



July 14, 2023

VIA ECFS

Marlene H. Dortch, Secretary
Federal Communications Commission
45 L Street NE
Washington, DC 20554

Re: Unlicensed Use of the 6 GHz Band, ET Docket No. 18-295; Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz, GN Docket No. 17-183: Notice of Ex Parte Presentation

Dear Ms. Dortch:

On July 12, 2023, Jonathan Campbell, Acting Legal Advisor, Wireless, International, and Space in the office of Chairwoman Rosenworcel met via MSTeams with Mark Reddish from APCO International; Elizabeth Sachs from Lukas, LaFuria, Lantor & Sachs, LLP (on behalf of the Enterprise Wireless Alliance); Brian O'Hara from the National Rural Electric Cooperative Association; Aryeh Fishman from the Edison Electric Institute; Eric Wagner and the undersigned from the Utilities Technology Council; Holly Henderson from Southern Company; David Rines (on behalf of Southern Company); David Hattey from Lockard & White (on behalf of Southern Company); and Tom Dombrowsky from DLA Piper, LLC (on behalf of Southern Company) (collectively, "the Participants") to discuss matters in the above-referenced proceedings.

During the meeting, the Participants discussed cost recovery mechanisms for incumbent licensees to seek reimbursement for the expenses incumbent licensees incur to mitigate against interference that were discussed in the longstanding petition for rulemaking pending before the Commission¹ Costs that have been or will be incurred by incumbents due to new unlicensed use of the 6 GHz band include: baselining the RF environment, procurement of equipment and software that would enable licensees to identify interference and, if necessary, relocation of microwave facilities to other spectrum bands or alternative communications facilities. The Participants explained that there is Commission precedent under the rules to provide cost recovery to incumbents for the costs incurred to accommodate new unlicensed use of licensed bands.² The Participants look forward to working with the Commission to develop a similar cost recovery mechanism for incumbents in the 6 GHz band.

¹ See Petition for Rulemaking of Utilities Technology Council *et al*, ET Docket No. 18-295, GN Docket No. 17-183, (filed Dec. 7, 2021) ("UTC Petition").

² See 47 C.F.R. §24.247(b). See also *Microwave Facilities Operating in 1850-1990 MHz (2 GHz) Band; Relocation Costs Sharing*, Report and Order, WT Docket No. 95-157, 61 Fed. Reg. 29679, ¶¶ 40-49 (June 12, 1996).

The Participants also reiterated their previously-filed requests that the Commission 1) require public disclosure of the data and underlying algorithms used in the Monte Carlo simulations by CableLabs, consistent with the principles of transparency and reproducibility set forth in the Commission’s Policy Statement on spectrum management³; 2) convene all parties and conduct or oversee real-world testing to measure interference from all types of Wi-Fi 6E devices through a collaborative and transparent process; and 3) toll any additional rule changes for unlicensed use of the 6 GHz band until automated frequency coordination (AFC) systems are deployed and demonstrated to work under existing rules. Therefore, the Participants urged the Commission to respond to the longstanding requests made by incumbent licensees to supplement the AFC approval process and address other needed protections to protect primary licensed operations in the band.⁴

Finally, Participants took exception to mischaracterizations made in a recent *ex parte* filing made by the Wi-Fi Alliance and the Wireless Innovation Forum (“WInnForum”) regarding AFC specifications and test plans.⁵ Specifically, Participants opposed claims in the filing by Wi-Fi Alliance and WInnForum that the “specifications and test plans developed represent a consensus of 6 GHz stakeholders” including incumbent licensees.⁶ None of the Participants, who represent a substantial majority of all affected incumbent licensees in the 6 GHz band, have expressed approval for these specifications and test plans.

Incumbent 6 GHz licensees have a myriad of ongoing concerns about the AFC certification process and have raised them in the record. Most recently, several incumbent entities asked for clarification from the Commission regarding the overriding of industry

³ See *Principles for Promoting Efficient Use of Spectrum and Opportunities for New Services; Promoting Efficient Use of Spectrum through Improved Receiver Interference Immunity Performance*, ET Docket Nos. 23-122, 22-137, Policy Statement, FCC 23-27 (rel. April 21, 2023) ¶ 41 (“Quantitative analyses of interactions between services that are fact- and evidence-based, sufficiently robust, transparent, and reproducible are needed to better inform spectrum management decision-making.”). According to the Policy Statement, “[t]ransparent and reproducible quantitative analyses best inform the Commission’s decision-making ... giv[ing] stakeholders and the Commission the ability to validate the fidelity of interference models and ensure that they represent realistic operating conditions and scenarios, with balanced protection criteria.” *Id.* ¶ 42. See also Letter from Utilities Technology Council, *et al.* to Marlene H. Dortch, Secretary, Federal Communications Commission, ET Docket Nos. 23-122, 22-137, and 18-295 (filed April 13, 2023).

⁴ See Letter from APPA, APCO, EEI, EWA, NRECA, Southern Company, and UTC to Chairwoman Jessica Rosenworcel, ET Docket Nos. 18-295 and 17-183 (filed March 31, 2023).

⁵ See *Ex Parte* Presentation of Wi-Fi Alliance and WInnForum, ET Docket Nos. 18-295, 21-352 (filed June 22, 2023) (“Wi-Fi *Ex Parte*”).

⁶ *Id.* at 1.

consensus standards, a request that has yet to be answered.⁷ In addition, APCO raised concerns about the reliability of the Universal Licensing System (“ULS”) and other enhancements necessary to support its use by AFC operators to prevent interference to public safety systems (well before the recent multi-week outage of ULS)—another request that has never been answered.⁸ Finally, a number of entities expressed concerns about AFC implementation and gaps that have still not been addressed by this latest filing by Wi-Fi Alliance and WInnForum.⁹ In short, incumbent licensees have not agreed to the AFC specifications and test protocols provided by Wi-Fi Alliance and WInnForum, and the Commission should not accept that these represent any industry consensus.

Pursuant to Section 1.1206 of the Commission’s rules, this *ex parte* submission is hereby filed through ECFS in the above-referenced docketed proceedings. Please do not hesitate to contact the undersigned with any questions.

Respectfully submitted,

UTILITIES TECHNOLOGY COUNCIL

/s/ Brett Kilbourne

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⁷ See Letter from APCO International, AT&T Services, Inc., Comsearch, the Edison Electric Institute, the Enterprise Wireless Alliance, the Fixed Wireless Communications Coalition, the Utilities Technology Council, and Verizon, ET Docket Nos. 21-352, 18-295 (filed Jan. 27, 2023).

⁸ See Letter from Jeffrey S. Cohen, APCO International, ET Docket Nos. 18-295, 21-352 and GN Docket No. 17-183 (filed Dec. 7, 2022).

⁹ See e.g., Letter from Verizon, ET Docket No. 21-352 (filed May 16, 2022) (noting that AFC proposals have gaps that need to be addressed before AFC operations commence); Letter from the International Association of Fire Chiefs, ET Docket No. 21-352 (filed Jan. 11, 2022) (asserting that comprehensive parameters used to calculate the interference protection values and exclusion zones used to protect incumbent operations should be clarified); Comments of UTC and EEI, ET Docket No. 21-352 (filed Dec. 21, 2021) (providing clarifications and requirements for an AFC system and testing); Comments of the Fixed Wireless Communications Coalition, ET Docket No. 21-352 (filed Dec. 21, 2021) (suggesting that key additional information should be required to be filed by AFC operators).