

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
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In the Matters of)
)
 FWCC Request for Declaratory Ruling)
 On Partial-Band Licensing of Earth) IB Docket No. 00-203
 Stations in the Fixed Satellite Service) RM-9649
 That Share Terrestrial Spectrum)
)
 FWCC Petition for Rulemaking to Set)
 Loading Standards for Earth Stations)
 in the Fixed Satellite Service that)
 Share Terrestrial Spectrum)

REPLY COMMENTS OF SKYBRIDGE L.L.C.

SkyBridge L.L.C. ("SkyBridge"), by its attorneys, hereby replies to comments filed in the above-captioned Notice of Proposed Rulemaking (the "NPRM").^{1/}

The initial comments demonstrate overwhelming agreement that the Commission should not adopt the rules as proposed in the NPRM.^{2/} SkyBridge will not belabor that point here. Rather, the purpose of the instant reply comments is to clarify certain potentially confusing and contradictory statements that appear in the initial comments of the FWCC.

^{1/} FCC 00-369, rel. October 24, 2000. As SkyBridge explained in its comments in this proceeding, filed January 8, 2001 (the "SkyBridge Comments"), SkyBridge is an applicant before the Commission for authority to launch and operate non-geostationary orbit ("NGSO") Fixed Satellite Service ("FSS") systems in the Ku-band and the Ka-band. Both of these bands are subjects of the NPRM, which addresses the effective and equitable use of spectrum in bands shared by FSS and terrestrial Fixed Service ("FS") systems.

^{2/} Even the Fixed Wireless Communications Coalition (the "FWCC"), which prompted the proceeding with its Petition for Rulemaking (the "FWCC Petition"), took issue with many of the Commission's proposals. In its comments (the "FWCC Comments"), the FWCC provided certain counter-proposals to those made in the NPRM. However, it is clear that none of these counter-proposals overcome in any way the fundamental problems cited by SkyBridge and other parties in this proceeding, particularly the difficulties and burdens of requiring satellite services to demonstrate "use." See SkyBridge Comments at 5-7.

As the Commission is aware, SkyBridge and the FWCC filed a joint proposal in ET Docket No. 98-206 (the "Ku-Band Proceeding"),^{3/} which proposes regulatory mechanisms to facilitate sharing between FS stations and NGSO FSS gateways in the 10.7-11.7 GHz band (the "Joint Proposal"). In its comments in the instant proceeding, the FWCC states that it "stands by the [J]oint [P]roposal."^{4/} It then urges the Commission to integrate the principles of the Joint Proposal into the present rulemaking.^{5/}

First, the Joint Proposal was developed by SkyBridge and the FWCC in the context of the 10.7-11.7 GHz band, specifically with respect to the FS systems and NGSO FSS systems that contemplate operation in that band, and the Commission has proposed rules based on the Joint Proposal in the Ku-Band Proceeding.^{6/} It is not clear from the FWCC Comments either which of several principles from the Joint Proposal it seeks to have applied in this case, or which of the various bands that are within the scope of the instant proceeding it has in mind. SkyBridge urges the Commission to confine its consideration of the Joint Proposal to the Ku-Band Proceeding in which it was developed.

Second, despite the FWCC's unambiguous commitment to the Joint Proposal, the FWCC nonetheless suggests imposing new burdens on certain earth stations which could be construed as being at odds with the Joint Proposal. For example, the FWCC states that, for bands in which FS stations share co-equally with NGSO FSS gateways, "a portion of any

^{3/} Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range, First Report and Order and Further Notice of Proposed Rulemaking, rel. December 8, 2000 ("Ku-Band R&O").

^{4/} FWCC Comments at 13.

^{5/} Id.

^{6/} See, e.g., Ku-Band R&O, ¶ ¶ 23-33, 57-67.

shared band should be prioritized for FS."^{7/} Further, the FWCC urges the Commission to authorize to NGSO FSS operators "only those channel assignments required for current and immediate planned use."^{8/}

The FWCC's underlying premise in this regard is that essentially all coordinations burden FS operations;^{9/} left to its own devices, the FWCC would prefer not to share the relevant bands with any satellite services. The converse, of course, is equally true; earth station operators no doubt would prefer to not share the bands with FS systems.

The likelihood of either side's preferences in this regard being realized is not great. The historic goal of the Commission's regulatory scheme has been to ensure that neither service is so burdened as to render the allocation a nullity. In the case of the Ku-Band Proceeding, SkyBridge and the FWCC have agreed that the Joint Proposal contains a carefully tailored regulatory regime that will ensure that sharing among FS stations and NGSO FSS gateways in the 10.7-11.7 GHz band will not be unduly burdensome for either service. To the extent that the FWCC wishes to impose additional burdens not reflected in the Joint Proposal on other types of earth stations operating in other bands, SkyBridge expresses no view on the matter. SkyBridge assumes that the FWCC does not intend those additional burdens to be imposed on NGSO FSS gateways operating in the 10.7-11.7 GHz band.

^{7/} Id. at 14-15.

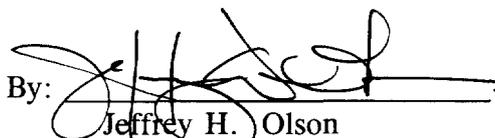
^{8/} Id. at 15.

^{9/} Id. at 14.

In sum, the Commission should take care not to confuse the statements made in the FWCC Comments in this proceeding with the agreement reached in the Joint Proposal. The Joint Proposal contains all of the elements needed for equitable sharing between FS and NGSO FSS gateway operations in the Ku-band.

Respectfully submitted,

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February 9, 2001