

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

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

IB Docket No. 99-81
RM-9328

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JUL 26 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

REPLY COMMENTS OF GE AMERICAN COMMUNICATIONS, INC.

GE American Communications, Inc. ("GE Americom"), by its attorneys, hereby submits its reply to the comments of other parties in response to the Notice of Proposed Rulemaking in the above-captioned proceeding, FCC 99-50 (rel. March 25, 1999) ("NPRM"). GE Americom urges the Commission to require that feeder links for 2 GHz systems be located outside of core spectrum for geostationary fixed satellite service ("GSO FSS") operations.

BACKGROUND

In the NPRM, the Commission seeks comment on a broad range of issues relating to the assignment of spectrum and adoption of rules for mobile satellite service ("MSS") in the 2 GHz band, including potential feeder link frequencies for such systems. The NPRM notes that the applicants for 2 GHz MSS systems have submitted a variety of proposals for feeder links. NPRM at ¶ 50. Some applicants have requested feeder link assignments in spectrum that is heavily used by existing GSO FSS operations (C- and Ku-bands) or is licensed to new GSO FSS systems (Ka-band). The Commission requests comment on whether its existing

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policy of precluding use of core GSO FSS spectrum for feeder links should be applied here. *Id.* at ¶ 52.

GE Americom operates a fleet of twelve C- and Ku-band satellites and holds an authorization for a global Ka-band satellite system. Accordingly, GE Americom has a direct interest in any proposals to use C-, Ku- or Ka-band spectrum for MSS feeder links. GE Americom previously addressed specific feeder link requests in its Petition regarding the 2 GHz applications. ^{1/} We are filing here to respond to other parties' comments on feeder link issues and to enter our views into the record of this rulemaking proceeding. ^{2/}

GE Americom opposes the use of core GSO FSS spectrum for MSS feeder links. GE Americom agrees with the Commission that the feeder link requirements of these applicants can be accommodated in other available spectrum.

^{1/} Consolidated Petition to Deny, Petition to Defer and Comments of GE American Communications, Inc., File Nos. 26/27/28-DSS-P/LA-97 *et al.*, filed May 4, 1998 ("GE Americom Petition").

^{2/} GE Americom is a member of the Satellite Industry Association ("SIA") and joined in the comments submitted by SIA in this proceeding. In particular, GE Americom strongly agrees with SIA's demonstration that competitive bidding is inappropriate for the assignment of satellite licenses, including 2 GHz MSS licenses. SIA Comments at 3-4. For the reasons expressed in the SIA comments, the Commission's should affirm its tentative conclusion that mutual exclusivity can be avoided through an engineering solution. See NPRM at ¶¶ 8-10.

In its comments, BellSouth Corporation suggests that the Commission can and should use competitive bidding to assign 2 GHz licenses, even if an engineering solution is available. BellSouth Comments at 2-5. Bell South's argument flies in the face of the Commission's statutory mandate to avoid mutual exclusivity and ignores the substantial evidence SIA has introduced regarding the public interest harms that would result from auctions of satellite licenses. Accordingly, BellSouth's proposal should be summarily rejected.

Finally, GE Americom supports waiver or elimination of the prohibition on domestic use of certain Ku-band frequencies for both MSS and FSS systems.

I. SUFFICIENT SPECTRUM HAS ALREADY BEEN ASSIGNED FOR NGSO MSS FEEDER LINKS

The NPRM notes that the Commission has undertaken substantial efforts to ensure that adequate spectrum is available for feeder links for NGSO MSS systems. NPRM at ¶ 51. The Commission tentatively concludes that these existing allocations are sufficient to satisfy the spectrum requirements of the 2 GHz NGSO MSS applicants. *Id.* GE Americom agrees with the Commission's general analysis and supports using currently allocated spectrum for NGSO MSS feeder links.

The Commission also requests comment with respect to Boeing's request for Ku-band spectrum for feeder links for its proposed NGSO MSS system. *Id.* at ¶ 61. The Commission proposes to address Boeing's request in the context of rulemaking and application proceedings regarding NGSO operations in the Ku-band. However, the Commission also asks whether feeder links should be permitted in "Ku-band NGSO FSS spectrum." *Id.*

GE Americom has previously commented on Boeing's application, noting that its request for Ku-band feeder link spectrum raises substantial issues concerning the feasibility of NGSO/GSO sharing. GE Americom Petition at 6-8. For these reasons, GE Americom believes that Boeing's feeder link requirements should be accommodated outside of core Ku-band GSO FSS spectrum.

In its comments here, PanAmSat agrees, noting that there are inherent difficulties in NGSO use of GSO spectrum. PanAmSat Comments at 4. PanAmSat also correctly observes that the Commission's reference to accommodating Boeing's request in "Ku-band NGSO FSS spectrum" is misleading because NGSO systems are seeking to operate in Ku-band spectrum assigned to GSO FSS systems. *Id.* at 4-5.

Boeing continues to maintain that it can operate feeder links in Ku-band spectrum without causing harmful interference to GSO operations. Boeing Comments at 22. However, the Commission has yet to resolve the numerous issues raised by NGSO/GSO sharing in the Ku-band or consider the feasibility of sharing among multiple NGSO systems. As a result, action on Boeing's feeder link request must at least be deferred until the Commission has concluded its rulemaking concerning NGSO operations in the Ku-band.

II. THE FCC SHOULD CONTINUE TO PRECLUDE USE OF CORE GSO FSS SPECTRUM FOR MSS FEEDER LINKS

The NPRM notes that the Commission has a long-standing policy of precluding use of the conventional C- and Ku-bands, which are heavily used by GSO FSS systems, for MSS feeder links. NPRM at ¶ 52. Specifically, the Commission has determined that use of those bands for MSS feeder links would be inefficient and would impair the availability of spectrum for GSO FSS operations. *Id.* The Commission seeks comment on whether that policy should be applied to the 2 GHz

applicants' feeder link requests and whether it should be extended to include protection of the Ka-band.

The Commission also requests comment on specific GSO MSS applications for feeder links. The NPRM notes that Globalstar's request for Ku-band feeder links for its GSO MSS system appears to be inconsistent with existing Commission policy. *Id.* at ¶ 61. In addition, the NPRM seeks comment on Celsat's request for Ka-band feeder links, noting that it may be difficult for Celsat to obtain its requested spectrum given existing licenses and pending applications for Ka-band GSO operations. *Id.*

GE Americom strongly supports the Commission's prohibition on the assignment of standard C- and Ku-band spectrum for MSS feeder links. Because these bands are more heavily congested than ever, retaining this policy is critical to ensure that MSS feeder links do not interfere with availability of spectrum for GSO FSS operations. ^{3/} GE Americom also believes that the policy should be extended to the Ka-band, where nine systems were licensed in the initial processing round and second round applications are pending. Using core Ka-band spectrum for MSS feeder links would conflict with the availability of those frequencies for GSO FSS use. *See PanAmSat Comments at 6.*

GE Americom has no objection, however, to the Commission's proposal to permit MSS applicants to negotiate with FSS operators for the use of FSS

^{3/} *See PanAmSat Comments at 2-3 (discussing increasing competition for C- and Ku-band orbital locations).*

spectrum. NPRM at ¶ 52. Specifically, GE Americom believes that the Commission should permit the use of FSS capacity for MSS feeder links if the FSS operator chooses to make its capacity available to an MSS provider. This would permit the FSS provider to determine whether any given proposal for MSS feeder link capacity could be accommodated consistent with other traffic on the FSS spacecraft.

The Globalstar and Celsat feeder link requests demonstrate why the Commission's policy prohibiting use of core FSS spectrum for feeder links is needed. As GE Americom argued in its filing in the application proceeding, Globalstar's request for Ku-band feeder links for its proposed GSO MSS system must be denied. GE Americom Petition at 2-4. Globalstar is seeking to use Ku-band frequencies at a number of orbital locations, including 80° W.L. However, GE Americom's Ku-band GE-5 spacecraft is assigned to 79° W.L., and GE Americom operates Satcom K-2 on a temporary basis at 81° W.L. Globalstar has not attempted to demonstrate how its proposed feeder links could co-exist with GE Americom's existing services or requested a waiver of the Commission's two degree spacing policy. Furthermore, Globalstar cannot be awarded a Ku-band orbital location outside a processing round. *Id.* As a result, the Commission must deny Globalstar's feeder link request. *See also* PanAmSat Comments at 5. Globalstar apparently recognizes this, and suggests that its feeder link requirements can be accommodated in other spectrum. Globalstar Comments at 28.

GE Americom also demonstrated that Celsat's request for Ka-band feeder links must be denied. GE Americom Petition at 4-6. GE Americom

explained that all Ka-band orbital locations in the range identified by Celsat have already been assigned. Other parties here agree that Celsat's request is defective. Pegasus Development Corporation, for example, argues that Celsat's proposal "would be a highly inefficient use of scarce Ka-band GSO FSS orbital resources." Pegasus Comments at 3. Hughes concurs that Celsat should not be permitted to use spectrum within the core 1000 MHz of Ka-band spectrum designated for GSO FSS primary use. Hughes Comments at 6. *See also* PanAmSat Comments at 6. In its comments, Celsat appears to concede this point and proposes instead to use frequencies allocated on a primary basis to LMDS. Celsat Comments at 25.

III. THE COMMISSION SHOULD WAIVE OR ELIMINATE NG104 FOR BOTH MSS AND FSS SYSTEMS

In its discussion of alternative spectrum available for MSS feeder links, the Commission notes that footnote NG104, which applies to the 10.7-11.7 GHz and 12.75-13.25 GHz bands, limits the use of those frequencies to international systems. NPRM at ¶ 53. The Commission suggests that waiver of the restriction might be appropriate to permit use of the bands for feeder links for domestic 2 GHz MSS systems. *Id.*

GE Americom urges the Commission to address the issue more broadly, removing the international restriction for both MSS and FSS systems. In its comments in the rulemaking regarding GSO/NGSO sharing in the Ku-band, GE Americom demonstrated that it would be inequitable and unreasonable for the Commission to permit NGSO providers to use these bands for domestic services

without extending the same authority to GSO systems. ^{4/} The same analysis applies here and supports consistent treatment of MSS and FSS systems.

Other commenters in this proceeding agree that the international restriction in NG104 should be waived or removed for both MSS and FSS providers. For example, Globalstar notes that the current restriction ignores the fact that the Commission has eliminated its distinction between international and domestic FSS systems. Globalstar Comments at 29 n.33. PanAmSat also urges the Commission to ensure that if domestic MSS systems are permitted to use spectrum subject to NG104, FSS systems receive the same treatment. PanAmSat Comments at 3.

^{4/} See Reply Comments of GE American Communications, Inc., ET Docket No. 98-206, filed April 14, 1999 at 9-10.

CONCLUSION

For the foregoing reasons, GE Americom urges the Commission to ensure that its decisions regarding feeder links for 2 GHz MSS systems protect core GSO FSS spectrum. In addition, GE Americom supports a waiver or elimination of NG104 with respect to both MSS and FSS systems.

Respectfully submitted,

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July 26, 1999

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Reply Comments of GE American Communications, Inc. in IB Docket No. 99-81, RM-9328 was served by hand delivery this 26th day of July, 1999 on:

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