

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)
)
Commission Seeks) ET Docket No. 02-135
Public Comment on)
Spectrum Policy Task Force)
Report)

To: The Commission

COMMENTS OF ITRON, INC.

Itron, Inc. (“Itron”), by its attorneys, hereby submits these comments in response to the Commission’s public notice seeking comment on the Spectrum Policy Task Force Report.¹ As we explain below, and as the Task Force acknowledged, in order to foster continued innovation and investment, any spectrum policy reform should provide stability and certainty for both licensed and unlicensed spectrum users.

I. Introduction

Itron is the nation’s leading manufacturer and supplier of automatic meter reading (“AMR”) technologies using unlicensed Part 15 devices that operate in the 902-928 MHz band. Itron supplies its RF-based AMR systems to electric, gas, and water utility companies nationwide. Itron’s AMR systems enable a utility to monitor business and residential meters from a remote location using a hybrid architecture that employs both licensed and unlicensed frequencies. Itron has

¹ *Commission Seeks Public Comment on Spectrum Policy Task Force Report*, Public Notice, ET Docket No. 02-135, FCC 02-322 (rel. Nov. 25, 2002); *see also Commission Seeks Public Comment on Spectrum Policy Task Force Report*, Order, ET Docket No. 02-135, DA 02-3400 (rel. Dec. 11, 2002) (extending time for filing comments).

provided more than 20 million meter modules to more than 850 utility companies nationwide, and Itron customers have invested over \$1 billion in their AMR networks. Itron's customers use these networks to provide the public at large with services that the Commission has described as "essential."²

II. Certainty And Stability Are Essential For Unlicensed Services.

As the Commission considers changes to its spectrum policies, Itron supports the SPTF's recognition that spectrum management must "be based on clear definitions of the rights and responsibilities of both licensed and unlicensed spectrum users."³ Itron also supports the SPTF's conclusion that "a level of certainty regarding one's ability to continue to use spectrum . . . is an essential prerequisite to investment."⁴ Adherence to these principles is necessary to foster continued innovation in unlicensed wireless technologies.

In addition to licensed frequency bands, Itron and its customers rely on the 902-928 MHz unlicensed band pursuant to carefully designed rules that balance the needs of multiple diverse users. These rules allow highly efficient and flexible use of the spectrum while preventing debilitating interference. Abrupt changes to these rules, even changes that are intended to lead to increased flexibility could, rather than increasing flexibility, endanger existing uses of the band. This could jeopardize industry and consumer investment and create strong disincentives to future investment by unlicensed Part 15 manufacturers and users. For example, in the name of "greater flexibility," licensed users in the 902-928 MHz band could use this spectrum in a manner that

² See *Implementation of Sections 309(j) and 337 of the Communications Act of 1934 as Amended; Promotion of Spectrum Efficient Technologies on Certain Part 90 Frequencies; Establishment of Public Service Radio Pool in the Private Mobile Frequencies Below 800 MHz; Petition for Rule Making of the American Mobile Telecommunications Association, Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 99-87, 15 FCC Rcd 22709, 22711-12 (2000).

³ Spectrum Policy Task Force Report at 3.

will destroy the utility of the band for hundreds of millions of existing Part 15 users.⁵

This dilemma highlights the importance of stability and certainty in spectrum rules for unlicensed, as well as licensed, users. In the licensed radio services, the Commission can provide the requisite degree of stability by giving licensees an appropriate expectancy of license renewal. There is no comparable mechanism in the unlicensed radio services. There, the Commission can serve the goal of having sufficient stability to encourage investment only by promoting certainty in the continued application of the rules governing the unlicensed spectrum.

Without that level of certainty, the continued threat of fundamental rule changes will impose significant costs on manufacturers and consumers, who have made substantial investments based on current spectrum rules. Even if the change is ultimately rejected, the continued threat to Part 15 users can generate unnecessary uncertainty with respect to current and future business plans.

The development of unlicensed radio services, and the public's increasing reliance on them, has been one of the most dramatic success stories for the Commission's spectrum management policies. In order to continue to foster

⁴ *Id.* at 23.

⁵ See, e.g., *Comments of Itron, Inc. Regarding Proposal by Warren C. Havens and Telesaurus Holdings GB, LLC Regarding Use of the 902-928 Band for an Advanced Technology Land Infrastructure Service (ATLIS)*, ET Docket 02-135 (filed Jan. 10, 2003); *Comments of Itron, Inc. on Progeny White Paper*, RM-10403 (filed Jan. 10, 2003); Letter from Henry Goldberg and Joseph A. Godles, Attorneys for Itron, Inc. to Marlene H. Dortch, Secretary, FCC, regarding Petition for Rulemaking of Progeny LMS, LLC for Amendment of Part 90 of the Commission's Rules Governing the Location and Monitoring Service, RM-10403 (filed Jan. 10, 2003); *Ex Parte Comments of Inovonics Wireless Corporation*, RM-10403 (filed Oct. 3, 2002).

such services, and the benefits they confer, the Commission should recognize the need for stability in unlicensed spectrum allocations and usage regulations.

Respectfully submitted,

ITRON, INC.

/s/ Henry Goldberg _____
Henry Goldberg
Brita Dagmar Strandberg

GOLDBERG, GODLES, WIENER &
WRIGHT
1229 Nineteenth Street, NW
Washington, DC 20036
(202) 429-4900
Its Attorneys

January 27, 2003