

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

In the Matter of)
)
Amendment of Part 2 of the Commission's)
Rules to Allocate Spectrum Below 3 GHz)
For Mobile and Fixed Services to Support)
the Introduction of New Advanced Wireless)
Services, including Third Generation)
Wireless Systems)
)
Petition for Rulemaking of the Cellular)
Telecommunications Industry Association)
Concerning Implementation of WRC-2000;)
Review of Spectrum and Regulatory)
Requirements for IMT-2000)
)
Amendment of the U.S. Table of Frequency)
Allocations to Designate the 2500-2520/)
2670-2690 MHz Frequency Bands for the)
Mobile-Satellite Service)

ET Docket No. 00-258

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

RM-9920

RM-9911

To: The Commission

**OPPOSITION TO EMERGENCY PETITION
BY VERIZON WIRELESS
TO DEFER ACTION ON APPLICATIONS**

The National ITFS Association ("NIA") vigorously opposes the "Emergency Petition to Defer Action on Applications" filed March 28, 2001 ("Petition") by Verizon Wireless ("Verizon"). The Petition has no valid basis and appears to be a transparent effort by Verizon to hamper and delay wireless broadband competition to its own affiliate's DSL services. Any delay in ITFS and MDS processing on such last-minute and flimsy grounds as suggested by Verizon would undermine Chairman Powell's pledge to Congress, made only days ago, that the FCC will

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March 26 Public Notice. At the very least, ever since the FCC announced the first two-way filing window over a year ago by Public Notice DA 00-666 (released March 23, 2000), Verizon should have realized that, indeed, we would come to this very point where two-way grants would be taking place on the 2.1 GHz and 2.5 GHz ITFS/MDS spectrum. Verizon could also be expected to have understood the potential significance of the streamlined filing window and grant process to its effort to obtain more spectrum for 3G (or other) purposes, as the identification of potential 3G spectrum was by then firmly in the forefront of planning for WRC-2000.

Obviously, there is no emergency in the fact that two-way grants and other modifications of ITFS and MDS stations will be issued in the next few weeks. Verizon, for purposes of its own, simply waited until the very last minute to try to block these first grants. The extraordinary disruption that would be caused by the action Verizon seeks at this late date should be a decisive factor against granting such action.

There is No Other Valid Basis for Verizon's Request

Verizon argues that the FCC should delay action on the August 2000 window applications until a decision has been reached in the proceeding whether to allocate new spectrum for 3G mobile services, and if so, where, noting that the Commission is currently considering proposals to reallocate various frequency bands for 3G wireless and other advanced services, including the ITFS and MDS spectrum. Verizon purports to worry that the grant of pending ITFS and MDS applications would make it more difficult, or more expensive, for the FCC to decide to reallocate the band.

NIA believes Verizon's argument is baseless. Verizon seems to suggest that the grant of ITFS and MDS applications would result in the proliferation of new ITFS and MDS stations or

add or expand station protected service areas. However, in the August, 2000 window, all filings were by existing ITFS and MDS licensees to modify their existing authorizations, either for two-way purposes (principally response station hubs or cellularized “booster” transmitters) or for more traditional facility modifications. Under the rules, granting these applications does not extend existing 35-mile protected service areas, and no applications for new ITFS or MDS stations were permitted at all. There would be no increase in the number of ITFS and MDS stations requiring protection or possible relocation. Thus, there is no basis for Verizon’s excessive but tardy concern that the grant of these filings will so alter the landscape that the FCC would be unable to make an appropriate decision in the pending 3G spectrum rule making.

Verizon’s argument is also undermined by the record in the 3G proceeding, which makes clear that the ITFS and MDS band is not really the band of choice by mobile providers for their 3G operations. Indeed, it appears unlikely that the FCC will reallocate any spectrum from the ITFS and MDS band. Just last Friday, the FCC staff concluded that:

Implementation of either of the segmentation or relocation options analyzed in this band study, however, would significantly affect ITFS/MDS deployment and impose considerable costs on both private entities and the public. Segmentation would require considerable time and costs to reengineer and deploy systems utilizing much less spectrum than is now allocated. Furthermore, delivery of fixed wireless broadband services to the public and educational users would be delayed and, in rural areas and smaller markets, may never be realized. Relocation would also require considerable time and costs to reengineer and deploy systems in alternate frequency bands. Again, delivery of service would be delayed or never realized. The relocation option would also require other services to relocate, and the time and costs to move those additional services would be significant.⁵

⁵ *Final Report*, Office of Engineering and Technology, Mass Media Bureau, Wireless Telecommunications Bureau and International Bureau, “Spectrum Study of 2500-2690 MHz Band: The Potential for Accommodating Third Generation Mobile Systems” (March 30, 2001) at 92-93.

Given these circumstances, even without considering the unfair disruption that would be caused merely by the lateness of Verizon's Petition, the equities fall heavily, indeed overwhelmingly, on the side of denying the Verizon request.

Verizon's Real Motive

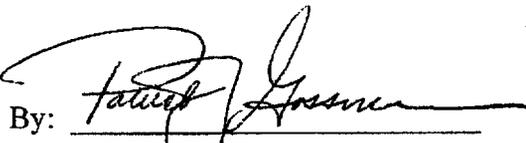
All that being so, and being readily apparent to all, NIA is led to question Verizon's true motive in the Petition. It seems all too likely that Verizon seeks to delay, disrupt, and ultimately destroy competition to the DSL offerings by its affiliated telephone company. However, after years of hard work by the FCC, the fixed wireless industry and ITFS and MDS licensees, the FCC is poised to make the first grants enabling two-way fixed wireless broadband services to proceed with regular licenses in the ITFS/MDS band. The country wants and needs wireless broadband service that, as NIA stated in its Comments in this proceeding, can bridge the digital divide. It's a shame that some companies, to prevent competition, are prepared to argue before this Commission that consumer needs should be ignored and that our work on the digital bridge should be blocked.

Conclusion

The Verizon Petition should be denied.

Respectfully submitted,

NATIONAL ITFS ASSOCIATION

By: 
Patrick J. Gossman, Ph.D.

Its Chair

NIA Counsel:
Todd D. Gray, Esq.
Dow, Lohnes & Albertson, pllc
1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036-6802
202-776-2571

April 2, 2001

CERTIFICATE OF SERVICE

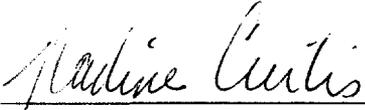
I hereby certify that a copy of the foregoing Reply was mailed this 2nd day of April, 2001 to the following:

John T. Scott, III
Vice President and Deputy General Counsel – Law
Verizon Wireless
1300 I Street, N.W.
Suite 400 West
Washington, D.C. 20005

Barbara Kreisman *
Chief, Video Services Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 2-A666
Washington, D.C. 20554

Clay C. Pendarvis *
Chief, Distribution Services Branch
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 2-A662
Washington, D.C. 20554

Charles Dziedzic *
Assistant Chief, Video Services Division
Mass Media Bureau
Federal Communications Commission
445 12th Street, S.W., Room 2-A864
Washington, D.C. 20554



*Hand Delivery