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February 17, 2000

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND DELIVERY

Ms. Magalie Salas, Secretary
Federal Communications Commission
445 12th Street, SW
Room TW-B204
Washington, DC 20554

Re: **IB Docket No. 99-81 /**
RM-9328
Establishment of Policies and Service Rules for
Mobile Satellite Service in 2 GHz Band

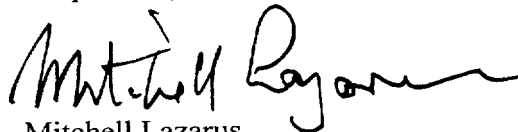
Dear Ms. Salas:

Enclosed are the original and four copies of Comments of the Fixed Wireless Communications Coalition for filing in the above-referenced matter.

Please date-stamp and return the enclosed copy of this filing.

If there are any questions about this filing, please call me at the number above.

Respectfully submitted,



Mitchell Lazarus
Counsel for Fixed Wireless Communications Coalition

ML:deb

Enclosures

cc: Service List

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| | | |
|--|---|---------------------|
| In the Matter of |) | |
| |) | |
| The Establishment of Policies and |) | IB Docket No. 99-81 |
| Service Rules for the Mobile Satellite |) | RM-9328 |
| Service in the 2 GHz Band |) | |

**COMMENTS OF THE
FIXED WIRELESS COMMUNICATIONS COALITION**

The Fixed Wireless Communications Coalition (FWCC)¹ hereby submits these Comments in response to Public Notice of February 7, 2000, in the above-captioned proceeding.² The Public Notice seeks comment on methodologies for assigning 2 GHz service link spectrum to MSS applicants.

The FWCC asks the Commission not to make service link spectrum available until it has resolved outstanding issues relating both to spectrum for feeder links, and to Fixed Service relocation from 2 GHz.

¹ The FWCC is a coalition of equipment manufacturers and users interested in terrestrial fixed microwave communications. Its membership includes manufacturers of microwave equipment, licensees of terrestrial fixed microwave systems and their associations, and communication service providers and their associations. Its membership also includes railroads, public utilities, petroleum and pipeline entities, public safety agencies, the broadcast industry and their respective associations, telecommunications carriers, landline and wireless, local, and interexchange carriers, and others. A list of members is attached as Appendix A.

² International Bureau Requests Further Comment on Selected Issues Regarding Authorization of 2 GHz MSS Systems, Public Notice DA 00-222 in IB Docket No. 99-81, RM-9328 (released Feb. 7, 2000), as amended by *Erratum* (released Feb. 8, 2000).

A. The Commission Should Not Designate Fixed Service Spectrum for MSS Feeder Links.

The 2 GHz MSS applicants have proposed a variety of feeder link schemes to support their operations.³ Most of these requests seek frequencies that are heavily used by the Fixed Service. (The table in Appendix B identifies terrestrial spectrum targeted for MSS feeder links.) The FWCC is concerned about the threat of diminished capacity and increased interference to the Fixed Service.

As the FWCC explained in its earlier Comments and Reply Comments,⁴ the Fixed Services are an unsung but vital part of the Nation's infrastructure, providing communications essential to the energy, transportation, and telecommunications industries, among others, and playing a key role in public safety and other governmental operations. We showed how a series of recent Commission decisions and proposals have cut sharply into the spectrum and coordination opportunities available to the Fixed Services. Together, these actions and proposals have left the Fixed Service with insufficient spectrum for continued operation and the reasonable expansion it needs to meet the requirements of the industries and governmental agencies that rely on it for essential services.

A grant of the MSS applicants' requests for feeder link frequencies that impinge on Fixed Service spectrum would exacerbate the shrinkage of spectrum for these important functions. For these reasons, the FWCC asked the Commission not to designate additional Fixed Service

³ See The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, IB Docket No. 99-81, Notice of Proposed Rulemaking, FCC 99-50 at ¶¶ 49-66 (released March 25, 1999) (Notice). See particularly the table at ¶ 50.

⁴ Filed on June 24, 1999, and July 26, 1999, respectively.

spectrum for MSS feeder links. Furthermore, the Commission should not alter the primary, co-primary, and secondary allocations in the 28 GHz band. These were established by negotiated rulemaking, and to disturb them at this late date would be manifestly unfair.

In the alternative, if the feeder links cannot be placed elsewhere, then we asked for rules that permit equitable sharing by the Fixed Service, in practice as well as in principle.⁵ The sharing issue is especially critical with regard to NGSO facilities, as each site “sterilizes” a much larger area against Fixed Service operations than a GSO earth station does. Accordingly, we requested rules that recognize both the realities of NGSO operation and the legitimate needs of Fixed Service operators for spectrum, and are consistent with the principles set out in the FWCC's pending Request for Declaratory Ruling and Petition for Rule Making.⁶

B. The Commission Should Immediately Reaffirm the Obligation of MSS Licensees to Relocate Incumbent Fixed Service Operations.

Ever since the 2 GHz bands were first reallocated for PCS and MSS, it has been a central part of Commission policy that incoming licensees must pay the reasonable costs of relocating incumbent Fixed Service licensees who are displaced. In its 1992 First Report and Order in ET

⁵ The FWCC reiterates the requests in its prior filings for rules that limit total numbers of feeder link earth stations; collocate the feeder link earth stations of various MSS providers; site feeder link earth stations away from population centers and intercity routes; require use of the largest feasible antennas for feeder link earth stations; shield feeder link earth stations; and set standards for earth station spectrum efficiency.

⁶ Request for Declaratory Ruling and Petition for Rule Making of The Fixed Wireless Communications Coalition, RM-9649 (filed May 5, 1999). The Request appeared on public notice in Report No. 2334 (released June 11, 1999). It asks that an earth station's frequency coordination be limited to twice the bandwidth for which it has demonstrated actual need; that an earth station be permitted to coordinate only over the azimuths it will actually use; and that an earth station accepting a higher-than-desired interference objective when coordinating be required to give a subsequent Fixed Service applicant the benefit of the same higher level.

Docket No. 92-9, the Commission invited "emerging technology providers," including MSS licensees, to negotiate voluntary relocation agreements with incumbent Fixed Service licensees. If voluntary negotiation fails, the emerging technology provider can request involuntary relocation of the incumbent:

However, in that case, the emerging technology service provider must guarantee payment of all relocation expenses, build the new microwave facilities at the relocation frequencies, and demonstrate that the new facilities are comparable to the old⁷

The current applicants for 2 GHz MSS licenses filed their applications and made their business plans with full knowledge of this obligation.

Since that time, however, some applicants have asked the Commission to reduce or delay their relocation responsibilities. That position is wholly inequitable. It is the MSS applicants and their investors -- not Fixed Service licensees -- who undertake the risk of constructing their systems, and who stand to profit if the systems succeed. Fixed Service relocation is an unavoidable expense of that undertaking, no less than earth station construction and launch costs. The Fixed Service has no responsibility for any changes in the financial outlook for MSS, and cannot be asked to subsidize the applicants.

In simple fairness, the Commission should promptly reaffirm a licensee's obligation to pay for the relocation of incumbents.

⁷ Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, 7 FCC Rcd 6886, 6890 at ¶ 24 (1992). *See also* Emerging Technologies Second Report and Order, 9 FCC Rcd 6495 (1993); Emerging Technologies Third Report and Order, 8 FCC Rcd 6589 (1993); Emerging Technologies Memorandum Report and Order, 9 FCC Rcd 1943 (1994); Emerging Technologies Second Memorandum Report and Order, 9 FCC Rcd 7797 (1994); Emerging Technologies Fourth Memorandum Report and Order, 10 FCC Rcd 7955 (1995).

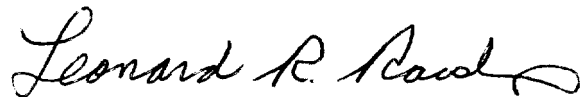
CONCLUSION

The Commission should not make service link spectrum available to applicants until it has resolved issues relating to feeder link spectrum and Fixed Service relocation.

MSS providers should not be permitted to use Fixed Service spectrum for feeder link frequencies. Especially in light of other spectrum losses to satellite services, Fixed Service users require these bands to meet essential public and private needs. If the Commission does put feeder link operations in these bands, it should impose reasonable restrictions and coordination procedures to facilitate sharing.

The Commission should resolve any uncertainties about relocation by immediately reaffirming the obligation of MSS licensees to relocate incumbent Fixed Service operations, as set out on in ET Docket No. 92-7.

Respectfully submitted,



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February 17, 2000

Appendix A

FIXED WIRELESS COMMUNICATIONS COALITION

MEMBERS

USERS

Association of Public-Safety Communications Officials
United Telecom Council (UTC)
National Association of Broadcasters
Independent Cable Telecommunications Association
American Petroleum Institute
Wireless Communications Association
Personal Communications Industry Association
CBS Communications Services
Norfolk-Southern Railroad
Union Pacific Railroad
Burlington-Northern Railroad
BellSouth
Bell Atlantic
SBC Communications, Inc.
People's Choice TV
Association of American Railroads
WINSTAR Communications Inc.

MANUFACTURERS

Harris Corporation -- Microwave Communications Division
Alcatel Network Systems Inc.
Digital Microwave Corporation
California Microwave, Microwave Data Systems
Tadiran Microwave Networks
Spectrapoint Wireless LLC
Nortel Networks
P-Com, Inc.
LUCENT Technologies

Appendix B

MSS FEEDER LINK REQUESTS IN TERRESTRIAL SPECTRUM¹

| Band | Applicant | Feeder Links | Terrestrial Use |
|----------------------------------|-------------------|---------------------|--------------------------|
| 5091-5250 MHz | Constellation II | NGSO uplink | Unlicensed U-NII |
| 5150-5250 MHz | ICO | NGSO uplink | Unlicensed U-NII |
| 6425-6575 MHz | Inmarsat Horizons | GSO downlink | CC, LTTS, OFS, BAS, CARS |
| 6700-6875 MHz | Globalstar | NGSO downlink | CC, OFS |
| 6700-7075 MHz | Constellation II | NGSO downlink | CC, OFS |
| 6775-7075 MHz | MCHI Ellipso 2G | NGSO uplink | CC, OFS |
| 10.70-10.95 & 11.20-11.45 GHz | TMI Cansat-M3 | GSO uplink | CC, LTTS, OFS, |
| 11.597-1.700 GHz ² | Boeing | NGSO downlink | CC, LTTS, OFS |
| 11.70-12.20 GHz | Globalstar | GSO downlink | LTTS |
| 12.75-13.25 GHz | TMI Cansat-M3 | GSO downlink | CC, LTTS, OFS, BAS, CARS |
| 14.0-14.4 GHz | Globalstar | GSO uplink | LTTS |
| 14.391-14.500 GHz ³ | Boeing | NGSO uplink | LTTS |
| 17.70-18.35 GHz ⁴ | Celsat | GSO downlink | CC, OFS, BAS, CARS |
| 19.30-19.70 GHz ⁵ | Iridium Macrocell | NGSO downlink | CC, OFS, BAS, CARS |
| 27.50-28.35 GHz | Celsat | GSO uplink | LMDS |
| 29.10-29.50 GHz ⁶ | Iridium Macrocell | NGSO uplink | LMDS |

Notes

1. MSS requests are from the Notice in this proceeding. (The FWCC understands that some applicants have told the Commission they no longer intend to go forward as originally planned.) Fixed Service data are from 47 C.F.R. § 101.101.
2. The Commission indicated it will consider the Boeing requests as part of the SkyBridge rulemaking in ET Docket No. 98-206 and related application proceedings. Notice at ¶ 61.
3. See preceding Note.
4. In IB Docket No. 98-172, the Commission proposed to designate 17.7-18.3 GHz on a primary basis for terrestrial Fixed Service. GSO FSS would have secondary access.

5. IB Docket 98-172 proposes to retain 19.3-19.7 GHz on a co-primary basis for both terrestrial fixed use and MSS feeder links.

6. The 29.10-29.25 GHz segment is allocated on a co-primary basis to LMDS and NGSO MSS feeder links. This is the LMDS “hub-to-sub segment,” intended for to forward transmissions from the LMDS operator to subscribers. The 29.25-29.50 GHz segment is allocated to GSO FSS, co-primary with MSS. *See Redesignation of the 27.5-29.5 GHz Frequency Band*, 11 FCC Rcd 19005, 19033-34 (1996).

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary for the law firm of Fletcher, Heald & Hildreth, P.L.C., hereby certify that a true copy of the foregoing "Comments of the Fixed Wireless Communications Coalition" was sent this 17th day of February, 2000, via Hand-Delivery to the following:

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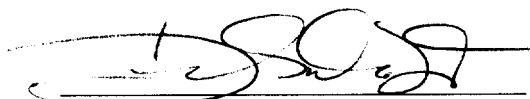
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