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November 28, 2000

BY HAND DELIVERY

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RECEIVED
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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: IB Docket No. 98-172

Dear Ms. Salas:

Enclosed are the original and four copies of the Reply of the Fixed Wireless Communications Coalition for filing in the above-referenced matter.

Please date-stamp and return the enclosed copy of this filing.

If there are any questions about this filing, please call me at the number above.

Respectfully submitted,


Mitchell Lazarus

Counsel for Fixed Wireless Communications Coalition

ML:deb

Enclosures

cc: Service List

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

In the Matter of)	
)	
Redesignation of the 17.7-19.7 GHz Frequency)	
Band, Blanket Licensing of Satellite Earth)	IB Docket No. 98-172
Stations in the 17.7-20.2 GHz and 27.5-30.0 GHz)	RM-9005
Frequency Bands, and the Allocation of)	RM-9118
Additional Spectrum in the 17.3-17.8 GHz and)	
24.75-25.25 GHz Frequency Bands for)	
Broadcast Satellite-Service Use)	

**REPLY OF THE
FIXED WIRELESS COMMUNICATIONS COALITION**

Pursuant to Section 1.429 of the Commission's Rules, the Fixed Wireless Communications Coalition (FWCC) hereby submits this Reply to Teledesic's Opposition to the FWCC Petition for Reconsideration in the above captioned proceeding.¹

I. Summary of Teledesic Positions

In its Opposition, Teledesic maintains:

- (a) The Report and Order is "one sided," in favoring the Fixed Service;
- (b) the FWCC Petition for Reconsideration did not provide justification for a reconsideration of the issue;² and
- (c) the 18.8-19.3 GHz band was designated globally for NGSO/FSS at the 1995 and 1997 ITU World Radio Conferences, implying this was the sole allocation for those services.

The FWCC vigorously disputes each of these points.

¹ Several other Oppositions filed in this matter specifically address the Petition for Clarification and Reconsideration of Winstar Communications. The FWCC supported the Winstar Petition in Comments filed on November 13, 2000.

² See also Opposition to Petitions for Reconsideration of TRW Inc. (filed Nov. 13, 2000).

II. The Report and Order Does Not Favor the Fixed Service.

Teledesic maintains that the Report and Order is “one sided,” and that the FWCC Petition would make it still more one-sided in favor of the Fixed Service (FS). To the contrary, the FWCC Petition merely requested the return of 40 MHz out of the 720 MHz of spectrum lost by the FS in this proceeding -- a mere five percent of the overall allocation, and less than 10% of the 500 MHz allocated to Teledesic-type services. This is hardly one-sided.

Loss of this 40 MHz actually costs the FS the use of 80 MHz overall. The 40 MHz at issue is one side of a paired band (with 17.7-17.74 GHz), so its loss makes the other side useless to the FS.

The Commission’s Report and Order effectively expropriated 720 MHz of spectrum from the Fixed Service and gave 500 MHz exclusively to the NGSO/FSS, and 220 MHz exclusively to the GSO/FSS, thus denying any further FS growth in that 720 MHz. The Commission made this decision despite unchallenged evidence that a large number of FS users already occupy the spectrum, and that demand for FS licenses in the 18 GHz band was experiencing significant growth, both to accommodate new services and as a replacement band for FS systems displaced from lower bands.

The FWCC petition overlooked most of the 720 MHz, however, and requested the return of only the 40 MHz of spectrum between 19.26-19.3 GHz. The bandwidth is necessary to maintain the integrity of a paired band critical to accommodate the burgeoning growth in the 18 GHz band.

In its Reply Comments in this proceeding, the FWCC acknowledged there were international benefits to the United States pioneering NGSO/FSS on a global basis, and agreed to forfeit the future growth of a very valuable part of the ever-diminishing FS spectrum. The FWCC did not oppose the secondary status imposed upon the FS in the 18.58-19.26 GHz band. The decision to concede this loss of spectrum was premised

on the existing paired bands at 17.7–18.14 and 19.26–19.7 GHz remaining available to accommodate growth.

In that context, The FWCC's request for the return of 40 MHz out of 720 MHz, a mere 5 percent of the spectrum at issue, hardly qualifies as "one-sided."

III. The FWCC Petition Provides More Than Ample Justification for Reconsideration.

Teledesic's claim that the FWCC Petition failed to provide any justification for reconsideration is incorrect.

The FWCC Petition brought significant new evidence to the proceeding. Prior to the original NPRM in 1998, Comsearch conducted a study based on historical growth in the 18 GHz band up to that time.³ The conclusions of the study suggested -- wrongly, it turned out -- that the remaining portions of the 18 GHz band would be sufficient to accommodate FS growth resulting from the loss of spectrum to the FSS. Subsequent to that study, however, new FS applications over the last three years show an unprecedented growth in demand for the Fixed Service. This growth has overturned previous projections, and now shows insufficient spectrum in the 18 GHz band to accommodate the relocation of existing FS licenses, even without considering the demand for new FS services. This new information was included in the FWCC Petition for Reconsideration pursuant to Section 1.429(b)(1) of the FCC Rules, and amply justifies reconsideration.

³ Comments of Comsearch at 5 n.11 (filed Nov. 18, 1998, in IB Docket No. 98-172).

IV. The 1995 and 1997 World Radiocommunication Conferences Designated the 18.8-19.3 GHz Band Globally to be Shared Co-equal Primary for GSO, NGSO/FSS, and FS, With No ITU Allocation Giving NGSO/FSS a Unique Primary Allocation at 18 GHz.

Teledesic's Opposition notes that the 18.8-19.3 GHz band was designated globally for NGSO/FSS at the 1995 and 1997 World Radiocommunication Conferences, but it also implies this was a unique global allocation for NGSO/FSS. That is not so.

The work done internationally at the ITU by Teledesic, supported by the FCC International Bureau, was to promote a co-equal, sharing environment with the incumbent FS allocation.

To the best of FWCC's knowledge, the United States is the only administration that has taken steps domestically to segment the 18 GHz band between the FS and the FSS. The major European administrations are still studying ways for NGSO to share with the incumbent FS systems. The FWCC wholeheartedly supports the concept of band segmentation, and applauds the determination by the FCC to allocate separate parts of the 18 GHz band to separate services. Internationally, however, the NGSO/FSS community does not have an exclusive right to spectrum in the 18.8-19.3 GHz band.

When Teledesic first proposed its system, it knew (or should have known) the 18 GHz band it chose for the service links was heavily populated with FS links. When sharing with FS was first discussed, the NGSO/FSS proponents acted as though they planned to operate in a shared environment.⁴ Publication of the proposal resulted in considerable debate between the FS and the NGSO/FSS communities, to determine how sharing could be accomplished. In the end that debate proved to be fruitless, and all ultimately agreed that sharing between services would be extremely difficult, if not

⁴ By internationally seeking only to share the spectrum, and not requesting a unique allocation for NGSO FSS, Teledesic plainly implied it was expecting to share.

impossible. Teledesic levered that result into a request -- which became the 18 GHz NPRM -- that Teledesic be allocated exclusive national access to the entire 500 MHz of spectrum.

Prior to the NPRM, Teledesic gave no indication that the incumbents in the 18.8-19.16 GHz. band would need to be relocated, but claimed only that it needed "exclusive access" to prevent further growth in the band. Shortly after the NPRM docket closed, however, Teledesic submitted an ex parte filing⁵ to express its grave concern that the FCC might not grant it full exclusive access to the 40 MHz of spectrum between 19.26-19.3 GHz, the main subject of this Reply. Teledesic claimed that, because its system design required it to operate over the full 500 MHz, the loss of 40 MHz would be significant. (We understand from press reports that Teledesic has not yet started to manufacture or deploy products for this service, so redesign to operate within 460 MHz of spectrum should still be feasible.) Because there were only 340 FS links occupying spectrum in the disputed 40 MHz, said Teledesic, it would be prepared to relocate those links. But these statements raised the question of how Teledesic proposed to coexist with the 2,500 currently existing FS links at 18.8-19.16 GHz. It now seems that Teledesic never intended to share this spectrum.

**V. The Commission Must Not Permit an Ill-advised
Choice of Frequency Band by Teledesic to Result in
a Significant Burden on the Incumbent Users.**

Teledesic has moved incrementally from a foot-in-the-door offer to share the spectrum to the present demand for exclusive rights. Had Teledesic properly examined the FS use of the spectrum before seeking a co-equal primary global allocation, it would have seen the 40 MHz segment between 19.26-19.30 GHz was an integral part of an

⁵ Teledesic Ex Parte Letter in IB Docket No. 98-172 (dated Nov 30, 1999).

existing ITU and FCC channeling plan for the FS, and would have sensibly excluded it. Clearly if any block of spectrum was to be chosen, with the understanding that relocation was the only practical sharing option, the intelligent option would be a complete FS allocation consistent with a FCC and ITU FS Channel plan. Teledesic's error in its own poor choice of frequency band should not be allowed to burden the incumbent users by making their remaining spectrum lopsided and inefficient.

VI. Conclusion

Noting the arguments set forth above, the Commission is urged to act favorably on the FWCC Petition for Reconsideration filed in this proceeding on October 10, 2000.

Respectfully submitted,

FIXED WIRELESS COMMUNICATIONS COALITION

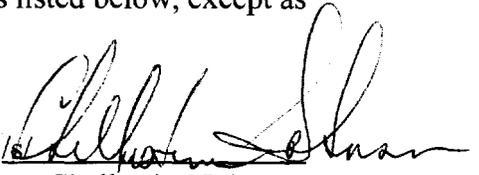
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November 28, 2000.

CERTIFICATE OF SERVICE

I, Chellestine Johnson, do hereby certify that on this 28th day of November, 2000, I have caused a copy of the foregoing "Reply of the Fixed Wireless Communications Coalition" in IB Docket No. 98-172 to be served by First Class Mail upon the persons listed below, except as noted.



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