

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

In the Matter of	)	
Amendment of Part 90 of the Commission’s Rules	)	
to Improve Access to Private Land Mobile Radio	)	WP Docket No. 16-261
Spectrum	)	
	)	
Land Mobile Communications Council	)	
Petition for Rulemaking Regarding Interim	)	
Eligibility for 800 MHz Expansion Band and	)	
Guard Band Frequencies	)	RM-11719
	)	
Petition for Rulemaking Regarding Conditional	)	
Licensing Authority Above 470 MHz	)	
	)	
	)	RM-11722
	)	

**REPLY COMMENTS OF THE UTILITIES TECHNOLOGY COUNCIL**

Pursuant to Section 1.405 of the Commission’s Rules, the Utilities Technology Council (“UTC”)<sup>1</sup> hereby files the following reply comments in response to the Notice of Proposed Rulemaking in the above-referenced proceeding.<sup>2</sup> The record overwhelmingly supports the Commission’s proposals to add frequency pairs 451/456.00625 MHz and 451/456.0125 MHz, as well as to add frequency pairs 462/467.5375 MHz and 462/467.7375 MHz. Moreover, the record unanimously supports the Commission’s proposal to permit conditional authority for operations on frequencies above 470 MHz. UTC reiterates its support for these proposals. UTC also urges the Commission to provide incumbents with early access to available 800 MHz Expansion Band and Guard Band frequencies, consistent with UTC’s comments and numerous other comments on the record.

**I. The Commission Should Make Additional PLMR Channels Available**

As UTC explained in its initial comments, it supports the Commission’s proposal to make

---

<sup>1</sup> UTC was formerly the “Utilities Telecom Council”. See [www.utc.org](http://www.utc.org).

<sup>2</sup> In the Matter of Amendment of Part 90 of the Commission’s Rules to Improve Access to Private Land Mobile Radio Spectrum, WP Docket No. 16-261, *Notice of Proposed Rulemaking*, 31 FCC Rcd 9431 (2015)(“NPRM”).

available for Part 90 operations the frequency pairs of 451/456.00625 MHz and 451/456.0125 MHz, as well as the frequency pair of 462/467.7375 MHz. Specifically, UTC encourages the Commission to allow frequency coordinators to determine whether wider emission designators than 4 kHz should be allowed for operations on these new channels. In addition to opening up additional frequencies for access for Part 90 operations, providing flexibility to use wider emission designators would make more effective use of these frequencies. Moreover, coordinators are uniquely positioned to determine when and where wider emissions could be used without causing interference to other operations. Utilities and other critical infrastructure industries need access to additional spectrum and allowing the use of wider emission designators will enable them to support higher capacity requirements using existing equipment. Therefore, UTC supports the proposal to make these frequencies available, and it urges the Commission to permit wider emissions than 4 kHz on a case-by-case basis.

Comments on the record overwhelmingly support opening up access to these channels for many of the reasons that UTC cited in its comments. It makes more effective use of available spectrum and will help to alleviate spectrum congestion.<sup>3</sup> In addition, UTC agrees with the LMCC that frequency coordinators are able to determine whether and how these frequencies can be made available without causing interference.<sup>4</sup> Coordination of these frequencies should address the concerns raised by the National Association of Broadcasters about the potential for interference to BAS, as well as to GMRS.<sup>5</sup> Therefore, UTC reiterates its support for the Commission's proposal to make these frequencies available for Part 90 operations.

---

<sup>3</sup> See Comments of the National Public Safety Telecommunications Council (NPSTC) in WP Docket No. 16-261 at 8 (filed Nov. 22, 2016)(stating that “In general, NPSTC supports these proposals, subject to the ability of frequency coordinators to assist in the assignment of these new limited bandwidth channels to avoid interference to operations in adjacent channels,” because “addition of these few additional limited bandwidth channels for I/B operations helps put previously unassigned spectrum to use.”); Comments of Motorola in WP Docket No. 16-261 at 5 (filed Nov. 22, 2016) (supporting the proposal but urging the Commission to adopt rules to protect interference to GMRS); and Comments of the National Association of Manufacturers and MRFAC, Inc. in WP Docket No. 16-261 at 4 (filed Nov. 22, 2016)(hereinafter “Comments of NAM/MRFAC”).

<sup>4</sup> Comments of the Land Mobile Communications Council in WP Docket No. 16-261 at 3 (stating that the “LMCC believes that these issues [i.e. emission designators, spectrum overlap and potential interference] are best addressed in the frequency coordination process.”)

<sup>5</sup> Comments of the National Association of Broadcasters in WP Docket No. 16-261 at 2 (stating that the Commission should refrain from authorizing spectrum at band edges between two services without coordination).

## **II. Conditional Authority Above 470 MHz Should Be Permitted**

UTC continues to support the Commission's proposal to expand conditional authority to apply to frequencies above 470 MHz, including the 800 MHz and 900 MHz I/B and Public Safety Pool frequencies. UTC continues to urge the Commission to expand conditional authority to apply to the T-Band (470-512 MHz) frequencies too, as well as for the 769-775/799-805 MHz (700 MHz) Public Safety narrowband frequencies.

The comments on the record unanimously support this proposal.<sup>6</sup> The only real debate is over whether conditional authority should be limited so that operations are on a secondary basis and whether conditional authority should be extended to other bands in addition to the 800 and 900 MHz I/B bands. On balance, UTC agrees with the comments on the record, including the LMCC, which oppose secondary status for operations under conditional authority. As UTC explained in its comments utilities and other CII have urgent communications needs, which could be more effectively met through conditional licensing – and their mission critical communications must have primary status. Utilities and other CII also have systems in the T-Band that could benefit from conditional authority, as well. Therefore, UTC urges the Commission to adopt its proposal to expand conditional authority to the 800/900 MHz channels, and UTC supports extending conditional authority to apply to the 470-512 MHz channels and the

---

<sup>6</sup> Comments of the Association of American Railroads in WP Docket No. 16-261 at 6 (filed Nov. 22, 2016)(hereinafter “Comments of AAR”)(stating that “[t]he Commission should adopt its proposal to extend conditional use licensing to the 800 and 900 MHz bands.”); Comments of APCO in WP Docket No. 16-261 at 4 (filed Nov. 22, 2016)(supporting expanding conditional authority to 800 MHz and 900 MHz I/B and Public Safety Pool frequencies, as well as the 700 MHz public safety narrowband frequencies.); Comments of the LMCC at 5-7 (supporting the proposal and arguing that it should be expanded to SMR and other bands, including the T-Band); Comments of NPSTC at 4 (supporting conditional authority above 470 MHz – provided there is frequency coordination as a prerequisite); Comments of the National Regional Planning Council in WP Docket No. 16-261 at 3 (filed Nov. 22, 2016)(supporting conditional authority above 470 MHz, stating that it has worked well for public safety applicants below 470 MHz – and urging the Commission to allow conditional authority in the T-Band too.); Comments of the State of Florida in WP Docket No. 16-261 at 4 (supporting conditional authority for public safety entities on 800 MHz channels and applicable 700 MHz public safety frequencies.); and Comments of Motorola in WP Docket No. 16-261 at 4 (filed Nov. 22, 2016)(supporting conditional authority above 470 MHz because it will provide greater flexibility for applicants to deploy in new spectrum quickly).

700 MHz narrowband channels.

### **III. The Commission Should Allow Incumbent Part 90 Licensees Access to Expansion Band and Guard Band Frequencies Prior to New Entrants.**

UTC continues to support the Commission's proposal to provide a window of time for incumbent Part 90 licensees to apply for available Expansion Band frequencies.<sup>7</sup> UTC also continues to urge the Commission to extend this window to apply to the Guard Band frequencies, as well.<sup>8</sup> In both instances, the Commission should provide incumbent licensees with a six-month window in which to apply for licenses before new entrants.<sup>9</sup>

UTC echoes the overwhelming number of comments on the record that support the Commission's proposal and that urge the Commission to provide incumbents with a six-month window in which to apply for Guard Band (GB) frequencies, as well as Expansion Band (EB) channels.<sup>10</sup> These comments agree with UTC that early access to the EB/GB channels by incumbents would serve the public interest by putting this spectrum to effective use by incumbents, who have been unable to meet increasing communications demands during the pendency of the 800 MHz rebanding process.

Comments in opposition to early access to EB/GB channels by incumbents fail to address public interest harms about rampant speculation in the band and administrative burdens that would result from numerous applications being filed as soon as the window has opened for available EB/GB frequencies.<sup>11</sup> Many of these comments in opposition are connected with one

---

<sup>7</sup> See *NPRM* at ¶31.

<sup>8</sup> *Id.* at ¶34 (inviting comment on whether the Commission should provide a window for 800 MHz licensees in a market to acquire, or expand coverage on, GB channels).

<sup>9</sup> *Id.* at ¶32 (inviting comment on the length of the window of time for incumbents to apply for available EB and GB channels before new entrants apply for them).

<sup>10</sup> See e.g. Comments of AAR at 2, 6-7 (supporting six-month advance access to both EB and GB channels); Comments of APCO at 3 (supporting incumbent access to EB and GB channels for a six-month time period in advance of new entrants); Comments of the LMCC 8-10; Comments of NPSTC at 6-7; and Comments of NAM/MRFAC at 2-3.

<sup>11</sup> See e.g. Comments of M2M Spectrum Networks, LLC in WP Docket No. 16-261 (filed Nov. 22, 2016).

entity, M2M Spectrum Networks, LLC.<sup>12</sup> As such, UTC urges the Commission to provide incumbents with a six-month window of time to access available 800 MHz EB/GB channels in advance of new entrants, which would serve the public interest in the effective use of spectrum by incumbents, including utilities and other critical infrastructure industries which have pent up demand for additional capacity during the extensive 800 MHz rebanding process.

### **Conclusion**

For all the foregoing reasons, the Commission should adopt rules consistent with the comments expressed herein. The Commission should make additional channels available for Part 90 PLMR services. It should allow conditional authority in the bands above 470 MHz. Finally, it should provide incumbents with a six-month window in which to apply for available EB and GB channels before new entrants can apply for them.

Respectfully submitted,

**By:**                                 /s/                                

Brett A. Kilbourne  
Vice President & Deputy General Counsel  
Utilities Technology Council  
1129 20<sup>th</sup> Street NW, Suite 350  
Washington, D.C. 20036  
(202) 833-6807  
[brett.kilbourne@utc.org](mailto:brett.kilbourne@utc.org)

Dated: December 22, 2016

---

<sup>12</sup> See e.g. Letter from Absalom Gonzalez, Inc., President of Absalom Gonzalez, Inc. to Marlene H. Dortch, Secretary of the FCC in WP Docket No. 16-261 (filed Oct. 17, 2016); Letter from Greg Ferguson, President & CEO Roadrunner Delivery, Inc. to Marlene H. Dortch, Secretary of the FCC (filed Oct. 11, 2016); Letter from Dr. Chad Laurich, Assistant Professor at Sanford Health to Marlene H. Dortch, Secretary of the FCC in WP Docket No. 16-261 (filed Oct. 10, 2016); Letter from Stacey Parker, President and CEO of At Home Health Equipment to Marlene Dortch, Secretary of the FCC in WP Docket No. 16-261 (filed Oct. 8, 2016); Letter from Wayne Seybold, President of Ice Realty, LLC to Marlene H. Dortch, Secretary of the FCC in WP Docket No. 16-261 (filed Oct. 11, 2016); and Comments of Marion Utilities in WP Docket No. 16-261 (filed Nov. 22, 2016).