

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Amendment of Part 27 of the)	
Commission's Rules to Govern the)	WT Docket No. 07-293
Operation of Wireless Communications)	
Services in the 2.3 GHz Band)	

REPLY COMMENTS OF AT&T INC.

AT&T Inc., on behalf of its Wireless Communications Service (“WCS”) licensee subsidiaries, AWACS, Inc. and BellSouth Mobile Data, Inc., (collectively, “AT&T”) submits these Reply Comments in support of the views of the WCS Coalition and other commenters that (1) it is premature to establish new performance requirements while the new technical and service rules governing the 2.3 GHz band remain in doubt and while long-pending WCS renewal applications and substantial service showings remain unresolved; (2) the performance requirements should be no more stringent than those recently adopted for 700 MHz licenses; (3) the Commission’s proposal for a payload capacity requirement for point-to-point services needs clarification, and already-deployed links that do not satisfy this requirement should be grandfathered; (4) if frequency-division duplex (“FDD”) technology is prohibited in fixed applications, already-deployed FDD links should be counted towards satisfaction of the new performance requirements; and (5) the current July 21, 2010 buildout deadline should be removed in favor of whatever deadline is established for satisfying the new performance requirements.

AT&T agrees with various commenters that the continuing uncertainty regarding fundamental rules governing WCS licenses and their renewal status precludes informed decision-

making about the reasonableness of particular performance requirements. These significant unresolved matters, including the technical and service rules that will apply to the WCS and Satellite Digital Audio Radio Service bands, make it impossible for these commenters or the public to provide the Commission with informed and meaningful guidance as to the feasibility of particular buildout requirements or how long it will take to satisfy them.¹ They also correctly observe that, without knowing when the Commission will act on pending renewal applications and substantial service showings, existing WCS licensees and the public will be similarly hampered in commenting on the proposed buildout deadlines.² Accordingly, AT&T agrees with the WCS Coalition that “it would be arbitrary and capricious for the Commission to adopt performance requirements without first resolving” these issues.³

AT&T also joins with the substantial majority of commenters that note that there is no rational basis for requiring more-stringent buildout requirements for WCS licenses than for 700 MHz licenses.⁴ WCS licensees will have to deploy no fewer facilities than 700 MHz licensees to cover the same percentage of the population, and (if required by the new technical and service rules) will face the additional difficulties of coordination with mobile aeronautical telemetry

¹ See *Amendment of Part 27 of the Comm’n’s Rules to Govern the Operation of Wireless Communications Servs. in the 2.3 GHz Band*, WT Dkt No. 07-293, Reply Comments of WCS Coalition at 1-2 (filed Apr. 29, 2010) (“WCS Coalition Reply Comments”); *id.*, Comments of WCS Coalition at 3-5, 7-10 (filed Apr. 21, 2010) (“WCS Coalition Comments”); *id.*, Comments of Horizon Wi-Com, LLC at 4-6 (filed Apr. 21, 2010) (“Horizon Comments”); *cf. id.*, Comments of Broadband South, LLC at 3-5 (filed Apr. 21, 2010) (“Broadband South Comments”); *id.*, Comments of Green Flag Wireless, LLC, CWC License Holding, Inc. and James McCotter at 2 (filed Apr. 21, 2010) (“Green Flag Comments”).

² See WCS Coalition Comments at 11-12; Horizon Comments at 6; *cf.* Broadband South Comments at 5.

³ WCS Coalition Comments at 7-8. As the WCS Coalition suggested when it proposed a Further Notice of Proposed Rulemaking, the Commission can adopt strict comment and reply periods in order to minimize any delay in the deployment of WCS spectrum. *Id.* at 2.

⁴ See, e.g., WCS Coalition Reply Comments at 9-10; WCS Coalition Comments at 8, 15-16; Horizon Comments at 5.

licensees. They should not be further burdened by steeper buildout requirements and given only half as much time to complete them.⁵

Further, there likewise is no rational basis for the Commission's proposal to allow 700 MHz licensees to enjoy a "keep what you use" policy while subjecting WCS licensees to the total loss of their licenses if they fail to satisfy their buildout requirements fully. As the Commission implicitly recognized in adopting the 700 MHz policy,⁶ the keep what you use policy will lead to more investment and greater deployment of services than the "death penalty" proposed for WCS licensees.⁷ To satisfy the Commission's express objective of facilitating more-intensive use of the WCS band, it should adopt the keep what you use policy for WCS licensees as well.

In addition, AT&T supports the WCS Coalition's conclusion that, if any payload requirements are necessary for point-to-point links, those in Section 101.141(a)(1) fit the geographic licensing of WCS spectrum better than the requirements of Section 101.141(a)(3), which make sense only for site-based licenses.⁸ The WCS Coalition also is correct that "[s]hould the Commission adopt payload standards for WCS point-to-point links to be considered during a performance evaluation, it would be arbitrary and capricious not to grandfather links that were

⁵ Indeed, AT&T is unconvinced that it is lawful for the Commission to increase the buildout or other regulatory requirements associated with licenses after they have been auctioned. However, AT&T does not see a need to argue that point here.

⁶ *Serv. Rules for the 698-746, 747-762 & 777-792 MHz Bands*, Second Report and Order, 22 FCC Rcd. 15289, 15349, ¶ 156 (2007).

⁷ *See Amendment of Part 27 of the Comm'n's Rules to Govern the Operation of Wireless Communications Servs. in the 2.3 GHz Band*, WT Dkt No. 07-293, Comments of Stratos Offshore Services Company at 7-8 (filed Apr. 21, 2010); WCS Coalition Reply Comments at 10-11; WCS Coalition Comments at 18-19; Green Flag Comments at 6.

⁸ *See* WCS Coalition Comments at 20-22.

deployed before any new payload benchmark becomes effective.”⁹ Likewise, if the Commission follows through with its proposal in the *Technical Public Notice* to prohibit FDD technology in fixed as well as mobile uses of the WCS band,¹⁰ AT&T endorses the WCS Coalition’s request that licensees providing fixed applications should be able to count any FDD links deployed in reliance on the current rules towards satisfaction of their performance requirements.¹¹

Finally, AT&T agrees with the WCS Coalition that the current buildout deadline of July 21, 2010 should be extended due to the impending changes to both the technical and service rules and the performance requirements. More precisely, the current deadline should be merged with the deadline for meeting the new performance requirements. Without such relief, licensees will be forced to continue buildouts that may prove to be inconsistent with and, at the very least, will not be optimized for the new rules.¹² Indeed, the Commission has not articulated any reasoned policy that would support forcing existing WCS licensees to undertake the expense of deploying new facilities, only to deny them the opportunity to continue using those facilities to provide service once the new rules take effect.

⁹ *Id.* at 22.

¹⁰ *Comm’n Staff Requests That Interested Parties Supplement the Record on Draft Interference Rules for Wireless Communications Serv. & Satellite Digital Audio Radio Serv.*, WT Dkt No. 07-293 et al., Public Notice, DA 10-592, at 9 (rel. Apr. 2, 2010) (proposed 47 C.F.R. § 27.50(a)(1)(iii)) (“*Technical Public Notice*”).

¹¹ *See* WCS Coalition Reply Comments at 9 n.20. AT&T also endorses the WCS Coalition’s request in response to the *Technical Public Notice* that existing FDD links be grandfathered if the Commission chooses not to allow fixed FDD applications. *See Amendment of Part 27 of the Comm’n’s Rules to Govern the Operation of Wireless Communications Servs. in the 2.3 GHz Band; et al.*, WT Dkt No. 07-293 et al., Comments of WCS Coalition at 17 n.34 (filed Apr. 23, 2010).

¹² *See* WCS Coalition Comments at 23-25.

For the foregoing reasons, AT&T urges the Commission to modify its proposals as suggested above.

Respectfully submitted,

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