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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C. 20554

In the Matter of	)	
	)	
Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets	)	**WT Docket No. 00-230**
	)	

COMMENTS FOR KANSAS CITY POWER & LIGHT COMPANY

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Dated: February 9, 2001

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COMMENTS FOR KANSAS CITY POWER & LIGHT COMPANY

Pursuant to FCC Rule 1.415, 47 C.F.R. § 1.415, Kansas City Power & Light Company ("KCPL"), by and through its undersigned telecommunications counsel, hereby files comments in the above referenced proceeding. KCPL applauds the FCC's efforts to foster more vigorous and efficient use of spectrum through the elimination and/or modification of unnecessary regulatory impediments to spectrum use. At the same time, however, KCPL urges the FCC to ensure that the integrity of incumbent *licensee* operations are protected and preserved. Specifically, to the extent that the FCC institutes measures to decrease restrictions on spectrum use by unlicensed parties, KCPL urges the FCC to: 1) generally preserve existing uses and interference protection for licensees in all services and only introduce new services or standards to the extent that they afford licensees an equal or greater level of protection than they currently receive; 2) establish informational and procedural mechanisms for the rapid identification and resolution of interference issues; and 3) establish licensee and lessee accountability for spectrum lessee's compliance with FCC requirements.

I. BACKGROUND

1. KCPL is a public utility that provides electricity to over 1,000,000 residents, businesses, and governmental entities, throughout the Kansas City Metropolitan Area. In addition, KCPL provides electricity to other utility companies in both Kansas and Missouri. Within its 4,700 square mile service territory, KCPL is the primary source of electrical power for traffic signals, fire stations, police stations, airports, and emergency warning systems. It also provides electric power to 28 major telephone company facilities, 38 water purification and pumping systems, 27 sanitation and wastewater treatment centers, 41 nursing homes, and 39 hospitals. Notably, the Federal Aviation Administration's Regional Air Traffic Control Center, the Department of Agriculture's National Computer Center, and the National Severe Storms Forecast Center are located in KCPL's service territory. Virtually every public safety entity in KCPL's service territory depends on or is affected by its effectiveness in re-engaging its system in times of severe weather or natural disasters, as well as on a day-to-day basis.

2. KCPL is obligated to its employees, customers, and the public to undertake maintenance and repairs of this large system as safely and quickly as possible. In order to fulfill this obligation, KCPL's employees are kept on standby during severe weather in order to be deployed, day or night, as soon as an outage is reported. KCPL's concern with severe weather can not be overstated: much of its service territory is located in an area of the United States nationally known as "Tornado Alley." In addition to being hit with an unusually large number of tornadoes, the area is also subject to many highly destructive ice storms, windstorms, and floods. This often results in linemen conducting repair work on high voltage lines while a storm is still in progress. The danger of working on lines that carry 69,000 to 345,000 volts is obviously exacerbated during outages resulting from severe weather.

3. Reliable communications are critical to KCPL's ability to protect its employees while they are performing the above-described repair work. To communicate with field personnel deployed across its service territory, KCPL has licensed and operates an extensive 900 MHz Industrial/Land Transportation radio system. KCPL's communication system is first and foremost a lifeline to employees in the field working to minimize the effects of electrical outages on the public. It is safe to say that virtually every public safety entity in KCPL's service territory depends on, or is affected by, its effectiveness in re-engaging its system in times of severe weather or natural disasters, as well as on a day-to-day basis. Dependable communications are necessary to ensure KCPL's ability to provide continuous electrical service to the public. Ultimately, KCPL's communications system is the backbone of its operations.

4. In addition to the 900 MHz radio system, KCPL operates a 450 MHz system for communication between employees inside and in between KCPL's power plants. The employees use the radio system to coordinate daily activities such as boiler control, switching, and generating power. Because of the high risk of danger involved in these activities, it is imperative that communication lines are clear and unobstructed. One misunderstanding caused by harmful interference on KCPL's radio system could lead to a potentially serious and life threatening situation for both the employees within the plant and the surrounding population. The public interest is best served by ensuring that KCPL's communication system is not compromised.

II. DISCUSSION

5. The FCC's Notice of Proposed Rulemaking and the accompanying Policy Statement propose to establish secondary spectrum markets and represent potentially positive steps in the administration of the radio spectrum. KCPL agrees that increased flexibility in certain FCC rules can lead to the increased use of spectrum that may not be fully utilized, thus

contributing to the overall availability of spectrum. This can in turn create opportunities to expand existing operations and to develop new services.

6. As the FCC takes steps to carry out this initiative, KCPL believes it is critical that the FCC protect the integrity of incumbent licensed operations, particularly in bands that have traditionally been devoted to use by private operations of the type contemplated by Congress in establishing the *public safety radio services* exemption. As the FCC is well aware, wireless systems are essential to the safe and efficient operation of utility infrastructure, which in turn has a direct and extraordinary impact on the public. Interference to operations on these systems poses significant potential safety hazards and requires the devotion of resources that could otherwise be allocated to a more beneficial use. Accordingly, the FCC must ensure that, while it seeks to advance the potential benefits of a secondary market in spectrum, it does not open the door to a degradation of the quality of existing operations. KCPL submits that such a result would far outweigh any benefits gained from increased spectrum use.

A. Interference Standards and Service Rules

7. As a preliminary matter, to the extent that it permits leasing of spectrum by incumbent licensees, the FCC must generally maintain current uses and interference standards in existing bands. New services and interference standards should only be permitted if they are definitively shown to afford equal or greater protection to licensed operations than they receive now. In this regard, the FCC must take an extremely measured approach, providing an opportunity for notice and comment any time it proposes a change in the current operational standards for an existing service. Only in this fashion, KCPL submits, will the introduction of leasing or other secondary market opportunities constitute a net benefit to the public.

B. Resolution of Interference Disputes

8. Related to the preservation of existing interference protection, the FCC must establish procedures to ensure that interference disputes are subject to rapid and conclusive resolution. The introduction of leasing into the existing radio services will increase overall spectrum use, and will result in a more dynamic operational environment, with users commencing and terminating service more frequently, and with less advance scrutiny, than is currently the case. As a result, opportunities for co-channel interference will increase. It is critical to the integrity of the spectrum bands as a whole that licensees have an effective means of identifying and terminating interference resulting from any improper use.

9. In KCPL's view, this requires a two-fold approach. First, licensees must be able to identify the source of interfering operations. Accordingly, the FCC must institute procedures for providing public notice of leased operations. This could, KCPL submits, be accomplished through the establishment of a database accessible on the Wireless Telecommunications Bureau's website. Licensees proposing to lease spectrum should be required to provide advance notice by entering the operational details and term of such leasing as a condition to moving forward with it. In this way, licensees could have a reference for determining the source of interference. Second, the FCC must institute a procedural mechanism for the resolution of interference disputes involving leased spectrum. While this could take many forms, the most important elements are speed and conclusiveness. This could be accomplished through a complaint process involving relatively short response timeframes with default provisions for failing to meet deadlines. Additionally, KCPL submits that the FCC should establish a presumption in favor of licensed operations over leased operations in interference disputes.

C. Licensee Accountability

10. In the Notice of Proposed Rulemaking, the FCC has requested comments on the extent to which the licensee should be accountable for the actions of the lessees and any sublessees. In KCPL's view, it is appropriate to hold all parties individually or jointly accountable for the actions of any lessees or sublessees. While KCPL recognizes the potential benefits of increased flexibility in the use of spectrum by unlicensed entities, it is clear that such flexibility can lead to a decrease in compliance with the FCC's regulations as the relationship of the actual user and the FCC becomes more attenuated. In order to check this possibility, there should be maximum accountability and redress in the leasing context. The licensee will be in the best position to control the conduct of its lessees and should be held responsible therefor. All parties using or leasing should be equally responsible for compliance and subject to penalties for noncompliance.

III. CONCLUSION

11. KCPL believes that the FCC's secondary markets initiative can lead to significant benefit for the public, provided that care is taken to ensure that licensed operations are properly protected. The existing wireless operations of KCPL and others are simply too critical to place at risk in this regard. KCPL is confident that the FCC can reach its objectives without compromising the integrity of these operations.

WHEREFORE, THE PREMISES CONSIDERED, KCPL respectfully requests that the FCC consider these comments and proceed in a manner consistent with the views expressed herein.

Respectfully submitted,

KANSAS CITY POWER & LIGHT COMPANY

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Dated: February 9, 2001

CERTIFICATE OF SERVICE

I, Christine S. Biso, do hereby certify that on this 9th day of February 2001, a copy of the foregoing "Comments for Kansas City Power & Light Company" was hand-delivered to each of the following:

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