

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands	)	IB Docket No. 02-364
	)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems	)	ET Docket No. 00-258
	)	

**REQUEST TO ACCEPT LATE FILED PLEADING OF  
GENERAL ELECTRIC COMPANY**

General Electric Company ("GE"), pursuant to Section 1.41 of the rules and regulations of the Federal Communications Commission ("FCC" or "Commission"), respectfully requests that the FCC accept, one day late, GE's Reply in response to the oppositions submitted by other parties to the petitions for reconsideration of the Fourth Report<sup>1/</sup> in the above referenced proceeding.

The deadline for the submissions of replies in this proceeding was November 8, 2004. However, as described in the attached Declaration from Earl Jones, Senior Counsel with GE, technical difficulties resulted in the delay and subsequent late submission of its Reply. Specifically, GE was unfamiliar with the Commission's Electronic Comment Filing System ("ECFS") when it first attempted to submit the Reply. After submitting the Reply, ECFS generated error messages indicating, *inter*

---

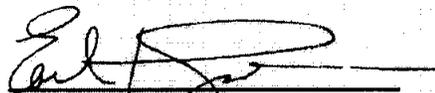
<sup>1/</sup> Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, IB Docket No. 02-364 and ET Docket No. 00-258, Report and Order, *Fourth Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-134, (rel. July 16, 2004) ("*Fourth Report*").

*alia*, that the "proceeding is not open for submission to ECFS." See Exhibit A. Being unfamiliar with ECFS, Mr. Jones could not correct the error to successfully submit the Reply by the deadline. Additionally, he could not seek assistance from the ECFS Helpline because it was after 5:00 p.m. EST, when the Helpline closes.

Good cause exists for the FCC to accept GE's Reply. The information contained in the Reply is necessary for a fair evaluation of the petitions in this matter. Moreover, acceptance of the Reply would not prejudice any parties to the proceeding. GE has served each of the parties to this proceeding and they will not receive copies of its Reply materially later than they would had the Reply been timely submitted. Finally, acceptance of the Reply one day after the close of the filing window will not disrupt the FCC's processes. GE expects that FCC resolution of the issues raised in response to the Fourth Report will require many months in any event

Accordingly, GE respectfully requests that the FCC accept this late filed Reply.

Respectfully submitted,



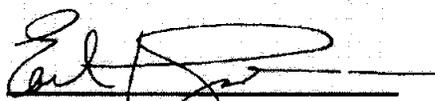
Earl F. Jones  
Senior Counsel  
GE Consumer & Industrial  
Appliance Park AP2-225  
Louisville, KY 40225  
(502) 452-3164

November 9, 2004

## DECLARATION OF EARL JONES

1. My name is Earl Jones. I am over eighteen years of age and competent to testify to the matters set forth herein.
2. I am Senior Counsel with General Electric Company ("GE"). I offer this declaration to support the attached Request to Accept Late Filed Pleading ("Request").
3. On November 8, 2004, I unsuccessfully attempted to submit, on behalf of GE, a reply ("Reply") to the pleadings submitted by other parties in response to the Petitions for Reconsideration in IB Docket 02-364 through the Electronic Comment Filing System ("ECFS").
4. This was my first attempt to use ECFS.
5. When I attempted to submit the Reply, I received error messages (see Exhibit A) that prevented me from completing the submission. I was unsuccessful in determining how to remedy the errors. Because I attempted to submit the Reply after 5:00 p.m. the ECFS Helpline was unavailable to assist me.
6. As a result, I was unable to submit the Reply by the deadline of November 8, 2004.

I declare under penalty of perjury that the foregoing statements are true and correct. 47 C.F.R § 1.16 (2003).

  
Earl F. Jones  
Senior Counsel  
GE Consumer & Industrial  
Appliance Park AP2-225  
Louisville, KY 40225  
(502) 452-3164

Executed on: November 9, 2004

# Exhibit A



**Federal Communications Commission**

## Application Error(s)

Proceeding IB 02-364 is not open for submission to ECFS.

**Press the back button on your browser to return to the form and make the necessary corrections.**

[Return to the ECFS Home Page](#)

[FCC Home Page](#) [Search](#) [Commissioners](#) [Bureaus Offices](#) [Finding Info](#)

*updated 12/11/03*



imagination at work



**Federal Communications Commission**

## Application Error(s)

ERROR Determining submission type. Please try again later.

The file you sent does not exist on our server. The transmission probably failed. Please try again later.

The file description is missing.

Proceeding is not open for submission to ECFS.

**Press the back button on your browser to return  
to the form and make the necessary corrections.**

Return to the ECFS Home Page

[FCC Home Page](#)

[Search](#)

[Commissioners](#)

[Bureaus Offices](#)

[Finding Info](#)

*updated 12/11/03*

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands	)	IB Docket No. 02-364
	)	
Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems	)	ET Docket No. 00-258
	)	

**Replies of GE Consumer & Industrial**

GE Company, through its Consumer & Industrial operating division ("GE" and "GE Consumer & Industrial") submits these replies in above matters to oppose modification of the emission limits for industrial, scientific and medical ("ISM") devices in the band 2496-2500 MHz.<sup>1</sup>

The petitioning parties - Sprint Corporation ("Sprint"), the Wireless Communications Association ("WCA") and Nextel Communications, Inc. ("Nextel") hereinafter the "Petitioners")-- have failed to demonstrate that the prayed-for relief is required especially in view of the costly burden that the change would impose on manufacturers of microwave ovens.

**I. Introduction**

GE Consumer & Industrial is a leading full-line manufacturer and marketer of major household appliances,<sup>2/</sup> including, as relevant to these proceedings, microwave ovens ("MWO"). GE Consumer Products has its headquarters at Appliance Park, Louisville, Kentucky.

GE adopts the comments filed by the Association of Home Appliance Manufacturers ("AHAM"), its trade association, and wishes to reemphasize to the Commission the hardship that Petitioner's proposal would inflict on consumers, GE and other manufacturers of microwave ovens.

---

<sup>1</sup> Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, IB Docket No. 02-364 and ET Docket No. 00-258, Report and Order, *Fourth Report and Order and Further Notice of Proposed Rulemaking*, FCC 04-134, (rel. July 16, 2004) ("*Fourth R&O*").

<sup>2</sup> Other major appliances manufactured or marketed by GE include clothes washers and dryers, dishwashers, kitchen ranges and ovens (gas and electric), refrigerators/freezers and room air conditioners.

## II. Discussion

### A. The FCC Must Protect Current ISM Band Users

The telecommunications industry is justly recognized for its technology innovations. Given that technological prowess, it is difficult to accept, based on their petitions, that they have no effective solution to interference from ISM devices other than modification of emissions limits. Users of the millions of MWOs currently in use in the United States have a right to be protected in the continued use of those products and the right also to insist that new entrants build devices that are compatible with sharing the same band width.

The FCC should deny the Petition and protect the rights of current users.

### B. Granting the Petitions Would Impose an Undue Hardship on Manufacturers of ISM Devices.

GE has designed its MWOs based on existing regulations, which provide that ISM devices operating in an ISM frequency band are not required to cure harmful interference to licensed operations.<sup>3/</sup> In full compliance with these regulations, over the last 20 years GE has sold millions of MWOs and invested millions of dollars in MWO design and technology.

Petitioners would now relegate GE and other manufacturers to the status of "unlicensed unintentional radiators"<sup>4</sup> by having the Commission revise Part 18 of the rules to require that ISM devices operating in the 2496-2500 MHz band must comply with the radiated emissions limits provided in Section 15.209. This would impose huge research and design costs on a mass-market but low margin product in the U.S. It is not even clear that an emission level of 500 uV/m measured at three meters could even be achieved with existing technology. And even if the level is achievable, the cost to American consumers would be so significant as to decrease sales and product innovation.

---

<sup>3/</sup> See Appendix A, Overall Revision of Part 18 Governing Industrial, Scientific and Medical Equipment, *Third Notice of Proposed Rulemaking*, 99 FCC 2d 750, ¶ 3 (1984)

<sup>4/</sup> Sprint Comments at p. 7.

As pointed out by AHAM in its comments, radiated emissions for ISM devices are measured only outside the ISM band, not inside. If outside the band, the field strength limits are specified in Section 18.305 but ISM devices may operate with unlimited radiated energy inside the band. The only in-band limits for the microwave industry are those imposed by the Food and Drug Administration ("FDA"). The FDA's average in-band limit of 1mW/cm<sup>2</sup> converts to a limit of approximately 120 dBuV/m (average) at 3 meters. The average limit proposed by the Petitioner's is 500 uV/m, which converts to 54 dBuV/m-a difference of 66 dB or 4 million times lower than the current FDA in-band limit. Thus, we question whether the Part 15 emissions levels can be "practically" achievable using existing technology .

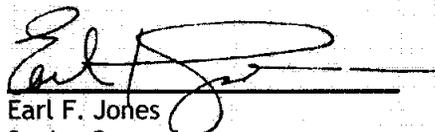
In a market moving increasingly toward global harmonization of standards--including, beginning this year, the observing of limits imposed by the Special Committee on Radio Interference-CISPR--it is difficult to defend a move by the United States to impose the RF limits for the 2400-2500 MHz band proposed by the Petitioners. U.S.-only regulations would penalize U.S. consumers by making them bear the substantial cost increases that would result from the loss of economies of scale as manufacturers produce radically different products for U.S. consumers.

Finally, Petitioners have made no allowance for consumers' common sense response to interference: Consumers can simply move the mobile receivers to different location in the home. Not only is this easy to do, it is cost effective because it does not burden all consumers with the significant cost penalties required for MWOs to comply with the proposed emission limits.

### III. Conclusion

Based on the foregoing, GE requests that the Commission deny the Petitions.

Respectfully submitted,



Earl F. Jones  
Senior Counsel  
GE Consumer & Industrial  
Appliance Park AP2-225  
Louisville, KY 40225  
(502) 452-3164

November 9, 2004

CERTIFICATE OF SERVICE

I, Earl F. Jones, hereby certify that on this 9th day of November, 2004 a copy of the foregoing Replies was served as indicated on the following:

David Munson  
Sprint Corporation  
401 9<sup>th</sup> Street, NW, Suite 400  
Washington, D.C. 20004  
(via first class mail)

Robert Foosaner  
Lawrence R. Krevor  
George (Trey) Hanbury  
Nextel Communications, Inc.  
2001 Edmund Halley Drive  
Reston, VA 20191  
(via first class mail)

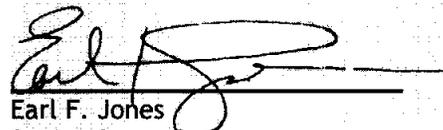
Paul J. Sinderbrand  
Wilkinson Barker Knauer, LLP  
2300 N Street, N.W.  
Suite 701  
Washington, D.C. 20037  
(via first class mail)

R. Michael Senkowski  
Peter D. Shields  
Jennifer D. Hindin  
Melissa A. Reed  
Wiley, Rein & Fielding, LLP  
1776 K Street, N.W.  
Washington, D.C. 20006  
(via first class mail)

Stephen E. Coran  
Rini Coran, PC  
1501 M Street, N.W., Suite 1150  
Washington, D.C. 20005  
(via first class mail)

William D. Wallace  
Crowell & Moring, LLP  
1001 Pennsylvania Ave., N.W.  
Washington, D.C. 20004  
(via first class mail)

Charles A. Samuels  
Russell H. Fox  
Stefani V. Watterson  
Counsel for AHAM  
MINTZ, LEVIN, COHN, FERRIS  
GLOVSKY AND POPEO, P.C.  
701 Pennsylvania Avenue, N.W.  
Suite 900  
Washington, DC 20004  
(via first class mail)



Earl F. Jones  
Senior Counsel  
GE Consumer & Industrial  
Appliance Park AP2-225  
Louisville, KY 40225  
(502) 452-3164