

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)

Amendment of Parts 1, 22, 24, 27, 74, 80,)
90, 95, and 101 To Establish Uniform)
License Renewal, Discontinuance of)
Operation, and Geographic Partitioning and)
Spectrum Disaggregation Rules and)
Policies for Certain Wireless Radio)
Services)

WT Docket No. 10-112

COMMENTS OF SPACE DATA CORPORATION

Space Data Corporation (“Space Data”) submits these comments in support of the Petitions filed by Sensus USA Inc. and Sensus Spectrum LLC (“Sensus”) and American Messaging Services, LLC (“American Messaging”) seeking reconsideration of the Commission’s *Second Report and Order* (“*Second R&O*”) in the above-referenced proceeding.¹ Space Data agrees that the new license renewal safe harbor requirements adopted in the *Second R&O* unnecessarily complicate the renewal process, overly burden licensees, and create regulatory uncertainty, particularly for narrowband licensees. Accordingly, the Commission should revise the renewal safe harbors to more closely align with the new renewal standard and better reflect the different circumstances faced by narrowband licensees.

¹ Sensus USA Inc. and Sensus Spectrum LLC Petition for Reconsideration, WT Docket No. 10-112 (filed Oct. 2, 2017) (“Sensus Petition”); American Messaging Services, LLC Petition for Partial Reconsideration or Clarification, WT Docket No. 10-112 (filed Oct. 2, 2017) (“American Messaging Petition”); *Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services*, Second Report and Order and Further Notice of Proposed Rulemaking, WT Docket No. 10-112; FCC 17-105 (rel. Aug. 3, 2017) (“*Second R&O*”).

DISCUSSION

Space Data holds hundreds of narrowband PCS (“NPCS”) licenses. The narrowband service market has changed dramatically from mass market consumer-oriented paging and messaging services to one focused on M2M telemetry, tracking, and messaging services for limited enterprise and public safety uses. Narrowband messaging operators also now primarily serve individual customers within limited areas, such as hospitals. Other users of the NPCS are energy concerns ranging from oil and gas field operators to electric, gas and water utilities. Many narrowband licensees serving these niche markets do not have the same scale and financial resources as other commercial licensees. And as Sensus and American Messaging note, despite the changes in the narrowband service market, the Commission’s NPCS performance requirements were put in place 25 years ago for more mass market consumer-oriented services.²

Space Data agrees that the scope of the new renewal certification requirements is overly broad and unnecessary.³ The renewal safe harbor adopted by the Commission essentially requires licensees to maintain mandatory minimum levels of service throughout the license term, even though the renewal standard itself requires only that a licensee demonstrate that its last performance benchmark was met, it provided service during the license term, and is continuing to provide service as of the renewal date. The Commission has also not fully explained how a licensee subject to a qualitative substantial service performance requirement can certify it satisfies the safe harbor without a Commission determination.⁴ Moreover, the new certification requirements will require licensees to continually monitor and analyze service data in order to confirm they can in fact certify to their compliance. Such analysis and recordkeeping would be

² Sensus Petition at 9-10; American Messaging Petition at 4-5.

³ Sensus Petition at 5; American Messaging Petition at 4-5.

⁴ Sensus Petition at 5 n.10.

extremely costly and burdensome for licensees, particularly small companies with fewer resources.⁵ Space Data also agrees that the certification regarding substantial compliance with applicable rules, policies, and the Communications Act, as well as the certification that operations were not permanently discontinued, are overly broad and impermissibly vague.⁶

Accordingly, the Commission should revise the renewal safe harbor to be more practical for licensees and better conform to the license renewal standard. It is sufficient for a licensee to satisfy the renewal standard by certifying it: (1) met the last applicable performance benchmark, (2) provided service to the public during the license term, and (3) continues to provide service as of the filing of the renewal application.⁷ Revising and clarifying the safe harbor would serve the public interest by ensuring licensees have sufficient notice of the renewal standard while not overburdening licensees with unnecessary and costly requirements.

If the Commission does not revise the safe harbors, at the very least it should adopt a rebuttable presumption of renewal for licensees that certify compliance with the renewal standard, as Sensus suggests.⁸ This would provide licensees with some measure of certainty regarding the renewal process, particularly for licensees that target niche customers and utilize unique and innovative technologies.

⁵ Sensus Petition at 5-7; American Messaging Petition at 5-6.

⁶ Sensus Petition at 7-8.

⁷ Sensus Petition at 8; American Messaging Petition at 7.

⁸ Sensus Petition at 12-15.

CONCLUSION

The Commission should reconsider the safe harbor certifications in the *Second R&O* as proposed by Sensus and American Messaging. Doing so would help simplify the regulatory process, consistent with the Commission's objectives in this proceeding, without imposing significant new burdens on licensees.

Respectfully submitted,

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