

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

In the Matter of )  
)  
Request for Declaratory Ruling on Partial-Band )  
Licensing of Earth Stations in the Fixed )  
Satellite Service that Share Terrestrial Spectrum )  
That Share Terrestrial Spectrum )  
)  
Petition for Rule Making to Set Loading )  
Standards For Earth Stations in the Fixed )  
Satellite Service that Share Terrestrial Spectrum )

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**OPPOSITION**

Pursuant to Section 1.405 of the Commission's Rules, Sprint Corporation ("Sprint") hereby opposes the above-captioned petition of the Fixed Wireless Communications Coalition ("FWCC"), filed on May 5, 1999.

FWCC requests a declaratory ruling and a rulemaking to change the rules applicable to Fixed Satellite Service ("FSS") on certain bands which are shared by FSS and terrestrial microwave fixed services.<sup>1</sup> Specifically, FWCC seeks a declaratory ruling that the FCC will authorize earth stations for only twice the amount of "bandwidth actually needed," (at 8) rather than for the full band.<sup>2</sup> Further, it seeks to amend Part 25 of the Commission's rules to require earth station operators to either certify a 50 percent loading within 30 months after licensing or reduce the licensed bandwidth.

<sup>1</sup> FWCC lists 7 bands which are shared by FSS and terrestrial services. Sprint's interest with respect to the instant petition is in the first two bands: 3.700 – 4.200 GHz and 5.925 – 6.425 GHz. These bands are used by INTELSAT for its space-to-Earth downlinks and its Earth-to-space uplinks, respectively.

<sup>2</sup> As discussed herein, in order to obtain circuits from INTELSAT, U.S. international carriers have an actual need for the whole band.

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As discussed below, such rule changes would seriously disrupt and degrade the provision of international services using satellite facilities by U.S. carriers. Sprint does not believe that narrowly constructing a Petition for Declaratory Ruling and rule change is the appropriate way to proceed. Rather, if the Commission decides that there is a problem with the licensing and assignment of spectrum in the bands shared by FSS and terrestrial services, it should begin with a Notice of Inquiry to solicit information which can help it develop new rules. A broad approach will produce rules which more effectively address the issue of efficient use of the spectrum.

**I. FWCC's Proposals Would Jeopardize the Provision of International Services by U.S. Carriers.**

The earth stations used by common carriers are licensed by the FCC to provide international services using INTELSAT satellites in the Pacific and Atlantic operating regions. Such licenses are for full bands of spectrum that are consistent with the bands used by INTELSAT to assign circuits globally. During the initial planning stages, INTELSAT assumes that all earth stations can operate across the entire satellite frequency range for a particular satellite. When INTELSAT receives an order for a circuit from a U.S. carrier and a foreign carrier for service between the United States and a foreign country, capacity is assigned as it becomes available. The carriers in both countries on both ends of the circuit must be able to accept the circuit assigned by INTELSAT. These carriers do not know until the actual assignment is made by INTELSAT which one of the possible frequencies will be assigned to them. Failure to accept the assignment would result in the carriers losing the capacity and being placed at the end of the waiting list for circuits.

FWCC complains that satellite earth station operators are afforded a significant preference because they are licensed for the entire band, while terrestrial operations are limited to the frequencies they need (at 3). FWCC fails to consider the different circumstances and operating procedures of the FSS earth stations vis-à-vis terrestrial microwave fixed services. Unlike terrestrial users who normally own the entire route of the transmitted signal and can accommodate the assignment of a specified frequency and bandwidth, U.S. international carriers control only their own earth station. The worldwide assignment of circuits within the specified bands, which is performed by INTELSAT, requires the allocation of the frequency bands to FSS services by all countries so that they all may have equal access to INTELSAT's facilities. Under the current frequency assignment regime, the complexities associated with the provisioning of international service necessitate full band licensing.

Contrary to FWCC's allegation, earth station operators such as Sprint using the spectrum for international telecommunications services are not "warehousing" bandwidth (at 4); rather, the requirement for full band licensing derives from the need to coordinate on a worldwide basis and to be able to accept INTELSAT frequency assignments. Application of rules designed for domestic point-to-point service owned and operated by terrestrial microwave FS providers would not be appropriate and would seriously jeopardize the provision of international telecommunications services.

If the FCC restricts the allocation of the spectrum as proposed by FWCC, U.S. carriers will not have equal access to INTELSAT services and will be unable to obtain circuits required to provide international service. The lack of access to INTELSAT facilities will be particularly detrimental for service to those countries which U.S. carriers

reach solely by satellite service. Sprint, for example, uses satellite service exclusively to serve nearly 50 countries.<sup>3</sup>

## **II. FWCC'S Request for Declaratory Ruling Violates the Commission's Rules.**

FWCC requests that the Commission issue a Declaratory Ruling that earth stations that are "using spectrum shared with terrestrial services, may be licensed and coordinated to use only twice the amount of bandwidth for which the applicant has demonstrated actual need." Such request violates Section 1.2 of the Commission's Rules concerning Declaratory Rulings which states that "[t]he Commission may, in accordance with section 5(d) of the Administrative Procedure Act, on motion or on its own motion issue a declaratory ruling terminating a controversy or removing uncertainty." FWCC cites no specific rule over which there is a controversy about its interpretation or application, nor has the FWCC demonstrated any uncertainty over a rule. Rather, FWCC is seeking to introduce a rule applicable to FSS earth stations similar to the rule applicable to microwave users in Section 101.141(a)(3). This request is beyond the scope of a declaratory ruling.

## **III. The Commission Should Institute a Notice of Inquiry.**

Rather than adopt the narrow rules proposed by the FWCC, the Commission should open an inquiry which would investigate the licensing and assignment of spectrum in the bands shared by FSS and terrestrial services. The Commission should solicit information about the current users and services in the bands identified by the FWCC (at 3) and request proposals from all interested parties as to rules and regulations which may

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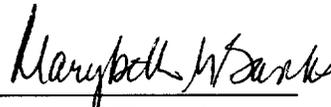
<sup>3</sup> The countries served by satellite service exclusively may be identified in Sprint's annual international circuit status report filed in compliance with Section 43.82 of the Commission's rules.

improve spectrum utilization. Based on the difference in the services, the proposed rules may be tailored to specific services. Having received and evaluated the information, the Commission could then institute a rulemaking proceeding to solicit the comments on any proposed rules or modifications to the existing rules which it considers to have merit. Such a broad approach to the assignment and licensing of the shared spectrum will allow for the investigation of the overall problems of efficient use of the spectrum and will produce rules which more effectively address the issue.

For the foregoing reasons, Sprint urges the Commission to deny the petition of FWCC and to consider instituting an inquiry concerning the rules applicable to the spectrum shared by FSS and terrestrial services.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was Hand Delivered or sent by United States first-class mail, postage prepaid, on this the 12th day of July, 1999 to the parties listed below.

  
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