



Howard Frisch
33 Wood Avenue South, 3rd Floor
Iselin, NJ 08830
USA
Tel: +1 732 767 6135
Fax: +1 732 767 2574
E-Mail: hfrisch@utstar.com

May 6, 2004

Via Electronic Filing

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington DC 20554

Re: ET Docket Number 00-258 and RM-10024
Ex-Parte Written Presentation

Dear Ms. Dortch:

UTStarcom, Inc. ("UTStarcom") hereby reiterates its request that the Commission proceed immediately to adopt rule changes to allow deployment of "Community Wireless" networks based on personal handset system ("PHS") technology for use in the frequencies between 1915 and 1920MHz in the United States. As discussed below and in UTStarcom's previously filed comments in this proceeding,¹ this change could be made independent of other changes being considered for 1910 to 1915MHz and 1915 to 1930MHz. Furthermore, adoption of these rule changes would not prejudice the Commission's decisions with respect to the use of the adjacent frequencies, since the operation of Community Wireless networks in accordance with UTStarcom's proposed rules would not result in harmful interference to operations in the adjacent bands.

UTStarcom filed the petition for rule making that is captioned above, RM-10024, on November 6, 2000. That petition called for very small area licensing of frequencies between 1910 and 1920MHz, originally allocated as the Asynchronous Unlicensed PCS Band, to allow for deployment of locally owned and managed "Community Wireless" networks. After reviewing the proposal with Commission Staff, UTStarcom determined that a better solution was simply to leave the spectrum as unlicensed and to change the rules of operation in that spectrum to allow deployment of globally standard, low cost equipment to provide this service. UTStarcom subsequently proposed specific rule changes to facilitate this deployment, filed in cooperation with UTAM on August 8, 2002 under Dockets 00-258 and RM-10024.

¹ See Comments of UTStarcom, Inc., in RM-10024, filed Apr. 14, 2003.

Based on comments received in these dockets, UTStarcom observes that there is no substantial contention over frequencies between 1915 and 1920MHz. In contrast, the frequencies between 1910 and 1915MHz are being considered in these proceedings for other uses. Because the PHS air interface divides spectrum into independent 300kHz channels with each channel supporting 4 bi-directional time slots, it is both practical and technically feasible to operate community wireless networks on 5MHz of spectrum between 1915 and 1920MHz. UTStarcom has been approached many times since filing its petition for rulemaking by carriers who are interested in deploying UTStarcom's equipment for operation in this frequency band. Interest in community wireless networks has increased in the last six months because of the uncertainty surrounding the future of UNE-P. Competitive local exchange carriers see community wireless networks as a cost effective means of reducing their dependence on the incumbent local exchange carriers for the facilities they need to provide service.

As a result, UTStarcom believes that there is considerable value in moving quickly to change the Unlicensed PCS rules, as described in UTStarcom's August 8, 2002 filing, to allow for deployment of globally standardized PHS systems using only frequencies between 1915 and 1920MHz instead of for the entire 1910 to 1920MHz band. Since there is growing interest in the use of community wireless networks as a result of the uncertainty regarding UNE-P, the public interest would be best served if these rule changes are made at this time. In order to facilitate this change, UTStarcom proposes to change the "Control Channel" section of its proposed rules (Proposed 15.320(b)) to allow operation in frequencies between 1915MHz and 1917.5MHz. Alternately, to simplify the rules and to allow added flexibility, the control channel could be allowed anywhere between 1915 and 1920MHz. In this case, the 8-hour time limit rule (Proposed 15.320(c)(3)) is also unnecessary and should be eliminated.

Other parties, particularly the DECT Forum and VTech, have commented in Docket 00-258 on rule changes for the frequencies between 1915 and 1930MHz. The DECT forum proposed additional rule relaxation, while VTech supported UTStarcom's recommendation in their April 7, 2004 Ex-Parte. UTStarcom believes that more time, and likely more study, may be needed with respect to overlapping DECT with current Isochronous UPCS devices on frequencies between 1920 and 1930MHz. UTStarcom would like to include PHS based systems in any analysis done for that spectrum as well. Based on observations from deployments of PHS and DECT based systems in overlapping spectrum in Asia, it is clear that DECT based and PHS based systems can operate in proximity to each other with minimal trouble from interference. Allowing both types of systems to operate in the same spectrum would bring the benefits of additional competition to US consumers and businesses. As a result, UTStarcom believes that any potential future rule change covering all frequencies between 1915 and 1930MHz to accommodate the request of the DECT forum would be compatible with the PHS Community Wireless systems proposed by UTStarcom operating in only 1915 to 1920MHz.

UTStarcom has no objection to the rule changes proposed by the DECT Forum, provided that they maintain the fixed infrastructure coordination characteristics of the current rules. However, UTStarcom sees no reason to delay adoption of the rule changes UTStarcom has proposed in this proceeding, particularly since these rule changes could benefit the public immediately as well as clear several long standing waiver petitions.

In conclusion, in order to facilitate deployment of Community Wireless Networks to deliver facilities based competition in Local Exchange markets, UTStarcom asks that the Commission immediately adopt rule changes to allow deployment of these networks based on PHS technology for use in the frequencies between 1915 and 1920MHz in the United States. This change may be made independent of other changes being considered for 1910 to 1915MHz and 1915 to 1930MHz and would be compatible with different decisions reached for these adjacent frequencies.

Respectfully submitted,

Howie Frisch
Director – North America Wireless
UTStarcom, Inc.