

Given the above, the Joint Commentors believe that FCC licensing policies toward BAS and FS through the year 2000 should be designed not to complicate the problem any further. Accordingly, an immediate freeze on FS licensing in the 2165-2200 MHz band as proposed in the Supplemental Comments should be issued. Such an action will facilitate the introduction of MSS by preventing an increase in the number of FS systems with whom MSS will have to share the band for an extended period. Moreover, a freeze will allow a more orderly and natural migration from this band as FS licensees replace, upgrade, and enhance older equipment. As existing FS licensees' authorizations expire, they should be renewed in other allocations above 2 GHz *or* in existing spectrum for a period not to extend beyond January 1, 2005, the date by which all FS licensees would have to vacate the 2165-2200 MHz band. The only modifications permitted to existing FS licenses should be minor changes of the type set forth in Sections 22.602(i) and 101.81 of the Rules,<sup>55</sup> *i.e.*, those which do not increase the FS licensees' protection requirements, their susceptibility to interference from MSS, or potential to cause interference to MSS subscribers.

The Joint Commentors also believe that the licensing of BAS operations in Channels 1 and 2 should be frozen immediately. Similarly, the only modifications to existing BAS facilities that should be permitted are minor modifications. The Joint Commentors support the proposal in the *Supplemental Comments* that BAS renewals prior to January 1, 2000 in Channel 1 should at most be extended only through that date, so as to facilitate the phased transition plan. BAS licensees in Channel 2 would become secondary after January 1, 2000, under that plan, and any renewals extending beyond that date should be only on a secondary

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<sup>55</sup> Specifically, changes that reduce power, antenna height, structure height, or bandwidth; negligible changes in location (< 2"); small increases in antenna or structure height; minor changes in ground elevation; or minor equipment modifications.

basis. These BAS licensing policies will benefit the public interest by minimizing the burden on broadcasters that have to relocate from Channels 1 and 2.

#### **IV. THE FCC SHOULD PROMPTLY CONFORM THE U.S. ALLOCATIONS TABLE TO THE 95-WRC FINAL ACTS AND ACCEPT MSS APPLICATIONS**

As the Supplemental Comments point out, the U.S. Delegation took the lead at WRC-95 to expand the 2 GHz MSS allocation in Region 2 to accommodate other spectrum allocation actions taken in this country, *e.g.*, PCS at 1850-1990 MHz. The U.S. representatives also spearheaded the effort to accelerate worldwide the availability of the 2 GHz allocation for the MSS service. At WRC's end, the conferees from almost 140 countries consented to change the Table of Frequency Allocations that would provide for a five-year advance of the commencement of global MSS, from 2005 to the year 2000. In addition, the *WRC-95 Final Acts* resolved to study ways in which MSS operations could exist compatibly with the fixed service current in the MSS band and, given the fact that studies had shown sharing to be feasible, WRC-95 also resolved to draw up plans for the "gradual transfer" of fixed systems out of the MSS bands, taking into account technical, operational and economical considerations.<sup>56</sup>

Given the lead taken by the U.S. at WRC-95, it is only logical that the FCC should make the allocation in the U.S. consistent with the new international allocation adopted at WRC-95. At the same time, consistent with international efforts carrying out the resolutions and recommendations of the WRC-95 Final Acts, the FCC should support the work being done to refine coordination methodologies in the ITU-R study groups.

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<sup>56</sup> Final Acts WRC-95, res. COM5-10

Upon adopting the proposed 2 GHz allocation to MSS, the Commission immediately should open a window for the filing of applications for MSS satellite systems. This action will accomplish two things: first, it will foster the timely development of service rules and will help ensure that the eventual MSS licensees will be poised to provide the public the benefits of MSS on January 1, 2000, or as soon thereafter as possible. Second, the filing of specific system proposals will advance sharing discussions with FS incumbents. Once prospective satellite system parameters are made available for evaluation, FS licensees and MSS interests will be able to have more productive discussions regarding the development and refinement of coordination procedures using the specific technical parameters of all the filed systems.

## V. CONCLUSION

For the foregoing reasons, the Commission should adopt the proposed 2 GHz allocations to MSS. Because of the feasibility of MSS and FS sharing and the advantages of conforming with international trends, FS incumbent relocation and reimbursement rules of the sort used in the PCS spectrum allocations are inappropriate for the MSS bands. Rather, the FCC should adopt a phased transition plan like that set forth in the *Supplemental Comments*, requiring, *inter alia*, that all incumbent licensees in BAS Channel 1 (1990-2008 MHz) vacate the frequencies by January 1, 2000, and that all incumbent licensees in BAS Channel 2 (2008-2025 MHz) and all FS incumbents in the 2165-2200 MHz band transition from those frequencies by January 1, 2005. In addition, the Commission should freeze immediately the licensing of BAS and FS systems in the MSS bands, including modifications to existing operations, unless the nature of the changes is minor

To facilitate a smooth transition, the FCC should encourage the parties to engage in good faith coordination and resolution of engineering solutions necessary to effectuate the phased transition plan. If necessary, the FCC must be ready to become actively involved in resolving these engineering issues.

Finally, but equally important, the Commission should promptly open a window for the filing of MSS system applications. The acceptance of satellite applications at this time would help facilitate the refinement of sharing methodologies, the development of MSS operational and technical rules, the timely licensing and deployment of MSS systems, and the expeditious introduction of MSS services to the public

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