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FEDERAL COMMUNICATIONS COMMISSION
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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
McCaw Cellular Communications, Inc.	)	**WT Docket No. 00-19**
Petition for Rule Making; Amendment of	)	**RM-9418**
Part 101 of the Commission's Rules to	)	
Streamline Processing of Microwave	)	
Applications in the Wireless	)	
Telecommunications Services;	)	
Telecommunications Industry Association	)	
Petition for Rulemaking	)	

REPLY COMMENTS OF STRATOS OFFSHORE SERVICES COMPANY

Stratos Offshore Services Company ("Stratos Offshore") hereby files these reply comments in the above-captioned proceeding concerning proposed changes to Part 101 of the Commission's Rules for licensing microwave systems.[1] In its Comments in this proceeding, Stratos Offshore expressed its concern with regard to the proposals set forth by the Commission to change the licensing process for microwave applicants.[2] Specifically, the Commission's

[1] *In the Matter of Reorganization and Revision of Parts 1, 2, 21, and 94 of the Rules to Establish a New Part 101 Governing Terrestrial Microwave Fixed Radio Services; Amendment of Part 21 of the Commission's Rules for the Domestic Public Fixed Radio Services; McCaw Cellular Communications, Inc. Petition for Rulemaking; Amendment of Part 101 of the Commission's Rules to Streamline Processing of Microwave Applications in the Wireless Telecommunications Services; Telecommunications Industry Association Petition for Rulemaking*, FCC 00-33 (rel. Feb. 14, 2000) ("*Microwave NPRM*").

[2] Comments of Stratos Offshore Services Company, July 20, 2000 ("Comments of Stratos").

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proposed use of auctions has the potential of disrupting the vital communications used by major industries throughout the U.S., including the oil and gas industry, transportation industry, electric utility industry and others that rely upon microwave services to provide "mission critical" communications.

Parties commenting on the auction issue in this proceeding universally oppose the Commission's Options 1-3, and support Option 4 only to the extent the Commission finds it necessary to license by auction. Further, the majority of interested parties do not oppose the Commission's proposal to allow private microwave licensees to carry common carrier traffic.

I. COMMENTERS AGREE WITH STRATOS THAT AUCTION OF GEOGRAPHIC LICENSES IS INAPPROPRIATE

No party commenting in this proceeding finds acceptable the Commission's first three auction options. Option 1, licensing microwave spectrum by auction on a geographic basis, was summarily rejected because it would cause "difficulty in coordinating spectrum,"[3] would be "unnecessary and . . . threaten[] effective microwave licensing,"[4] "would create a great level of uncertainly for equipment vendors,"[5] will "prevent any future public safety licensing in the band,[6] is "contrary to the nature in which the service used [and the intent of] Congress,"[7] would

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[3] Comments of Fixed Wireless Communications Coalition ("FWCC") at 22.

[4] Comments of Alcatel USA Inc. ("Alcatel") at 30-31; Comments of National Spectrum Mangers Association ("NSMA") at 19-20.

[5] Comments of the Association of Public-Safety Communications Officials-International, Inc. ("APCO") at 6.

[6] Comments of the Country of Los Angeles at 3.

[7] Comments of the United Telecom Council ("UTC") at 4.

"result in the need to increase property taxes and generate significant public opposition,"[8] and would "throw[] away a system of 'engineering solutions' that the Commission admits is working."[9] As Stratos emphasized in its Comments, geographic licensing would freeze existing networks, devastating communications operations used to support oil and gas platforms in the Gulf of Mexico.[10] Indeed, the microwave communications needs of the oil and gas industry are site-specific, and constantly changing and expanding. Accordingly, any proposal under consideration by the Commission that would freeze incumbent licensees into their current area of operation in favor of a subsequent geographic licensee is tantamount to putting the current licensees and their communications systems out of business.[11] In addition, large geographic microwave licensing does not make economic sense because the licensee would be paying for the rights to use spectrum over a large geographic area that it is unsure it will ever use. Only site specific licensing makes sense.

Similarly, Option 2, which proposes relocating incumbent licensees in an effort to clear the microwave bands for competitive bidding, is totally without industry support and should be abandoned. Commenters state that this approach is impractical because "no new spectrum is available,"[12] propagation of alternative spectrum "would be different, requiring

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[8] Comments of the California Association of Public-Safety Radio Association, a Chapter of the Association of Public-Safety Communications Officials-International Public-Safety Radio Association ("California Association") at 3.

[9] Comments of Comsearch at 9.

[10] Comments of Stratos at 8-10.

[11] *Id.* at 9-10.

[12] Comments of FWCC at 23-24; Comments of the City of Long Beach, California at 5.

additional sites, which may in many cases be impossible,"[13] and because it would be "costly and disruptive to incumbents.[14] In its Comments, Stratos emphasized that Option 2 would be problematic because competitive bidding is not required under the Balanced Budget Act,[15] because it is not clear where the Commission can locate the numerous microwave licensees operating above 2 GHz,[16] and because relocation will waste the costly existing infrastructure already in place.[17] Further, Stratos observed, when microwave systems converted a few years ago from analog to digital, the increased expense in converting equipment made technological sense and there were real benefits to customers. A similar technological need has not been articulated in the *Microwave NPRM* or in the comments, and accordingly, relocation would only succeed in wasting the significant capital investments of numerous companies.[18] For all of these reasons, the Commission should not pursue Option 2.

The Commission's Option 3, like Options 1 and 2, proposes changes that are not required under the Balanced Budget Act because there is no mutual exclusivity for initial microwave licensees. Specifically, Option 3 suggests sharing of spectrum above 2 GHz by two

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[13] Comments of APCO at 7; Comments of the American Petroleum Institute ("API") at 19.

[14] Comments of the County of Los Angeles at 4.

[15] Comments of Stratos at 10; *see also* Comments of APCO at 7.

[16] Comments of Stratos at 10-11.

[17] *Id.* at 11.

[18] *Id.* at 11-12. In all likelihood, the equipment to be used by "emerging technologies" will have the capability of operating in multiple bands. As a result, if there is to be any relocation, it should be "relocation" of the emerging technologies to bands that will not disrupt incumbent operations by microwave licensees and not the other way around.

co-primary users, *e.g.*, satellite and terrestrial microwave licensees.[19] Parties commenting on this option observe, for example, that "most FS bands are shared with FSS users, but FSS is not subject to auctions,"[20] "auctions are inappropriate for shared bands,"[21] and "there is no reason for the Commission to change the licensing scheme."[22] In addition, as Stratos stated in its Comments, while terrestrial microwave licensees may be able to share with satellite earth stations that are deployed on a limited basis, the deployment of ubiquitous earth stations will complicate the coordination process and cause interference to its terrestrial network. In a recently released Report and Order concerning the 18 GHz band, the Commission acknowledged that ubiquitous deployment of satellite earth stations would cause problems for a terrestrial user in the same band, especially where there was an expected increase in the use of the 18 GHz band by both satellite and terrestrial users.[23] Similar problems of coordination and shared use will exist if the Commission designates the bands above 2 GHz for co-primary use by satellite and

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19 *Microwave NPRM* at ¶ 77.

20 Comments of FWCC at 23-24.

21 Comments of Alcatel at 31; *see also* Comments of NSMA at 20.

22 Comments of the Satellite Industry Association at 11.

23 *See In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use*, FCC 00-212 at ¶ 17 ("The vast majority of commenters agreed with our tentative conclusion that co-frequency sharing between terrestrial fixed service and ubiquitously deployed FSS earth stations in the 18 GHz band is not feasible, and that the public interest would be best served by separating these operations into dedicated sub-bands."). Commenters in the 18 GHz proceeding, including the American Petroleum Institute, Cellular Telecommunications Industry Association and Telecommunications Industry Association, all indicated their general concern with the ability of microwave fixed services and satellite services to operate in the same band. *See id.* at ¶ 8 n.9.

terrestrial users. No party in this proceeding supports Option 3, and Stratos strongly urges the Commission to follow the advice offered by industry in this regard.

Option 4, which would retain site-by-site licensing and conduct auctions only in the case of mutual exclusivity, represents the only option that any of the commenters find consistent with the statutory conditions for competitive bidding under the Balanced Budget Act.[24] Indeed, as Stratos has stated, this option contemplates competitive bidding when there is mutual exclusivity between initial applicants for a site-by-site license – the precise circumstances contemplated under the statute.[25] Further, as the Commission acknowledges, mutual exclusivity above 2 GHz rarely occurs, and as result, it makes sense to conduct auctions or otherwise adjust the licensing process only when mutual exclusivity is present. Accordingly, the commenters generally agree with the positions offered by Stratos in its Comments.

Moreover, as Stratos explained in its Comments, the Gulf of Mexico is a vastly different environment than the U.S. mainland, and the Commission's changes, if any, to the licensing above 2 GHz should reflect this fact. Should the Commission decide to impose wide-area geographic licensing in the bands above 2 GHz, the Gulf of Mexico should be treated as its

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[24] Most commenters, while not endorsing Option 4, do not summarily oppose it. Comsearch, for example, states that "Only Option IV is acceptable, and it involves retention of the current approach of site-by-site licensing and establishment of new competitive bidding to resolve mutually exclusive applications." Comments of Comsearch at 10. Similarly, "In the event the FCC is adamant about imposing some type of auction procedure on the licensing of point-to-point facilities, Winstar supports Option IV." Comments of Winstar at 11. Some commenters, such as APCO, observe that Option 4 is not likely to be used: "[Option 4] would hardly ever be invoked. . . ." Comments of APCO at 9; *see also* Comments of API at 18. Others, concerned that any auction would result in costlier spectrum for them, note that "[w]hile far less problematic than the other options posed by the Commission, [Option 4] could still create difficulties. . . ." Comments of the Country of Los Angeles at 5. *Cf.* California Association at 3.

[25] Comments of Stratos at 14. *See also* Comments of FWCC at 22;

own economic area. Under these circumstances, the Commission must authorize operation throughout the entire Gulf of Mexico for each above-2 GHz license that it issues.

II. COMMENTERS AGREE THAT THE COMMISSION SHOULD ALLOW PRIVATE MICROWAVE LICENSEES TO CARRY COMMON CARRIER TRAFFIC

Most parties support the Commission's proposal to eliminate its restriction that prohibits private microwave licensees from carrying common carrier traffic.[26] As Stratos stated in its Comments, with the capacity of microwave systems increasing through technological advances, the elimination of the Commission's restriction makes sense because it will allow private licensees to utilize all of the capacity on their systems – a result that is in the public interest because it means that spectral resources are being used to the fullest extent possible.

III. CONCLUSION

Commenters agree that the Commission should not change the licensing process for the microwave bands above 2 GHz. Mutual exclusivity is not sufficiently prevalent so as to justify auctions and changes to the licensing process. As Stratos and many commenters have stated, to the extent that the Commission wishes to institute auctions it should retain the process

[26] *See, e.g.,* Comments of Stratos at 17-18; Comments of FWCC at 25-26; Comments of UTC at 9-10; Comments of Giganet Wireless at 4. API, on the other hand, expresses a concern that common carriers may seek "to evade their common carrier obligations and responsibilities by coming licensed with POFS status and carrying only a de minimus amount of private, internal traffic." Comments of API at 5. Such intentional evasion is highly improbable and in any event can be readily addressed through appropriate enforcement action. The public interest benefits of easing restrictions on the provision of common carrier traffic on private systems vastly outweigh the speculative risk noted by API.

of site-by-site licensing and conduct auctions only where there is mutual exclusivity for a particular site.

In addition, the Commission should allow Private Operational Fixed Service licensees to carry common carrier traffic in order to maximize the use of spectral resources.

Respectfully submitted,

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