

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

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In the Matter of

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OFFICE OF THE SECRETARY

Request for Declaratory Ruling on Partial-Band) RM No. 9649
Licensing of Earth Stations in the Fixed)
Satellite Service that Share Terrestrial Spectrum)
Petition for Rule Making to Set Loading Standards)
for Earth Stations in the Fixed Service)

OPPOSITION OF WILLIAMS COMMUNICATIONS, INC.

Williams Communications, Inc. ("Williams"), by its attorneys, hereby opposes the above-captioned Request For Declaratory Ruling And Petition For Rule Making Of The Fixed Wireless Communications Coalition ("Coalition") for the reasons set forth below.^{1/}

Williams is the licensee and operator of four major teleport facilities in the U.S. – in Atlanta, Georgia, Carteret, New Jersey, Denver, Colorado, and Perris, California. Through these teleports, Williams provides service to hundreds of customers, through a multitude of satellites, both U.S. and non-U.S. licensed. These satellites operate in a broad range of the orbital arc. At its teleports, Williams is constantly repointing its many antennas to communicate with the satellites and on the frequencies required by its customers. Grant of the Coalition's Petition would have an adverse effect on Williams and the entire teleport industry, as well as the customers served by the nation's teleports.

^{1/} Request For Declaratory Ruling And Petition For Rule Making Of The Fixed Wireless Communications Coalition, filed May 5, 1999 ("Petition").

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The Coalition's proposal would restrict earth station licensees such as Williams to operate in only a portion of the available bandwidth allocated to fixed satellite services ("FSS"). Licensees would have to justify the bandwidth they requested, would have to file loading reports or risk losing portions of their licensed spectrum, and could not operate on other portions of the available spectrum without completing frequency coordinations or filing applications for modifications of licensees.

The Coalition's proposed rules, if adopted, would cripple a critical aspect of the service offered by Williams and other teleport operators – the ability to communicate immediately with any satellite at any frequency specified at any time by a customer. Unlike terrestrial facilities, which are licensed on discrete paths at specific frequencies, earth stations licensed to teleport operators such as Williams must constantly change the orientations and frequencies of their earth stations as they switch to transmit information to or receive information on behalf of hundreds of customers from a large array of satellites and transponders. Thus, the proposal by the Coalition to restrict the operational flexibility of facilities such as Williams' would eviscerate the teleport industry. These types of facilities demand the ability constantly, and without delay, to communicate over a wide range of orbital arc and frequency spectrum. The Commission's current licensing parameters make this operational flexibility possible and must not be disturbed.

The Coalition's proposals bear no logical relationship to the business of Williams and other providers of teleport services. Williams cannot state in an application for an earth station license the precise frequencies at which it will be required to operate by customers because these frequencies change constantly. At any given time, the frequencies used by Williams depend on the mix of customers being served, the sum of all customers' needs, market conditions and

transponder availability at the required time. Williams cannot specify at a single point in time the particular frequencies at which it could be required to operate.

The Coalition's proposal regarding waiver of potential terrestrial interference does not adequately protect the earth station licensee from potential interference and reduces the likelihood that an earth station licensee would grant any waivers of its interference protection rights. The Coalition proposes to require an earth station licensee that waives its interference protection rights and permits a single exception to enable a terrestrial facility to be built, to waive all cases of potential terrestrial interference of the same level and conditions. This proposal ignores the very real instances where the environment around an earth station facility changes over time, as new radio interference sources are introduced, the terrain is altered by construction and buildings are built and demolished. It is just not predictable with any level of confidence that multiple sources of potential interference can be added on top of a single exception that has been granted previously without seriously damaging the operations of an earth station complex.

Furthermore, any rule that exposes an earth station licensee to multiple sources of potential interference if a licensee grants a single waiver of its interference protection rights, would only cause earth station licensees to deadline to grant any waivers of their interference protection rights. This would harm the Commission's efforts to encourage existing licensees and new applicants that share frequencies to cooperate with each other and try to accommodate each other's operations without creating harmful interference.^{2/} If the Commission wishes to continue to encourage cooperation in the coordination process, it should adhere to its existing rules and reject the Coalition's proposals.

^{2/} See 47 C.F.R. § 101.103(d)(1).

Finally, the Coalition's proposals are inconsistent with the Commission's attempts to streamline its earth station licensing process, eliminate delays and make the licensing procedures more responsive to the needs of satellite earth station licensees and their customers. Recently, the Commission announced several changes in its earth station licensing process designed to reduce processing time and eliminate unnecessary paperwork. The Commission also expressed its intent to propose in the near future even more deregulatory initiatives.^{3/} In contrast to these initiatives, the Coalition's proposals would require earth station applicants to submit more information with their applications (frequency utilization showings), file more frequent applications (applications to modify licenses to add bandwidth), conduct more frequency coordinations (to change from the bandwidth previously authorized) and file loading reports. Adoption of these proposals would add more regulatory burdens on a class of licensees that the Commission already has acknowledged is over-regulated. Moreover, it would impose large amounts of additional work on an overtaxed Commission staff, and perhaps most importantly, would create additional delays in providing satellite services to consumers.

^{3/} "FCC International Bureau Speeds Up Earth Station Licensing," FCC News Release (June 24, 1999); "Commission Launches Earth Station Streamlining Initiative," Public Notice, DA 99-51259 (June 25, 1999).

CONCLUSION

For all the foregoing reasons, the Commission should dismiss the Coalition's Petition and thereby reaffirm the flexible satellite earth station licensing policies that have served the public well for many years.

Respectfully submitted

Williams Communications, Inc.

By:  _____

Benjamin J. Griffin

A. Sheba Chacko

MINTZ, LEVIN, COHN, FERRIS,

GLOVSKY AND POPEO, P.C.

701 Pennsylvania Avenue, N.W.

Suite 900

Washington, D.C. 20004

(202) 434-7300

Its Attorneys

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CERTIFICATE OF SERVICE

I, A. Sheba Chacko, an attorney with the law firm of Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C. hereby certify that this 12th day of July, 1999, I have caused a true and correct copy of the foregoing **OPPOSITION OF WILLIAMS COMMUNICATIONS, INC.** to be served via U.S. first class mail, postage prepaid, on the following:

Mr. Jack Keating
President
Association of Public-Safety Communications
Officials-International, Inc.
c/o 1666 K Street, N.W.
Suite 1100
Washington, D.C. 20006

Member, Fixed Wireless Communications Coalition



A. Sheba Chacko