

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

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matters of)

Request for Declaratory Ruling on)
Partial-Band Licensing of Earth)
Stations in the Fixed Satellite)
Service that Share Terrestrial)
Spectrum)

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RM 9649

Petition for Rule Making to Set)
Loading Standards For Earth)
Stations in the Fixed Satellite)
Service that Share Terrestrial)
Spectrum)

COMMENTS

Corporate Satellite Communications, Inc., ("CSC") hereby submits its comments in opposition to the Fixed Wireless Communications Coalition's ("FWCC") above-captioned Request for Declaratory Ruling and Petition for Rule Making (the "Petition"). The following is shown in support thereof:

First, a declaratory ruling is an inappropriate forum for consideration of the drastic changes that FWCC would have the Commission impose on earth station licensees. Section 1.2 of the Commission's rules provides that the Commission may "issue a declaratory ruling terminating a controversy or removing uncertainty." 47 C.F.R. § 1.2. Thus, declaratory rulings are best employed in cases where it is unclear whether and how a Commission rule or policy ought to be applied to a particular factual situation.

FWCC, however, does not ask the Commission to resolve a controversy or uncertainty with respect to its existing rules. Nor does FWCC present any issue about

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which it seeks an interpretation. Rather, FWCC asks the Commission to find that regulatory and marketplace changes require imposition of loading and spectrum usage rules on licensees in the Fixed Satellite Service in order to "achieve in practice the 'coequal' sharing specified by Parts 25 and 101 of the Commission's Rules." Petition at p.2.

"Absent a showing that a genuine controversy or uncertainty requires clarification, we find that a declaratory ruling is not the proper vehicle for the relief sought by Petitioner." BellSouth's Petition for Declaratory Ruling or, Alternatively, Request for Limited Waiver of the CPE Rules to Provide Line Build Out (LBO) Functionality as a Component of Regulated Network Interface Connectors on Customer Premises, 6 FCC Rcd 3336, para. 26 (1991). No genuine controversy or uncertainty requiring clarification exists here. Accordingly, FWCC's request for a declaratory ruling should be denied.

Furthermore, FWCC's petition for rule making should be denied as well. FWCC fails to provide any information or evidence supporting its contention that a revision to the rules is necessary or desirable. Its Petition is based largely on the unsupported allegation that earth station licensees are warehousing "huge amounts of unused bandwidth over unlimited azimuth ..." and otherwise interfering with legitimate terrestrial use of the shared spectrum at issue. Petition at 4. Petitioners must support their requests with something more than broad, unsupported allegations in order for the Commission to act.

Likewise, FWCC provides little if anything in the way of substantiated evidence supporting its position that the Commission's practice of coordinating across entire transmit/receive bands and for all azimuths and elevation angles has any affect, much less a significant one, upon terrestrial systems. FWCC provides no evidence or information

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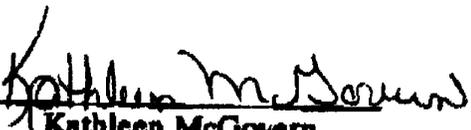
supporting its contention that its membership requires greater access to spectrum, nor does it supply any evidence or information to support its contention that its proposed revision to Part 25 will not "unfairly impinge on earth station operators." Petition at 9.

CONCLUSION

Fixed Wireless Communications Coalition's above-captioned Request for Declaratory Ruling and Petition for Rule Making is bereft of any evidence or information supporting its contention that the current rules place its members at any disadvantages vis a vis licenses in the Fixed Satellite Service. Wherefore, the premises considered, Corporate Satellite Communications, Inc. respectfully requests that the Commission decline to issue the requested ruling or to issue the requested notice of proposed rule making.

Respectfully submitted,

**CORPORATE SATELLITE
COMMUNICATIONS, INC.**

By: 
Kathleen McGovern
Vice President

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