



October 26, 2020

VIA ECFS

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

Re: Ex Parte Presentation

Petition for Rulemaking to Permit MVDDS Use of the 12.2-12.7 GHz Band for Two-Way Mobile Broadband Service, RM-11768

Dear Ms. Dortch:

The time has finally come for the Commission to issue a Notice of Proposed Rulemaking that seeks comment on proposals to release an additional 500 megahertz of spectrum in the 12.2-12.7 GHz band (the “12 GHz Band”) for two-way terrestrial 5G services. Since the 5G Petition was filed more than four years ago,¹ the Commission has received dozens of submissions, several technical studies, and the views of nearly every MVDDS, DBS, and NGSO-FSS stakeholder operating in the 12 GHz Band. Widespread support for an NPRM exists among parties.² The Commission has issued NPRMs on far less input, and any disagreement about technical issues should be resolved during the normal course of a rulemaking proceeding.

¹ Petition of MVDDS 5G Coalition for Rulemaking, RM-11768 (Apr. 26, 2016) (“5G Petition”).

² See, e.g., Letter from Martha Suarez, Dynamic Spectrum Alliance, to Marlene Dortch, Secretary, FCC, RM-11768 et al. (filed Aug. 21, 2020); Letter from Jennifer M. McCarthy, Vice President, Legal Advocacy, Federated Wireless to Marlene H. Dortch, Secretary, FCC, Docket No. RM-11768 (filed June 15, 2020); Letter from Harold Feld, Public Knowledge and Michael Calabrese, Open Technology Institute at New America to Marlene H. Dortch, FCC, RM-11768 (filed July 9, 2020); Reply Comments of the Computer & Communications Industry Association, GN Docket No. 17-183, at 4-5 (Nov. 15, 2017) (noting that the “[12 GHz] band has many characteristics that would make it suitable for two-way mobile communications and help carriers meet ever increasing demands for broadband traffic” and urging the Commission to “include the 12.2-12.7 GHz band in an NPRM based on comments from this NOI.”); Reply Comments of T-Mobile USA, Inc., GN Docket No. 17-183, at 22 (Nov. 15, 2017) (asking the Commission to examine the 12 GHz band, among others, for “potential wireless mobile broadband use” and encouraging the Commission to “use this proceeding to further develop the record regarding the potential use of those bands for wireless mobile operations.”); Comments of Competitive Carriers Association, RM-11768, at 9 (June 8, 2016) (noting that the 12 GHz band “presents an excellent opportunity to make spectrum available to support 5G mobile broadband technologies.”); Letter from Senators Cory Gardner and Michael Bennet to Chairman Ajit Pai (Dec. 7, 2017) (highlighting the

Unfortunately, as is typical in FCC spectrum proceedings, vested interests and incumbents—notably SpaceX and AT&T—have embarked on a furious, last-minute campaign against studying the band for 5G. And in recent days, organizations that never previously demonstrated interest in the 5G Petition or the 12 GHz Band have suddenly sprung up in this proceeding and filed letters demanding that the Commission accede to the demands of SpaceX and AT&T.³ These letters—curiously choreographed in their timing and substance—raise no new issues and provide no reason for the Commission to stop considering the 5G opportunity in the 12 GHz Band.

Stripped of their apocalyptic rhetoric and their dubious technical assertions, opponents of a rulemaking cannot deny three fundamental facts.

First, the immediate issue before the Commission is not whether to allow two-way 5G services in the 12 GHz Band. And it is not whether to adopt the particular rules proposed in the 5G Petition filed back in 2016. Rather, the decision currently before the Commission is whether to issue an NPRM to study the issue further. If the Commission believes the 12 GHz Band merits further exploration, it should issue an NPRM, without prejudice to how the Commission may resolve the ultimate question. No harm to any party will come from opening a rulemaking to study new rules. Neither the question before the Commission, nor the answer, is terribly complicated despite opponents' efforts to make it so.

Second, whether 5G services are technically feasible in the 12 GHz Band is the proper subject of an NPRM, not a reason to deny an NPRM in the first place. Spectrum-sharing technologies have blossomed since the 5G Petition was filed four years ago, not to mention since the MVDDS rules were last updated in 2002. After the 5G Petition was filed, the Commission successfully developed sharing frameworks in multiple bands, including CBRS, and repurposed other bands for 5G, including the C-band. Denying an NPRM simply because a handful of interested parties say sharing the 12 GHz Band is impossible would ignore significant technological developments, prejudge the merits, and defeat the reason rulemaking proceedings exist in the first place. The Commission need not—and should not—make definitive conclusions about radio-engineering until a rulemaking proceeding is well underway.

Finally, 5G is an economic and national-security imperative. Mid-band spectrum is the missing piece that can help unlock 5G's potential and allow for high throughput, low latency services that span most of America. The 12 GHz Band is the only mid-band spectrum in the

importance of deploying 5G service and explaining that “the Commission has an opportunity to build on their 5G efforts by considering the benefits of 5G mobile broadband use in the spectrum between 12.2-12.7 GHz.”).

³ See Letter from Thomas A. Schatz, Citizens Against Government Waste, to Marlene H. Dortch, Secretary, FCC, Docket No. RM-11768 (filed Oct. 22, 2020); Letter from Andrew Lautz, National Taxpayers Union, to Marlene H. Dortch, Secretary, FCC, Docket No. RM-11768 (filed Oct. 20, 2020); Letter from Kepler Communications *et al.*, to Marlene H. Dortch, Secretary, FCC, Docket No. RM-11768 (filed June 20, 2020); Letter from Americans for Tax Reform *et al.*, to Marlene H. Dortch, Secretary, FCC, Docket No. RM-11768 (filed Oct. 19, 2020).

Commission's inventory that is already allocated for terrestrial use, free of military and federal users, and offers 500 megahertz of nationwide, contiguous spectrum, with channel sizes of up to 100 megahertz wide. The importance of 5G, coupled with the scarcity of usable mid-band spectrum, makes Commission review of the 12 GHz Band a national priority.

The choice before the Commission is straightforward and long overdue. We urge the Commission to act swiftly and issue an NPRM to modernize the 12 GHz Band by exploring the possibility for expanded and flexible terrestrial services.

Sincerely,

/s/ V. Noah Campbell

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