

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

In the Matter of

Improving Public Safety Communications in
the 800 MHz Band

Consolidating the 900 MHz Industrial/Land
Transportation and Business Pool Channels

WT Docket No. 02-55

**COMMENTS OF UTAM, INC. ON SUPPLEMENTAL
FILING BY THE CONSENSUS PARTIES**

UTAM, Inc. (“UTAM”), the Commission’s designated frequency coordinator for the unlicensed personal communications services (“UPCS”) band,¹ herewith submits its comments on the Supplemental Comments of the Consensus Parties (“Supplement”) filed on December 24, 2002 in the above-captioned docket. UTAM’s prior comments, and the instant comments, concern one specific aspect of the “Consensus Plan”—the possible reallocation of the 1910-1915 MHz band.² First, UTAM does not believe a reallocation of the 1910-1915 MHz band is warranted to “compensate” Nextel Communications, Inc. (“Nextel”) for actions it is taking in the 800 MHz band to alleviate interference caused to public safety entities, an obligation that, as the last-licensed spectrum user, Nextel is obligated to rectify in any event. Moreover, the proposal

¹ The voting membership of UTAM, Inc., currently consists of Alcatel USA, ASCOM Wireless Solutions, Avaya (formerly the Enterprise Network Group of Lucent Technologies), Cortelco, CTP Systems, ECI Telecom, Inc., IWATSU America, Motorola, Inc., NEC America, Inc., Nitsuko America, Nortel Networks Inc., Siemens Information and Communication Networks, Inc., SpectraLink Corporation and Toshiba. UTAM also has numerous associate members.

² Comments of UTAM, In the Matter of Improving Public Safety Communication in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, WT Docket No. 02-55 (filed May 6, 2002) (“UTAM Comments”); Comments of UTAM, In the Matter of Improving Public Safety Communication in the 800 MHz Band, Consolidating the 900 MHz Industrial/Land Transportation and Business Pool Channels, WT Docket No. 02-55 (filed September 23, 2002) (“UTAM Supplemental Comments”).

would upset the reasonable and legitimate expectations of industry members and end users who have expended considerable efforts and funds to develop the unlicensed PCS market space. Far from reallocating the UPCS band, UTAM argued, the Commission should affirmatively promote UPCS development within the 1910-1930 MHz band.

The “Consensus Plan” contemplates relocation of Nextel’s services from the 800 MHz band if the Commission awards it the 1910-1915 MHz band, which is currently allocated to asynchronous UPCS devices, paired with the 1990-1995 MHz band. As UTAM explained in its original comments, the UPCS band is not lightly or inefficiently used:

- Spectrum congestion in hotspot deployment areas is already an issue for the isochronous band at 1920-1930 MHz, and the only means for relief is to adopt rule changes consistent with WINForum’s cross-over petition to permit isochronous devices to use the asynchronous band.³
- Moreover, with the near completion of the relocation of incumbent microwave users from the UPCS band, the industry is poised to introduce a range of isochronous and asynchronous nomadic products that will place further spectrum demands on the limited UPCS spectrum available.⁴
- Both of these scenarios are also exacerbated by the potential for introduction of certain other classes of devices—as proposed by UTStarCom and supported by UTAM—into the asynchronous band, as discussed below.⁵

As discussed below, UTAM strenuously objects to any proposal to reallocate the 1910-1915 MHz band. Instead, as discussed herein, UTAM believes the FCC should adopt a restructuring

³ See UTAM Comments at 14-15; Amendment of the Commission’s Rules for Unlicensed Personal Communications Services, Petition For Rulemaking of the Wireless Information Networks Forum, RM-9498 (Jan. 8, 1999) (“WINForum Petition”) (proposing a minor modification to the asynchronous etiquette within the 2390-2400 MHz band).

⁴ See UTAM Comments at 11-12.

⁵ See *In the Matter of Request of UTStarcom and Drew University For Waiver of Sections 15.307; 15.311; 15.319(a),(c),(e); and 15.321 of the Commission’s Rules*, DA 00-2061 (filed July 7, 2000). See also UTAM, Inc. Notification of *Ex Parte* Presentation in FCC Docket Nos. ET Docket No. 00-258, ET Docket No. 95-18, IB Docket No. 99-81, WT Docket No. 02-55, RM-9498, and RM-10024 (filed Aug. 8, 2002).

plan for the 800 MHz band, such as the plan advanced by Motorola, Inc., that proposes technical accommodations for 800 MHz users restricted to the 800 MHz band.

UTAM's prior comments in this docket, and in the Commission's 3G proceeding, have explained in detail the current spectrum utilization and near term spectrum needs for UPCS devices. UTAM believes that the extant needs of UPCS devices, the lack of available alternatives, and the investment undertaken by industry are wholly at odds with any proposal to allocate spectrum in the 1910-1920 MHz band for any use other than UPCS. A large number of companies are dedicated exclusively—or as major parts of their product lines—to the UPCS band. For all of these companies, which believe they have undertaken the effort and investment in equipment development and band clearing based upon a compact with the FCC regarding use of the 1910-1930 MHz band, the elimination, or even impairment, of the ability to market and deploy wireless UPCS products is a threat to their very existence.

UTAM also notes that, while Nextel has "volunteered" funding for certain relocation aspects of its proposal, the budget for those funds does not appear to consider compensation for UTAM for relocation activities undertaken in the UPCS band proposed to be reallocated. As the Commission should be aware, UTAM has triggered reimbursement obligations to the PCIA Microwave Clearinghouse for cost-sharing obligations incurred as certain counties are declared "Zone 1" and available for deployment. Should the Commission inadvisably determine that a reallocation of some portion of the asynchronous band is warranted, the obligations currently due by UTAM to the original microwave relocators should be assumed by Nextel (or other licensee) and UTAM released from such obligations. Because these obligations have already been triggered, the cost-sharing obligation of a new primary licensee should not be dependent upon whether a PCN is determined to interfere with a prior relocation; rather, the new licensee should

be responsible for relieving UTAM of all obligations for the spectrum band for which UTAM is currently liable. UTAM has calculated these obligations to be \$25 million for the asynchronous band. On a going forward basis, UTAM should be permitted to receive cost-sharing under the clearinghouse rules for any *pro rata* portions of its obligations as the new licensee deploys sites.

In conclusion, UTAM believes that the wholesale reallocation of UPCS spectrum for incompatible services utterly fails to recognize the vast effort and reliance placed on the band by the UPCS community. UPCS end users have invested millions of dollars in UPCS systems, reasonably and fully relying upon the Commission's previously stated intent to provide for UPCS services at 1910-1920 MHz and 1920-1930 MHz. UPCS manufacturers have relied upon the availability of UPCS spectrum to create entire product lines and to develop wireless adjuncts to existing product lines. UPCS manufacturers have also invested millions of dollars, as well as significant personnel resources, in the relocation of existing microwave incumbents from the spectrum.⁶ Thus, reallocation of the UPCS band would injure the public interest and impose

⁶ See In the Matter of Amendment of the Commission's Rules to Establish New Personal Communications Services, GEN Docket No. 90-314, UTAM Report to the FCC (filed July 1, 2002).

acute financial burdens upon an industry that is on the brink on significant advancements, just as the industry awaits the reap the benefits of full clearing of the UPCS band.

Respectfully Submitted,

/s/ Sandy Abramson
Sandy Abramson
President
UTAM, Inc.
P.O. Box 8126
Bridgewater, NJ 08807
732.852.3477

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