

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

In the Matter of:)
)
Expanding Flexible Use of the 3.7 to 4.2 GHz) GN Docket No. 18-122
Band)

OPPOSITION OF AT&T

AT&T Services, Inc., on behalf of the subsidiaries and affiliates of AT&T Inc. (collectively, “AT&T”), submits the following Opposition to the six Petitions for Reconsideration and/or Clarification of the Report and Order and Order of Proposed Modification in the above-captioned docket.¹ These Petitions improperly seek pre-emptive determinations regarding the reasonableness (or unreasonableness) of specific transition reimbursement claims—decisions that the Federal Communications Commission (“Commission” or “FCC”) has already decided to delegate to the Relocation Payment Clearinghouse (“Clearinghouse”) in the first instance—or merely belabor arguments that were fully aired and addressed in the *C-Band Order*. On that basis, all of the Petitions should be denied.

¹ *Expanding Flexible Use of the 3.7 to 4.2 GHz Band*, Report and Order and Order of Proposed Modification, 35 FCC Rcd 2343 (2020) (“*C-Band Order*”); Petition for Partial Reconsideration of the 3.7-4.2 GHz Band Report and Order by Aerospace Industries Association *et al.*, GN Docket No. 18-122 (filed May 26, 2020) (“*Aviation Interests Petition*”); Petition for Reconsideration of Charter Communications, Inc., GN Docket No. 18-122 (filed May 26, 2020) (“*Charter Petition*”); Petition for Expedited Reconsideration or Clarification, GN Docket No. 18-122 (filed May 26, 2020) (“*Eutelsat Petition*”); Intelsat Licensee LLC Petition for Reconsideration, GN Docket No. 18-122 (filed May 26, 2020) (“*Intelsat Petition*”); Petition for Clarification and/or Reconsideration of the International Telecommunications Satellite Organization, GN Docket No. 18-122 (filed May 26, 2020) (“*ITSO Petition*”); Request for Clarification or, In the Alternative, Petition for Partial Reconsideration of Raytheon Technologies Corporation, GN Docket No. 18-122 (filed May 26, 2020) (“*Raytheon Petition*”).

I. Petitions Seeking Pre-Emptive Determinations Related to Transition Cost Reimbursement Conflict Impermissibly with the *C-Band Order*.

Under the transition structure adopted by the Commission in the *C-Band Order*, eligible operators and licensees in the C-band can seek reimbursement of costs that are “reasonable,” including costs for equipment that “most closely replaces their existing equipment or, as needed, provides the targeted technology upgrades necessary for clearing the lower 300 megahertz.”² These guideposts will be supplemented by a “cost category schedule,” which the Commission is currently developing. The cost category schedule will enumerate costs that are presumptively reasonable for a wide variety of transition activities and a selection of common C-band equipment configurations.³ If a request for reimbursement does not fall within a line item or within a price range contained in the cost category schedule, the Clearinghouse will make a determination of reasonableness based upon its expertise and documentation provided by the party seeking reimbursement.⁴ These reimbursement procedures also provide for arbitration or mediation of claims and an avenue for the FCC’s Wireless Telecommunications Bureau to “make further determinations related to reimbursable costs, as necessary.”⁵

Given this backdrop, Eutelsat, ITSO and Raytheon have all filed Petitions nominally seeking “reconsideration,” but in reality pursuing *ex ante* determinations that they should be reimbursed for, or that other parties should not be reimbursed for, certain systems or expenses that will purportedly result from the transition. In effect, all these Petitions wrongfully ask the Commission to make preemptive, hypothetically-based decisions that should be made in the first

² *C-Band Order*, 35 FCC Rcd at 2422 (¶ 194).

³ See, e.g., 47 C.F.R. § 27.1416(a).

⁴ *C-Band Order*, 35 FCC Rcd at 2448 (¶¶ 260-262); 47 C.F.R. § 27.1416(a).

⁵ *C-Band Order*, 35 FCC Rcd at 2449-50 (¶¶ 268-269); 47 C.F.R. § 27.1416(a).

instance by the Clearinghouse based on a fulsome factual record regarding the particular circumstances then at issue. The guidelines for Clearinghouse decisions on reasonableness have been used in a variety of prior spectrum transitions,⁶ and there is no basis to suggest that the Clearinghouse, in conjunction with the cost category schedule, will be unable to render consistent and rational decisions on reimbursement requests when the facts are before it. The Clearinghouse exists, in no small part, because it would be inefficient for the Commission to attempt to anticipate every possible reimbursement scenario. Indeed, the Commission could not possibly evaluate the reasonableness of many expenses in the abstract. Instead, as the current rules require, reasonableness determinations should ultimately be made on a case-by-case basis to ensure that reimbursements remain neither exorbitant nor penurious. The *Eutelsat*, *ITSO*, and *Raytheon Petitions* should thus be denied.

II. The Aviation Interests Petition Raises No Issues Warranting Reconsideration

Repeating the same arguments previously made in this docket—which the Commission has already fully addressed in the *C-Band Order*⁷—the *Aviation Interests Petition* asserts that the deployment of 3.7 GHz Service networks will cause harmful interference to Aeronautical Radionavigation Services (“ARNS”). The *Aviation Interests Petition* also argues that those Petitioners are not being treated like “other incumbents.”⁸ But the only other incumbents referenced are the FSS users that are actually being transitioned to clear spectrum for the 3.7 GHz Service.⁹ And the FSS users, unlike the Petitioners, will be positioned immediately adjacent to the 3.7 GHz Service spectrum. As a result, FSS users *should* be treated differently

⁶ See, e.g., *C-Band Order*, 35 FCC Rcd at 2422 & n.516 (¶ 193).

⁷ *Id.* at 2485-86 (¶¶ 390-395).

⁸ *Aviation Interests Petition* at 16-18.

⁹ *Id.*

than the Petitioners' ARNS, which will be separated by a whopping 220 MHz from the nearest 3.7 GHz Service licenses. In fact, the *C-Band Order* appropriately found that "the technical rules on power and emission limits we set for the 3.7 GHz Service and the spectral separation of 220 megahertz should offer all due protection to services in the 4.2-4.4 GHz band."¹⁰

The *Aviation Interests Petition* is not even consistent with the Aviation Interests' other filings. For example, these same parties previously stated that "further analysis is required to consider more sophisticated propagation models and other coupling paths and, as appropriate, to characterize statistical likelihood of interference levels" and requested the formation of a multi-stakeholder group to consider potential issues.¹¹ The *C-Band Order* commissions precisely such a group to "provide valuable insight into the complex coexistence issues in this band and provide a forum for the industry to work cooperatively towards efficient technical solutions to these issues" and "encourage[d] AVSI and others to participate in the multi-stakeholder group."¹² Thus, the *C-Band Order* exceeds what the record indicates is necessary to protect ARNS. Under these circumstances, the work of the multi-stakeholder group should be allowed to finish, and the Aviation Interests should pursue their advocacy in that venue, rather than seeking to minimize the inter-industry work through a petition for reconsideration.¹³

Accordingly, the Commission should deny the *Aviation Interests Petition*.

¹⁰ *C-Band Order*, 35 FCC Rcd at 2485 (¶ 395). *See id.* at 2484 (¶ 395) (stating "we are providing a 220-megahertz guard band between new services in the lower C-band and [ARNS] operating in the 4.2-4.4 GHz band," and noting "[t]his is double the minimum guard band requirement discussed in initial comments by Boeing and ASRC").

¹¹ *Id.* at 2485 (¶ 394) (quoting AVSI Feb. 19, 2020 *Ex Parte* at 12; AVSI Feb. 4, 2020 *Ex Parte*, "AFE 76s2 Report: Effect of Out-of-Band Interference Signals on Radio Altimeters, Issue 1.0" attachment to letter of Dr. David Redman; ASRI Feb. 19, 2020 *Ex Parte*).

¹² *C-Band Order*, 35 FCC Rcd at 2485 (¶ 395).

¹³ The Aviation Interest further seek to have the "active involve[ment]" of the Commission in the multi-stakeholder group. *Aviation Interests Petition* at ii, 22-24. Although AT&T is supportive

III. The TDD Synchronization Issues Raised in the *Charter Petition* Were Fully Addressed by the *C-Band Order*

The *Charter Petition* reiterates fully resolved arguments that seek to impose Time Division Duplex (“TDD”) synchronization requirements on 3.7 GHz Service licensees to protect Citizen’s Broadband Radio Service (“CBRS”) operations. These arguments have been definitively laid to rest in the *C-Band Order*, where the Commission found it should “not require dynamic spectrum management or other protection mechanisms suggested by some to protect the Citizens Broadband Radio Service.”¹⁴ This Commission finding rests on well-reasoned determinations that “3.7 GHz operations . . . can coexist with operations below the band edge” and that “the emission limits . . . are consistent with other mobile service bands that have proven successful in coexisting with a variety of adjacent services.”¹⁵ Although Charter asserts that prior Commission decisions have been more sensitive to avoiding adjacent bands for uplink and downlink use—which it analogizes to adjacent TDD operations—the Commission has actually authorized narrower separations. For two examples, the gap between CBRS “priority access licenses” (“PAL”) licenses and the closest 3.7 GHz Service license is 50 MHz, whereas the duplex gap in Broadband PCS is only 10 MHz and the 700 MHz band has no duplex gap at all.¹⁶

As an adjunct to its conclusion that explicit protective measures are not required to protect CBRS, the Commission “encourage[d] parties to explore synchronization of TDD

of such a Commission role, the requested relief is again unnecessary in view of the fact that the *C-Band Order* already “directs the Office of Engineering and Technology to act as a liaison for the Commission with any such multi-stakeholder group . . . formed.” *C-Band Order*, 35 FCC Rcd at 2485 (¶ 393).

¹⁴ *Id.* at 2485-86 (¶¶ 396-397).

¹⁵ *Id.*

¹⁶ In the Broadband PCS band plan, the upper bound of the H Block uplink (1920 MHz) is 10 MHz from the lower bound of the A Block downlink. In the 700 MHz band, the upper bound of the C Block uplink (716 MHz) is the lower bound of the D Block, which is used for downlink.

operations to minimize interference between these adjacent services.”¹⁷ That work has already commenced under the auspices of the multi-stakeholder group. The Commission should not prejudge the work of that technical group at Charter’s behest based solely on vague allegations of potential anticompetitive practices. Even if there were a real interference issue to confront, which may not even be the case, forcing coordination obligations on traditional, exclusive market-area terrestrial mobile service licenses in order to protect operations that are assigned spectrum dynamically on a real-time basis may not be technically feasible—and the public policy benefits are questionable in any event. Thus, the *Charter Petition* should be denied and the technical working group permitted to continue its work unimpeded.

IV. Intelsat Wrongfully Attempts to Reverse Foundational Technical Determinations in the *C-Band Order*

The *Intelsat Petition* seeks reconsideration of two key technical decisions in the *C-Band Order*, as well as some other specialized relief. First, Intelsat seeks protected use of the entire 500 MHz of the C-band for certain “gateway” operations at the grandfathered Telemetry, Tracking and Control (“TT&C”) facilities. Second, Intelsat seeks to reverse the Commission’s decision regarding protection from out-of-band emissions from 3.7 GHz Service licensees. As discussed below, neither of these requests—both of which were subject to robust and full debate on the record—warrant reconsideration. Unrelatedly, Intelsat seeks to defer relocation of its TT&C facilities from the Phase I deadline (December 5, 2021) to the Phase II deadline (December 5, 2023) and implementation of a Covid-19 specific waiver process for transition delays, both of which appear superfluous under the rules adopted in the *C-Band Order*.

¹⁷ *C-Band Order*, 35 FCC Rcd at 2485 (¶ 396).

Intelsat’s request for grandfathered, primary use of the full 500 MHz of the C-band was already soundly rejected in the *C-Band Order*.¹⁸ And Intelsat’s rationale for protecting these operations is vague at best—it is unclear, for example, why these operations cannot be relocated above 4.0 GHz¹⁹ and whether the reception of the signals at issue is even protected as a matter of Commission policy. Moreover, Intelsat’s justification for the change on the basis that the new TT&C facilities “will be in remote areas where they are least likely to significantly impair terrestrial operations,” defies logic and reason.²⁰ If there is truly no impact to terrestrial operations, the protection Intelsat seeks is superfluous, because terrestrial operations will be irrelevant to the operation of the gateway services. But it is more likely that Intelsat is simply understating the impact on 3.7 GHz Service licensees—the C-band Alliance originally argued for a 150 km coordination zone around such TT&C facilities, which implies a broad impact.²¹ Intelsat’s final argument—that the filters mandated for protection of narrowband telemetry signals are technically infeasible—might justify marginally looser filter specification, but inflating that narrow technical issue to retain primary rights over the entire C-band overstates matters considerably. Intelsat has provided no basis for the broad expansion of protected rights it seeks and its request should be denied.

¹⁸ *Id.* at 2479-80 (¶¶ 379-381).

¹⁹ Intelsat alleges that “[t]he Commission can confirm by consulting confidential data provided to it by satellite operators that these international satellites are more heavily utilized than are satellites in the North American arc, and as such, there is insufficient capacity in the upper 200 MHz in which to groom these customers,” *Intelsat Petition* at 5. But given that these transmissions are taking up capacity on the satellites already, it is unclear why transponders could not be remapped, since C-band users elsewhere have no constraints on band placement.

²⁰ *Id.* at i, 4.

²¹ Letter from Jennifer D. Hindin, Counsel for the C-Band Alliance, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission, GN Docket No. 18-122 at Transition Plan, p. 10 (filed Apr. 9, 2019).

Similarly, Intelsat’s arguments regarding changes to the out-of-band protection requirements for earth stations retreads ground extensively covered in the rulemaking without adding any new or novel information.²² Even while making these arguments, Intelsat notes that “[t]he Report and Order encourages the industry, among other things, ‘to convene a group of interested stakeholders to develop a framework for interference prevention, detection, mitigation, and enforcement in the 3.7-4.2 GHz band’ and to ‘consider best practices and procedures to address issues that may arise during the various phases of the C-band transition.’”²³ Intelsat then concedes that “[p]resumably that [multi-stakeholder group] might include best practices and procedures for reporting and remediating instances of interference to earth stations from new service providers.”²⁴ This work is already underway in a technical working group commissioned by the multi-stakeholder group, and that group is the appropriate vehicle for arriving at pragmatic solutions to co-existence in the C-band. The Commission should not cut short these efforts by re-vamping the out-of-band emissions requirements at the eleventh hour.

Intelsat’s final two requests—the continued ability to use existing TT&C facilities until the Phase II deadline and a waiver process for Covid-19 related transition delays—both appear superfluous. For example, as the *Intelsat Petition* recognizes, “the Commission determined that it would only permit Intelsat to operate communications carriers at two designated TT&C sites within the CONUS in the 3.7-4.0 GHz band on an unprotected basis after December 5, 2021,”²⁵ but then later acknowledges that the exclusion from Phase I of the PEAs where it operates existing TT&C facilities, “by its own terms, . . . allows the continued protected operation in all

²² *C-Band Order*, 35 FCC Rcd at 2475-76 (¶¶ 361-365).

²³ *Intelsat Petition* at 15-16 n.40 (citing *C-Band Order*, 35 FCC Rcd at 2467-68 (¶¶ 333-334)).

²⁴ *Id.*

²⁵ *Id.* at 3.

500 MHz in the three PEAs in which Intelsat currently operates CONUS TT&C teleports.”²⁶

Fundamentally, then, Intelsat concedes that it has the continued right to operate its existing TT&C facilities through the Phase I period, so long as those facilities do not impinge upon the deployment of terrestrial 5G networks, as well as *de facto* protection conferred by the exclusion of key PEAs from Phase I. As a result, this aspect of the *Intelsat Petition* is moot. To the extent that Intelsat is seeking the right to limit deployment of 3.7 GHz Service facilities during Phase I in the 46 designated early access PEAs to protect its existing TT&C facilities, Intelsat’s request should be summarily denied. The objective of providing a very substantial Accelerated Relocation Payment is to ensure that terrestrial licensees have the opportunity to roll-out 5G services in an expedited manner, so creating constraints on that network deployment during Phase I is plainly contrary to the public interest.

Similarly, Intelsat argues that the Commission should provide a waiver process for Covid-19 pandemic-related delays. This request appears completely superfluous, however, in light of Section 27.1412(b)(3)(i), which already provides the opportunity for satellite operators to seek relief from “transition delays that are beyond the[ir] control.”²⁷

In sum, the requests raised in the *Intelsat Petition* have either been fully addressed on their merits in the *C-Band Order* or are unnecessary in light of the rules adopted in that *Order*. The *Intelsat Petition* should, accordingly, be denied.

V. Conclusion

The six Petitions for Reconsideration or Clarification of the *C-Band Order* should all be denied and the *Order* affirmed on reconsideration. A number of the Petitions are parochial

²⁶ *Id.* at 22.

²⁷ *C-Band Order*, 35 FCC Rcd at 2455 (¶ 294).

requests that seek, effectively, premature determinations on transition cost reimbursement without having followed the appropriate Clearinghouse processes. The Commission need not—and should not, given the absence of factual detail—rule on these reimbursement requests and should instead permit the reimbursement procedures defined in the *Order* to follow their due course. The remaining Petitions all seek to revisit determinations of issues that were thoroughly explored on the record, and none of these Petitions raises any new or novel issues. In many cases, in fact, the Petitions seek to pre-empt work ongoing in technical subcommittees of the multi-stakeholder group instead of allowing those groups to complete their delegated duties and resolve the matters in a practical and coordinated manner.

Respectfully Submitted,

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