

Before the
Federal Communications Commission
Washington DC 20554

In the Matter of)	
)	
Amendment of Part 90 of the Commission's)	RM-11604
Rules to Improve Interference Protection)	
in the 3650-3700 MHz Band)	

**REPLY COMMENTS OF THE
FIXED WIRELESS COMMUNICATIONS COALITION**

Pursuant to Section 1.405(b) of the Commission's Rules, the Fixed Wireless Communications Coalition (FWCC)¹ files this reply comment in support of the above-captioned rulemaking petition.²

The FWCC is the original proponent of this rulemaking. We asked the Commission to adopt minor wording changes to Section 90.1319(d) so as to make certain procedures aimed at reducing interference mandatory rather than voluntary. We explained how this will improve the utility of the 3650-3700 MHz band for mobile broadband, fixed wireless broadband access, and backhaul, while retaining the advantages of the present licensing scheme.

¹ The FWCC is a coalition of companies, associations, and individuals interested in the fixed service – i.e., in terrestrial fixed microwave communications. Our membership includes manufacturers of microwave equipment, licensees of terrestrial fixed microwave systems and their associations, and communications service providers and their associations. The membership also includes railroads, public utilities, petroleum and pipeline entities, public safety agencies, cable TV and private cable providers, backhaul providers, and/or their respective associations, communications carriers, and telecommunications attorneys and engineers. Our members build, install, and use both licensed and unlicensed point-to-point, point-to-multipoint, and other fixed wireless systems, in frequency bands from 900 MHz to 95 GHz. For more information, see www.fwcc.us.

² *Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemakings Filed*, Report No. 2908 (released June 4, 2010).

Discussion of Comments

All five of the filed comments support the proposal. Three add conditions, however, and in two cases those are inconsistent.

The Wireless Internet Service Providers Association (WISPA) supports the proposal as codifying fundamental “best practices,” shrinking the potential for interference, adding a greater level of certainty to licensees’ operations, and providing incentive to achieve private solutions without resorting to the Commission’s complaint procedures.³

The FWCC filed comments to point out that President Obama’s recent call for the Commission to make available 500 MHz of broadband spectrum will accelerate the need for backhaul capacity, and hence make this proceeding more urgent.⁴

Motorola, Inc. agrees the proposal will increase the certainty that network operators’ investments will produce a commercially viable service that is not crippled by interference.⁵

Motorola goes on to suggest that the Commission allow higher power in the band, streamline operations in the satellite coordination zone, and provide additional spectrum.⁶ These proposals go well beyond the FWCC request. The FWCC has no reason to oppose them, except insofar as they set off a more complex and contentious debate that delays the limited relief we seek. We urge the Commission to move quickly on the original issues while considering the issues Motorola raises.

³ The Wireless Internet Service Providers Association at 3-4.

⁴ Fixed Wireless Communications Coalition at 2.

⁵ Motorola, Inc. at 2.

⁶ *Id.* at 2-4.

The Wireless Communications Association International, Inc. (WCAI), while questioning the need for the relief that the FWCC sought in its original petition,⁷ states that it has no objection to the rule change we request,⁸ so long as the rule continues to make clear that all licensees have equal rights on the band, with no priority for first-in users.⁹

The law firm of Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP (BloostonLaw), on behalf of existing and prospective licensees, supports the FWCC request, saying it will inject a greater element of certainty and reliability in the licensing scheme without adversely affecting the speed and flexibility of the regulatory approach.¹⁰ In direct contrast to WCAI, however, BloostonLaw argues that the rules should protect the first-in user. No right-thinking business person, it says, can be expected to make the necessary investments without knowing the rules will protect incumbents against interference.¹¹

The FWCC position is somewhere between these two poles. We side with WCAI in leaving intact the existing policy, which denies absolute protection to incumbents.¹² Requiring newcomers to check the database before operating, and to make every effort to avoid interference,

⁷ The Wireless Communications Association International, Inc. at 2-3.

⁸ *Id.* at 4.

⁹ *Id.* at 4-5.

¹⁰ Blooston, Mordkofsky, Dickens, Duffy & Prendergast, LLP at 4.

¹¹ *Id.* at 3.

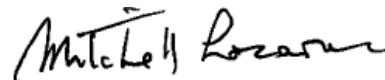
¹² *Wireless Operations in the 3650-3700 MHz Band*, Report and Order and Memorandum Opinion and Order, 20 FCC Rcd 6502 at ¶ 31 (2005) (“All wireless licensees in the 3650 MHz band will have equal rights to the use of this spectrum (*i.e.*, no priority for first-in users)”) This contrasts with Part 101 site licensing, which gives incumbents an effective veto over potentially interfering newcomers. *See generally* 47 C.F.R. § 101.103.

should significantly reduce the risk of interference to incumbents. Likewise, requiring all parties to an interference case to cooperate in good faith to resolve the problem should shorten the duration of any interference situation that does occur. We suggest, in short, that adoption of the requested language will help to address the concerns of BloostonLaw without undercutting the present policies favored by WCAI.

CONCLUSION

The requested rule amendment will improve the reliability of operations in spectrum that is ideal for mobile broadband, fixed wireless broadband access, and backhaul. We ask the Commission to release a Notice of Proposed Rulemaking as quickly as possible.

Respectfully submitted,



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July 21, 2010

CERTIFICATE OF SERVICE

I, Deborah N. Lunt, a secretary with the law firm of Fletcher, Heald & Hildreth, PLC, hereby state that true copies of the foregoing Reply Comments of the Fixed Wireless Communications Coalition have been mailed first class, postage prepaid, this 21th day of July, 2010, to the persons named on the attached Service List, except that addresses at the Federal Communications Commission are served by hand delivery.

A handwritten signature in black ink, appearing to read 'D. Lunt', with a long horizontal flourish extending to the right.

Deborah N. Lunt

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