

**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

**REPLY COMMENTS OF ITRON, INC.**

Itron, Inc. ("Itron"), by its attorneys, hereby submits these reply comments in response to the Commission's public notice seeking comment on the Spectrum Policy Task Force Report.<sup>1</sup> In its Reply Comments, Itron supports those parties who stress the need for regulatory certainty for unlicensed spectrum users and argues against unnecessary limits on the use of unlicensed spectrum.<sup>2</sup>

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<sup>1</sup> *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).*

<sup>2</sup> Warren Havens and Telesaurus Holdings, DBA LMS Wireless, attempt to bootstrap various proposals for revisions to spectrum policy into this proceeding by advocating "Interim Spectrum Policies" that would allow LMS Wireless to "work with" incumbent Part 15 device and system providers. *See Reply Comments of Warren C. Havens and Telesaurus Holdings GB, LLC, DBA LMS Wireless, ET Docket No. 02-135 (filed Feb. 10, 2003).* To the extent that LMS Wireless is further advocating its proposal for changes to the 902-928 MHz Band, Itron adopts by reference its comments and other filings detailing the profound flaws of this proposal. *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); 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*

## 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. In its initial comments, Itron explained that regulatory certainty for unlicensed services is necessary to foster continued investment and innovation in the burgeoning unlicensed wireless sector of the telecommunications economy.

## II. There Strong Support For Regulatory Stability In Both Unlicensed And Licensed Spectrum.

A number of parties before the Commission have echoed Itron's call for greater certainty for unlicensed services. As the License-Exempt Alliance ("LEA") has demonstrated, investment in unlicensed wireless devices is rising, but this growth depends on continued certainty that spectrum available for unlicensed devices will remain available.<sup>3</sup> For this reason, and as the LEA also demonstrates, the FCC must continue to reject those proposals that would rewrite existing rules for unlicensed services.<sup>4</sup>

Other parties have discussed the importance of certainty in the licensed frequency bands. BellSouth, for example, argues that "any failure to fully protect" the right of "those who have committed enormous resources to delivering wireless services . . . will thwart the development and introduction of new wireless services to the public."<sup>5</sup> Sprint explains that certainty in the licensed services is imperative to investment in new technologies.<sup>6</sup>

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Commission's Rules Governing the Location and Monitoring Service, RM-10403 (filed Jan. 10, 2003).

<sup>3</sup> *Comments of the License-Exempt Alliance*, ET Docket No. 02-135, at 6 (filed Jan. 27, 2003).

<sup>4</sup> *Id.* at 6-7.

<sup>5</sup> *Comments of BellSouth Corporation*, ET Docket No. 02-135, at 2 (filed Jan. 27, 2003)

<sup>6</sup> *Sprint Corporation Comments*, ET Docket No. 02-135, at 8 (filed Jan. 27, 2003).

These principles apply equally to unlicensed spectrum. For example, Itron and its customers alone have invested well over a billion dollars in AMR networks. Replacing or retrofitting these networks would impose huge costs on Itron's utility customers, costs that would ultimately be passed on to utility consumers. This investment represents just a fraction of the investment by service providers, device manufacturers, and consumers in the unlicensed bands. But, just as regulatory predictability is necessary in licensed bands, this investment in unlicensed bands will not continue without regulatory certainty and stability.

### **III. Allocations for Unlicensed Spectrum Should not be Limited to Upper Bands.**

A number of parties suggest that unlicensed operations should be relegated to upper bands. Motorola, for example, argues that future allocations of unlicensed spectrum should be confined to frequencies above 10 GHz,<sup>7</sup> while Metrocall calls for placement of unlicensed devices in upper bands and against any spectrum sharing in certain lower bands.<sup>8</sup> These and other limits on unlicensed spectrum should be rejected as unnecessary and contrary to the public interest.

During a period of overall decline in the telecommunications industry, the increasing development and deployment of unlicensed wireless devices has been a rare area of growth. Without additional spectrum, including spectrum in the lower bands, this growth will be stifled. For these reasons, the Commission should heed the SPTF's recommendation that it "seek to designate additional bands for unlicensed spectrum use to . . . provide room for expansion in the fast-

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<sup>7</sup> *Comments of Motorola, Inc.*, ET Docket No. 02-135, at 25 (filed Jan. 27, 2003).

<sup>8</sup> *Comments of Metrocall, Inc.*, ET Docket No. 02-135, at 12-13 (filed Jan. 27, 2003).

growing market for unlicensed devices and networks”<sup>9</sup> and reject calls to limit future allocations of unlicensed spectrum.

For the foregoing reasons, as well as the reasons set forth in its initial comments, Itron urges the Commission to encourage innovation in unlicensed services by providing regulatory certainty and rejecting unnecessary limits on unlicensed spectrum.

Respectfully submitted,

ITRON, INC.

/s/ Henry Goldberg

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February 28, 2003

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<sup>9</sup> *Spectrum Policy Task Force Report*, ET Docket 02-135, at 6 (rel. Nov. 2002).