

BEFORE THE
Federal Communications Commission
WASHINGTON, D.C.

In the Matter of)
)
The Establishment of Policies)
and Service Rules for the Mobile)
Satellite Service in the 2 GHz Band)

RECEIVED
IB Docket No. 99-81
RM Docket No. 9328 JUL 26 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF WINSTAR COMMUNICATIONS, INC.

WinStar Communications, Inc. ("WinStar"), by its attorneys, hereby submits these Reply Comments in the above-captioned proceeding.¹

I. COMMENTERS AGREE WITH WINSTAR THAT FEEDER LINKS IN THE 27.5-28.35 GHz BAND MAY BE PERMITTED ONLY ON A SECONDARY, NON-INTERFERENCE BASIS TO LMDS PROVIDERS IN THE BAND.

WinStar, as the holder of ten LMDS licenses in the 27.5-28.35 GHz ("28 GHz") band, requested in its Comments that the Commission clarify that any use of the 28 GHz band by 2 GHz mobile satellite service ("MSS") licensees be consistent with the Commission's Ka-band plan and only be permitted on a secondary, non-interference basis to LMDS providers in the band.² The Comments of both the Personal Communications Industry Association ("PCIA") and Bosch Telecom, Inc. ("Bosch"), concur with WinStar's.

¹ In Re Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band, IB Docket No. 99-81, RM-9328, *Notice of Proposed Rulemaking*, FCC 99-50 (rel. Mar. 25, 1999).

² See In Re Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services, CC Docket No. 92-297, *First Report and Order and Fourth Notice of Proposed Rulemaking*, 11 FCC Rcd 19005, at ¶ 45 (1996)(hereinafter "LMDS First R&O").

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PCIA asserts that the Commission must ensure that LMDS operations are not impeded or constrained by any MSS system, and it urges the Commission "to take no action that would in any way impinge upon the frequencies allocated for LMDS operations except as is necessary and consistent with current Commission rules."³ PCIA further argues that satellite interference to LMDS operations would require immediate cessation of the use of spectrum by a satellite operator.⁴ Similarly, Bosch urges the Commission "to continue to protect the primacy of LMDS operations" in the 28 GHz band.⁵ It states that terrestrial/satellite sharing in the 28 GHz band is not new or novel and that the separate allocations for satellite and LMDS providers are necessary.⁶ Bosch also asserts that the Commission must maintain the primary/secondary designations in the 28 GHz band to protect the investments made by dozens of companies that paid for licenses in last year's LMDS auctions, relying on the Commission's determination that the 28 GHz band is primarily designated for LMDS operations.⁷ Moreover, Bosch argues that any changes to the designations in the 28 GHz band would adversely affect the ability of LMDS licensees to raise capital and investment interest in their new services and operations and would

³ Comments of PCIA, at 2.

⁴ Id. at 3.

⁵ Comments of Bosch, at 1.

⁶ Id. at 2. Several commenters requested a general limitation on satellite services in bands primarily designated or allocated for fixed services. The Association of American Railroads ("AAR") recommends that the Commission first determine that fixed service providers will not suffer operational constraints before allowing the proposed MSS gateway earth stations in the 6, 11, and 12 GHz bands. Comments of AAR, at 2. UTC, on the other hand, opposes MSS feeder links in all bands currently designated primarily for fixed services because of the "shortage of available spectrum to meet future needs." Comments UTC, at 3.

⁷ Comments of Bosch, at 2.

jeopardize their ability to offer last mile local loop services in competition with incumbent local exchange carriers.⁸

Pursuant to WinStar's Comments and the concurring Comments described above, the Commission should clarify that the allocation and spectrum use designations in the 28 GHz band will not be changed by the proposed satellite systems discussed in the Notice and that any MSS operations in the 28 GHz band will be on a secondary, non-interference basis to LMDS providers.

II. THE COMMISSION MUST CLARIFY THAT LMDS LICENSEES ARE NOT REQUIRED TO COORDINATE WITH MSS OPERATIONS IN THE 28 GHz BAND.

Celsat's is one of the two MSS proposals that seeks to place feeder links in the Ka-band.⁹ In response to the Celsat proposal, Hughes comments that the Commission should not accommodate GSO MSS feeder links within the Ka-band spectrum primarily designated for GSO FSS use in the Ka-band plan.¹⁰ Instead, Hughes notes several alternative options for the placement of Celsat's feeder links.¹¹ Specifically, it states that Celsat could locate its feeder links in the portion of the Ka-band that has been primarily designated for LMDS use -- the 27.5-28.35

⁸ Id. at 2-3.

⁹ The other proposal is Iridium's. In its Comments, PanAmSat encourages the Commission to stand by its Ka-band plan and reject any application that proposes a frequency use that deviates from that plan. It further argues that the Commission should extend to the Ka-band its traditional policy of prohibiting MSS feeder link use of conventional FSS frequencies and, therefore, should deny the feeder link portion of Celsat's application. Comments of PanAmSat Corporation, at 6.

¹⁰ Joint Comments of Hughes Communications Galaxy, Inc., and Hughes Communications, Inc., at 2-3.

¹¹ Id. at 6-8.

GHz.¹² Hughes claims that "[b]ecause Celsat needs only a small number of feeder [link] stations, it is likely that Celsat can successfully coordinate its use of the LMDS band for feeder links."¹³

The Commission must clarify that LMDS providers are not required to coordinate with satellite services in the 28 GHz band. As the Fixed Wireless Communications Coalition ("FWCC") states in its Comments, "[w]here satellite services are secondary to the Fixed Services, as at 27.5-28.35 GHz, no coordination is required, because Fixed Service users have priority over the spectrum and MSS providers must operate on a secondary, non-interference basis."¹⁴ Indeed, the Commission specifically rejected a proposal to grant priority to existing feeder links over new LMDS installations in the 28 GHz band plan.¹⁵ For this reason, satellite operators must ensure that their operations do not cause harmful interference to LMDS operations, even if the operations did not exist prior to the satellite service. Contrary to the implications in Hughes' Comments, LMDS providers are not required to coordinate with satellite systems in the 28 GHz band. Thus, any use of the 28 GHz band by 2 GHz MSS licensees must not cause harmful interference to LMDS operations in the band.

¹² Id. at 6.

¹³ Id. (emphasis added).

¹⁴ Comments of FWCC, at 6 n. 15.

¹⁵ LMDS First R&O, at ¶ 48.

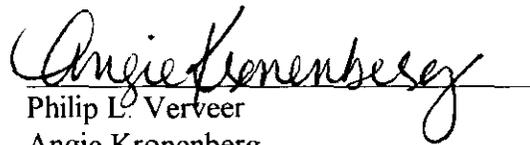
III. CONCLUSION

Pursuant to WinStar's Comments and for the foregoing reasons, any MSS operations in the 27.5-28.35 GHz band must be permitted only on a secondary, non-interference basis with LMDS systems.

Respectfully submitted,

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July 26, 1999

CERTIFICATE OF SERVICE

I, Crystal Rogers-Starkey, do hereby certify that on this 26th day of July 1999,
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