

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

In the Matter of)	
Amendment of Parts 21 and 74)	
of the Commission’s Rules with Regard)	WT Docket No. 02-68
to Licensing in the Multipoint)	RM-9718
Distribution Service and in the)	
Instructional Television Fixed Service for)	
the Gulf of Mexico)	

To: The Commission

REPLY COMMENTS OF PETROCOM LICENSE CORPORATION

PetroCom License Corporation (“PetroCom”), by its attorneys, and pursuant to the provisions of Section 1.415 of the rules and regulations of the Federal Communications Commission (“FCC” or “Commission”), 47 C.F.R. § 1.415 (2002), and the invitation extended by the Commission in the above referenced Notice of Proposed Rulemaking (“*NPRM*”), hereby submits its reply comments responsive to the initial comments of other parties submitted in connection with the FCC’s proposal to adopt rules governing the licensing of spectrum allocated to the multipoint distribution service (“MDS”) and the Instructional Television Fixed Service (“ITFS”) in the Gulf of Mexico.^{1/}

I. THE RECORD AFFIRMS PETROCOM’S ASSERTION THAT THE COMMISSION SHOULD DELAY LICENSING OF THE SPECTRUM UNTIL THE MDS/ITFS REGULATORY REGIME IS MORE FULLY ADDRESSED

In its initial comments, PetroCom urged the Commission to delay licensing MDS/ITFS spectrum in the Gulf of Mexico until the Commission establishes mobile service rules for MDS

^{1/} *Amendment of Parts 21 and 74 of the Commission’s Rules with Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico*, WT Docket No. 02-68, *Notice of Proposed Rulemaking*, 17 FCC Rcd 779 (2002) (“*NPRM*”).

spectrum.^{2/} All parties commenting in this proceeding agree that the Commission should hold the issues presented in this proceeding in abeyance until the Commission evaluates its existing MDS/ITFS rules.^{3/} In particular, the Wireless Communications Association (“WCA”) urges the Commission to postpone the resolution of this proceeding until the Commission “more generally addresses a reworking of the MDS/ITFS regulatory regime.”^{4/} Stratos Offshore Services Company supports PetroCom’s assertion that it would be difficult “to formulate business plans for MDS, including . . . deciding whether or not to participate in an auction,” until the Commission considers its MDS/ITFS rules.^{5/} Given the multiple requests to postpone this proceeding, the Commission should delay the licensing of spectrum in the Gulf of Mexico until it has more fully addressed its existing MDS/ITFS rules and regulations.

As PetroCom explained in its initial comments, the Commission should not license spectrum and implement new rules governing the operation of MDS/ITFS spectrum in the Gulf of Mexico until it has adopted rules for the mobile service allocation recently added to the MDS/ITFS band.^{6/} In its *3G Report and Order*, the Commission indicated that it may initiate a rulemaking proceeding to address new mobile service rules for operations in this band.^{7/} Such a rulemaking will likely address interference rules, system configurations, and service area

^{2/} Comments of PetroCom at 3-5.

^{3/} Comments of PetroCom at 4; Comments of Stratos Offshore Services Company at 2 (“Stratos”); Comments of the Wireless Communications Association at 4-5 (“WCA”).

^{4/} Comments of the WCA at 5.

^{5/} Comments of Stratos at 3.

^{6/} *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 Services*, ET Docket No. 00-258, *First Report and Order and Memorandum Opinion and Order*, 16 FCC Rcd 17222 ¶ 28 (2001) (“3G Report and Order”).

^{7/} *Id.* ¶ 8.

boundaries appropriate for mobile operations in this band. If the Commission adopts mobile service regulations, licensees can better assess the opportunities for employing the spectrum for mobile purposes. Adopting mobile service rules before the spectrum is licensed for either mobile or fixed operations will permit potential licensees to determine whether the provision of mobile or fixed services will be more advantageous in the Gulf using these channels. It would be beneficial for the Commission to resolve these issues prior to the licensing of MDS/ITFS spectrum in the Gulf of Mexico so that licensees have knowledge of how the spectrum will be used.

In what may be the first steps toward a resolution of the issues regarding the future regulation of the MDS/ITFS spectrum, the Commission recently received proposals from industry groups recommending comprehensive rule changes that may result in a “sweeping overhaul of the technical and licensing rules for [MDS and ITFS].”^{8/} On October 7, 2002, the WCA, the National ITFS Association, and the Catholic TV Network submitted a proposal asking that the Commission withdraw from its broadcast style approach to regulating the spectrum and develop rules and policies enabling the deployment of next-generation systems for wireless broadband.^{9/} Specifically, this proposal asks that the Commission change its interference protection rules, which have the unintended effect of barring operators from providing ubiquitous two-way wireless services, create a flexible band plan capable of accommodating advanced two-way cellularized operations, and eliminate the forty-year-old interleaving channelization plan.^{10/} Although this proposal focuses on land-based operations, several of the

^{8/} See WCA Motion to Defer (filed June 14, 2002).

^{9/} See Proposal for Revising the MDS and ITFS Regulatory Regime, *available at* http://www.wcai.com/pdf/2002/gvt_Oct7.pdf.

^{10/} Mary Greczyn, “MDS, ITFS Operators Float New Band Plan, Rules Changes to FCC,” COMMUNICATIONS DAILY 4-5 (Oct. 8, 2002).

proposals, including proposals to establish geographic service areas, have the potential to impact operations in the Gulf of Mexico.^{11/} Accordingly, the Commission should act on this industry proposal, designed to address the matters raised in the *3G Report and Order* before licensing the spectrum in the Gulf of Mexico.

II. IF THE COMMISSION PROCEEDS WITH LICENSING THIS SPECTRUM, THE COMMISSION SHOULD NOT ADOPT THE PROPOSED SERVICE AREA BOUNDARIES

In its initial comments, the WCA urged the Commission to use “the same boundary definitions for the Gulf Service Area that [the Commission] adopted for service areas for the wireless communications service in the Gulf of Mexico in the *WCS Report and Order*.”^{12/} This service area boundary extends 12 nautical miles from the coastline. As it explained in its initial comments, PetroCom believes that the service area boundary should be the land-water line of demarcation. It is no longer in the public interest to retain the service area boundary adopted in the *WCS Report and Order* because the factual analysis relied upon by the FCC in that proceeding no longer applies to current state of operations in the Gulf of Mexico. In the *WCS Report and Order*, the Commission designated a separate Gulf of Mexico regional economic area grouping “to meet the growing communications needs of petroleum and natural gas providers in

^{11/} The proposal assumes that the Commission will adopt service area boundaries, which extend twelve nautical miles from the coastline. As discussed more fully below, the issue of service area boundaries also is proposed to be addressed in the instant rulemaking proceeding. This is only one of several examples of overlap between the currently pending industry recommendations and the rulemaking proceeding, demonstrating that the FCC should address the matters raised in the *3G Report and Order* and the industry proposals before proceeding in the instant rulemaking.

^{12/} *NPRM* ¶ 18; *see also Amendment of the Commission’s Rules to Establish Part 27, the Wireless Communications Service*, GN Docket No. 96-228, *Report and Order*, 12 FCC Rcd 10785 ¶ 59 (1997) (“*WCS Report and Order*”).

the area.”^{13/} As the Commission noted, when this service area was drawn, cellular operations in the Gulf of Mexico were still developing, but this is no longer the case.

Recently, in the *Gulf Cellular Order*, the Commission rejected land-based carrier proposals asking the Commission to create a coastal zone in the Western Gulf to permit land-based carriers to extend their operations into the Gulf of Mexico on a shared, coordinated basis.^{14/} The Commission explained that these proposals were not feasible because cellular carriers in the Gulf of Mexico continue to expand their networks and improve their coverage areas.^{15/} Thus, any further expansion into the Gulf of Mexico may create harmful interference for Gulf operations. Accordingly, the Commission concluded that the service area boundary should be the land-water line of demarcation.^{16/}

The service area boundary adopted by the Commission in the *Gulf Cellular Order* should be applied in this proceeding. It continues to be true that cellular operations in the Gulf of Mexico are growing and expanding. Allowing land based MDS/ITFS operations to extend into the Gulf of Mexico will not only create interference issues for Gulf operations, but will discourage Gulf licensees of MDS/ITFS spectrum from fully developing their systems. Further, there is simply no basis for protecting current MDS/ITFS licensees, who are providing fixed services, beyond the shore. Because of the historical use and purpose of MDS/ITFS spectrum, these licensees could not have contemplated anything but the provision of land based services. To permit these licensees to obtain an additional service area, in order to provide a new service

^{13/} *WCS Report and Order* ¶ 59.

^{14/} *Id.* ¶ 24.

^{15/} Comments of PetroCom at 5; *see also Cellular Service and Other Commercial Mobile Radio Services in the Gulf of Mexico*, WT Docket No. 97-112, *Report and Order*, 17 FCC Rcd 1209 (2002).

^{16/} *Id.* ¶ 31.

where they could not have contemplated offering service, would result in a windfall that is not in the public interest. Instead, Gulf based operators should have the benefit of providing service throughout the entire Gulf. For these reasons, the Commission should adopt the land-water line of demarcation and reject its proposal to use the service area boundary adopted for the still underdeveloped WCS band.

III. CONCLUSION

PetroCom urges the Commission to consider the foregoing reply comments and act in a manner consistent with recommendations made herein.

Respectfully submitted,

PETROCOM LICENSE CORPORATION

By: /s/ Russell H. Fox
Russell H. Fox
Susan S. Ferrel
Mintz, Levin, Cohn, Ferris,
Glovsky and Popeo, P.C.
701 Pennsylvania Avenue, N.W.
Washington, DC 20004-2608
(202) 434-7300

Its Attorneys

October 31, 2002

CERTIFICATE OF SERVICE

I, Susan S. Ferrel, hereby certify that on this 31st day of October 2002, the foregoing Reply Comments of PetroCom License Corporation were filed electronically on the FCC's Electronic Comment Filing System and electronic copies were served via electronic mail to the following:

Marlene H. Dortch
Secretary
Federal Communications Commission
Office of the Secretary
c/o Vistrionix, Inc.
236 Massachusetts Avenue, N.E.
Suite 110
Washington, DC 20002
Via Electronic Filing

Alfred M. Mamlet, Esq.
Steptoe & Johnson LLP
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
Counsel for Stratos Offshore
Communications
Via First Class Mail

Andrew Kreig
President
The Wireless Communications
Association International, Inc.
Suite 801
Washington, D.C. 20036
Via First Class Mail

Shelly Blakeney
Legal Advisor
Office of the Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
sblakene@fcc.gov
Via E-mail

Qualex International
Portals II
445 12th Street, S.W. Room CY-B402
Washington, D.C. 20554
qualexint@aol.com
Via E-mail

/s/ Susan S. Ferrel _____
Susan S. Ferrel