

<sup>6</sup> PCSP Comments at 3.

order issued in Docket 06-49, which is a final Commission action in a rulemaking proceeding.<sup>7</sup> To the extent that PCSP has challenges to the merits of the Commission's decision, those should have been raised in a Petition for Reconsideration.<sup>8</sup> And to the extent that PCSP challenges the Commission's procedure, they are in error, as the Commission properly followed its rules by issuing a 24-page Notice of Proposed Rulemaking and providing a more than two month period to file comments and an additional month to file reply comments.<sup>9</sup> Indeed, PCPS participated in the proceeding, although it has not filed in the docket since October 23, 2009. The resulting Order was issued in accordance with the Commission's rules, as it considers all relevant comments and materials, consists of a decision incorporating a finding, and provides a brief statement of the Commission's reasons.<sup>10</sup>

For these reasons, PCSP's request is in error and should be denied promptly.

Respectfully submitted,

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<sup>7</sup> See 47 C.F.R. § 1.425.

<sup>8</sup> See 47 C.F.R. § 1.429 (providing for petitions for reconsideration of final orders in rulemaking proceedings).

<sup>9</sup> See 47 C.F.R. § 1.415 (setting out rules for accepting comments and replies to proposed rulemakings). The Order listed the name of all parties that participated in filing comments and reply comments, and explained that "[t]he record in this proceeding closed on June 30, 2006." Order at ¶ 4.

<sup>10</sup> See 47 C.F.R. 1.425.