



not believed that the DSC petition was properly before the Commission relative to that band. The 2400-2450 MHz band is now and has long been the subject of ongoing rule making in Docket 94-32.<sup>1</sup> It was also the subject of extensive studies by NTIA, culminating in the *Spectrum Reallocation Final Plan*, released by NTIA in February of 1995. In the Commission's *First Report and Order* in Docket 94-32, the Commission specifically declined to permit wireless local loop operation in the 2402-2417 MHz band. 10 FCC Rcd. at 4787. Instead, it reserved the 2400-2450 MHz segment for Amateur, Part 15 and Part 18 operation. Specifically, the Commission noted the use of the 2402-2417 MHz band for wireless LAN operation under Part 15, and refused to authorize WLL operation in the 2400-2450 MHz band. The proposal of DSC, therefore, at least as regards 2402-2417 MHz, is *res judicata*. The DSC petition is untimely, and therefore not subject to consideration with respect to the 2400-2450 MHz band at the present time.

2. Also in the *First Report and Order*, the Commission noted that any spread-spectrum WLL operation in that band could be done pursuant to existing Part 15 rules, specifically Section 15.247. In the same document, the Commission stated that WLL service could be provided in the spectrum allocated for broadband PCS at 1850-1990 MHz, either directly by a broadband PCS licensee or by a

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<sup>1</sup> See, the *First Report and Order and Second Notice of Proposed Rule Making*, FCC 95-47, 10 FCC Rcd. 4769, released February 17, 1996.

secondary provider operating under the licensee's authority. 10 FCC Rcd. at 4781.

3. NTIA's *Spectrum Reallocation Final Plan* made clear that the intention of NTIA in deciding to reallocate all of the 2400-2450 MHz band was to provide for and encourage the development of the Amateur Service and Part 15 devices in the entire segment:

Reallocating the entire 2400-2450 MHz band would provide the FCC with the opportunity to develop a long-term regulatory framework and strategy that meets the needs of the Amateur Service and addresses the requirements of a robust and growing Part 15 industry. Under a mixed use reallocation, the Federal allocation would be reduced to secondary, with the limited remaining Federal presence posing no impact on non-Federal use.

*NTIA Final Plan, at 5-5.*

4. The 2400-2402 MHz segment was carefully reserved by FCC and NTIA for Amateur and Amateur-Satellite Service operation, due to its importance in amateur satellite communications. 10 FCC Rcd. at 4780, footnote 52. That band is not subject to consideration for WLL operation. The Commission has specifically found that WLL operation is not compatible with amateur operation on the same frequencies. 10 FCC Rcd. at 4781. The Commission is currently considering further rule making addressing the 2417-2450 MHz band, but decisions already reached in Docket 94-32, and the NTIA's Final Report, indicate that the band should be reserved for Amateur, Part 15 and Part 18 operation.

5. The Comments in this proceeding are uniform in their opposition to an allocation for WFALL in the 2400-2450 MHz band. The League is opposed as well to any allocation for radio services other than the Amateur and Amateur-Satellite Services at 2400-2450

MHz. Amateurs can coexist with unlicensed Part 15 and Part 18 operation in that band, but there is no basis for concluding that WFALL operation is compatible with the combination of users already there.

6. Those commenters which oppose the allocation of spectrum at 2.4 GHz for WFALL operation suggest that it would be poor spectrum management to permit fixed operation in bands below 3 GHz, noting that current technology supports use of spectrum to provide mobile service only below the 3 GHz band, while fixed uses are feasible on higher bands.<sup>2</sup> Ericsson proposes alternatively the use of the 18, 23, 28 and 37 GHz bands for WFALL operation. Ericsson suggests that operation of WFALL, even in rural areas, where transmission paths are greater, need not be conducted in the 1.3-2.7 GHz band. Northern Telecom, Inc. supports a WFALL allocation, but suggests that a 300 MHz contiguous allocation would provide better opportunities for selection of technology and conform with allocations in other countries, and that the contiguous allocation should be above 3 GHz.

Accordingly, the American Radio Relay League, Incorporated respectfully requests that the Commission not proceed further with the DSC petition, to the extent that it requests amendment of Part

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<sup>2</sup> See the *First Report and Order and Further Notice of Proposed Rule Making* in Docket 96-6, addressing Amendment of the Commission's Rules to permit flexible service offerings in the Commercial Mobile Radio Services, as cited by Ericsson, Inc., comments at 2.

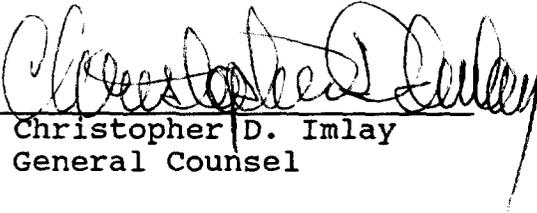
2 of the Commission's rules to allocate any portion of the 2400-2450 MHz band for Wireless Fixed-Access Local Loop service.

Respectfully submitted,

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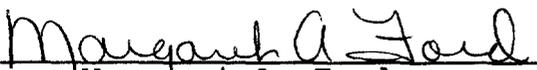
CERTIFICATE OF SERVICE

I, Margaret A. Ford, Office Manager of the law firm of Booth, Freret & Imlay, P.C., do certify that copies of the foregoing REPLY COMMENTS OF THE AMERICAN RADIO RELAY LEAGUE, INCORPORATED were mailed this 27th day of August, 1996, via U. S. Mail, postage prepaid, first class, to the offices of the following:

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