

In the Matter of)
)
Promoting Investment in the 3550-3700 MHz) GN Docket No. 17-258
Band)

To: The Commission

The Wireless Internet Service Providers Association (“WISPA”), pursuant to Section 1.429(f) of the Commission’s Rules,¹ hereby opposes the petition for reconsideration (“Petition”) filed by CallComm.²

¹ 47 C.F.R. § 1.429(f).

² CallComm Petition for Reconsideration, GN Docket No. 17-258 (Jan. 7, 2019) (“Petition”). A summary of the Petition published in the Federal Register on June 7, 2019 established June 24, 2019 as the deadline for filing oppositions. *See* 84 Fed. Reg. 26634 (June 7, 2019).

³ 47 C.F.R. §1.429(b).

⁴ *Amendment of the Commission’s Rules with Regard to Commercial Operations in the 3550-3650 MHz Band*, Report and Order and Second Further Notice of Proposed Rulemaking, 30 FCC Rcd 3959, 3965 (2015) (“*CBRS Order*”). These are as follows: (a) Call Sign WQHK852 licensed to Mobile Data Solutions Ltd. to operate in 3340-3600 MHz nationwide, (b) WQLW310 licensed to Sage and Company, LLC (assigned to I.O.U. Acquisitions (“IOU Acquisitions”)) to operate in 3500-3650 MHz from a fixed location at Eldorado Springs, Colorado, and (c) WQPA798 licensed to Skandic to operate in 3300-3650 MHz from a fixed location at Aspen, Colorado. *See id.* at n.22. The license for WQHK852 expired on August 27, 2017 and the license for WQPA798 was terminated. The Commission also has authorized Air-Tel, LLC (“Air-Tel”) to operate in 3300-3600 MHz under call sign WQLX454. There thus appear to be two radiolocation authorizations remaining in the 3550-3650 MHz band – WQLW310 and WQLX454.

applied for prior to June 15, 2015 may continue to operate *on a secondary basis* until the end of the equipment 's useful lifetime.”⁵ Accordingly, unlike the re-banding cases CallComm cites where primary status licensees were re-located, CallComm and the other radiolocation licensees should have no similar expectation.⁶ Moreover, none of the licensees appears to have filed any comments or other filings in the record challenging this decision and, significantly, none filed for reconsideration of the amended rules. CallComm cannot now, four years after the fact, complain that the radiolocation service call signs “need to be protected” or that “a Re-banding program . . . should be part of the conversation.”⁷ Its Petition is procedurally defective because it relies on facts and arguments CallComm could have made many years ago⁸ and was not filed within the 30-day period for seeking reconsideration.⁹

Second, Call Comm fails to describe that it is an “interested person” entitled to file a petition for reconsideration.¹⁰ It appears that CallComm, through its Chief Engineer John C. Gazzo, is connected in some fashion to both IOU Acquisitions and Air-Tel.¹¹ But none of these parties participated in the proceeding in which the radiolocation service licenses were involved, and CallComm never asserts its interest or how it would be adversely affected by rejection of the relief it seeks.

⁵ 47 C.F.R. §2.106 & US105 (emphasis added).

⁶ See Petition at 1.

⁷ *Id.*

⁸ See 47 C.F.R. §1.429(l)(2) (providing for dismissal of petitions for reconsideration which have not previously been presented to the Commission despite the facts and arguments being known).

⁹ See 47 U.S.C. § 405(a) (“A petition for reconsideration must be filed within thirty days from the date upon which public notice is given of the order, decision, report, or action complained of.”); 47 C.F.R. § 1.429(d) (same).

¹⁰ See 47 C.F.R. §1.429(a).

¹¹ See *IOU Acquisitions, Inc.*, Notice of Apparent Liability for Forfeiture, 34 FCC Rcd 8919, 8921 & n.10 (2018) (“*IOU NAL*”) (noting that both IOU Acquisitions and Air-Tel have management agreements with Mr. Gazzo, and that Mr. Gazzo has ownership interests in both companies).

It should also be noted that the two remaining radiolocation licenses are subject to serious Commission sanctions, which may include cancellation of the licenses. In the *IOU NAL*, the full Commission imposed a \$207,290 forfeiture on IOU Acquisitions and a \$327,290 forfeiture on Air-Tel for willful and repeated violations of Sections 301 and 302 of the Communications Act of 1934, as amended, and Section 90.203 of the Commission's Rules by operating unauthorized equipment to provide unauthorized service.¹² Because the licensees were not providing radiolocation services, the Commission further "direct[ed] the Wireless Telecommunications Bureau to evaluate the Companies' operations and initiate the necessary process to cancel them, if warranted."¹³

CallComm has presented no basis for the Commission for reconsideration. The Petition should be dismissed or denied.

Respectfully submitted,

**WIRELESS INTERNET SERVICE
PROVIDERS ASSOCIATION**

By: /s/ Claude Aiken
Claude Aiken, President & CEO
4417 13th Street #317
Saint Cloud, Florida 34769

June 24, 2019

¹² *Id.* at 8924-25.

¹³ *Id.* at 8932.

CERTIFICATE OF SERVICE

I, Claude Aiken, hereby certify that on this 24th day of June, 2019, a copy of the foregoing "Opposition to the Petition for Reconsideration," was sent by first-class, postage prepaid mail to the following:

John C. Gazzo, Chief Engineer
CallComm
5721 Logan Street
Denver, CO 80216

/s/ Claude Aiken
Claude Aiken