

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Part 27 of the Commission’s	)	
Rules to Govern the Operation of Wireless	)	WT Docket No. 07-293
Communications Services in the 2.3 GHz Band	)	
	)	
Establishment of Rules and Policies for the	)	IB Docket No. 95-91
Digital Audio Radio Satellite Service in the	)	GEN Docket No. 90-357
2310-2360 MHz Frequency Band	)	RM-8610

**PETITION FOR CLARIFICATION**

Stratos Offshore Services Company (“Stratos”) hereby petitions the Commission pursuant to Section 1.429 of the Commission’s Rules to clarify the *Report and Order* in this proceeding.<sup>1</sup> Specifically, Stratos urges the Commission to confirm that the point-to-point microwave links Stratos deploys in the Gulf of Mexico utilizing the 2.3 GHz Wireless Communications Service (“WCS”) band are governed by the provisions of newly-adopted Sections 27.50(a)(1) and 27.53(a)(1) of the Rules, notwithstanding the fact that the point-to-point transmission equipment generally is located on premises owned or controlled by Stratos’ customers.

As Stratos noted earlier in this proceeding, it is an international provider of vital communications services, the most important of which for purposes of these proceedings is its comprehensive communications network in the Gulf of Mexico.<sup>2</sup> That network, consisting of microwave, satellite, and other forms of radio communications, links together hundreds of

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<sup>1</sup> Amendment of Part 27 of the Commission’s Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band, *Report and Order and Second Report and Order*, FCC 10-82 (rel. May 20, 2010); *Erratum* (rel. June 8, 2010); *Second Erratum* (rel. July 14, 2010) [collectively “*Report and Order*”].

<sup>2</sup> See Comments of Stratos Offshore Services Co., WT Docket No. 07-293, at 1-2 (filed Apr. 23, 2010) [“Stratos Technical PN Comments”].

offshore oil and gas exploration and production platforms and ancillary facilities. Stratos' customers rely on these communications resources to, among other things, monitor unmanned facilities, control sea traffic and, in the event of emergencies, coordinate fire, safety and rescue personnel. Stratos has been an aggressive competitor in the Gulf communications marketplace, and, as the *Report and Order* acknowledges, currently serves over 60% of the oil and gas rigs and platforms in the Gulf utilizing the range of spectrum solutions at its disposal.<sup>3</sup> Stratos is the sole communications service provider in many areas of the Gulf, and other communications systems are not readily available to connect the numerous oil and gas facilities and personnel.

Stratos employs its WCS spectrum holdings extensively as part of its Gulf network. Stratos has deployed a frequency division duplex solution utilizing equipment from Alcatel Lucent that pairs channels in the 2305-2320 MHz segment of the WCS band for communications in one direction with channels in the 2345-2360 MHz segment of the WCS band for communications in the reverse direction. As the Commission recognized in the *Report and Order*, Stratos operates in the Gulf of Mexico approximately 100 routes (two-way communications paths, consisting of one transmit link and one receive link) for a total of approximately 200 one-way links.<sup>4</sup> The radio equipment deployed by Stratos generally operates with an equivalent isotropic radiated power ("EIRP") in excess of 20 watts peak, operates with a duty cycle of 100%, and employs outdoor antennas that are mounted on the oil and gas platforms that are frequently owned or leased by Stratos' customers.

From the time the Commission first adopted rules to govern WCS operations in the 2.3 GHz band and Stratos' predecessor-in-interest acquired the Gulf of Mexico licenses through

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<sup>3</sup> See *Report and Order* at ¶ 213.

<sup>4</sup> See *Report and Order* at ¶¶ 128, 212; Letter from Christine M. Crowe, Counsel to Stratos Offshore Services Co., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 07-293, at 1 (filed Apr. 26, 2010).

competitive bidding, Stratos' technology choices have been designed to comport with the Commission's Part 27 rules governing WCS. Based on the rules that have been in place for more than a dozen years, Stratos has invested many millions of dollars to deploy its WCS network in the Gulf and meet the critical communications needs of the oil and gas industry. Both the satellite Digital Audio Radio Service ("SDARS") and Mobile Aeronautical Telemetry ("MAT") communities actively participated in the Commission rulemaking proceeding at which those rules were adopted,<sup>5</sup> and neither sought Commission reconsideration or appellate review when those rules were adopted. Moreover, to Stratos' knowledge, there has *never* been a complaint to the Commission of interference caused by any of Stratos' point-to-point links.

Given this record, it is not surprising that there is nothing in the text of the *Report and Order* suggesting that the Commission intended to interfere with the continuation and growth of Stratos' operations.<sup>6</sup> To the contrary, the *Report and Order* recognizes the value of Stratos' offerings and is accommodating to the unique challenges faced by Stratos' point-to-point operations in the Gulf, for which Stratos is appreciative.<sup>7</sup> Stratos' deployed facilities fully comply with the technical requirements governing fixed WCS operations set forth in Sections

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<sup>5</sup> Comments of Aerospace and Flight Test Radio Coordinating Council, GN Docket No. 96-228 (filed Dec. 4, 1996); Comments of American Mobile Radio Corporation, GN Docket No. 96-228 (filed Dec. 4, 1996); Reply Comments of Aerospace and Flight Test Radio Coordinating Council, GN Docket No. 96-228 (filed Dec. 16, 1996); Reply Comments of Satellite CD Radio, Inc., GN Docket No. 96-228 (filed Dec. 16, 1996).

<sup>6</sup> That is hardly surprising, since, as Stratos previously noted, there was nothing in the *Notice of Proposed Rulemaking* commencing this proceeding that suggest such changes were under consideration. See Stratos Technical PN Comments, at 5, *citing* 5 U.S.C. § 553(b)-(c) (requiring public notice and opportunity to comment before adopting a substantive rule change); *American Radio Relay League, Inc. v. FCC*, 524 F.3d 227, 236-40 (D.C. Cir. 2008) (remanding FCC order for failing to satisfy the notice and comment requirements of the Administrative Procedure Act ("APA")); *Sprint Corp. v. FCC*, 315 F.3d 369, 377 (D.C. Cir. 2003) ("Because the Commission failed to issue a new NPRM to afford proper notice and opportunity for comment, we grant the petitions, vacate the rule, and remand the case to the Commission.").

<sup>7</sup> See, e.g., *Report and Order* at ¶¶ 212-13 (adopting special performance benchmarks for the Gulf of Mexico in recognition of uniqueness of communications market).

27.50(a)(1) and 27.53(a)(1) and neither the Commission nor any other party has taken issue with Stratos' position that those provisions govern its operations.<sup>8</sup>

Stratos' instant request for confirmation of its position is designed to eliminate the potential for future confusion regarding the applicability of Section 27.50(a)(1) and 27.53(a)(2). It arises out of last week's decision by the Wireless Telecommunications Bureau granting AT&T Inc. ("AT&T") a limited waiver of the restriction set forth in Section 27.50(a)(2) on the use of outdoor antennas in conjunction with a new category of equipment called "CPE".<sup>9</sup> In seeking its waiver, AT&T identified its operations as "point-to-point",<sup>10</sup> but did not provide sufficient additional detail regarding its operations for Stratos to conclude whether AT&T's operations should have been governed by Section 27.50(a)(1) – in which case no waiver would have been required – or by Section 27.50(a)(2) as AT&T presumed. Although Stratos requested that the Commission clarify the interplay between the rules governing fixed stations and those governing fixed "CPE,"<sup>11</sup> the Bureau's decision does not address the issue.

The stakes could not be higher for Stratos and its customers. Simply put, given the distances between facilities in the Gulf and the often-harsh operating conditions, the link budget for Stratos' routes require transmissions in excess of the 20 watts peak EIRP limit imposed on

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<sup>8</sup> See Letter from Christine M. Crowe, Counsel to Stratos Offshore Services Co., to Marlene H. Dortch, Secretary, FCC, WT Docket No. 07-293, at 2 (filed Aug. 5, 2010) ("It is Stratos' understanding that, notwithstanding the fact that Stratos' facilities in the Gulf are located on structures that are owned or leased by its customers, because Stratos operates in a point-to-point mode controlling both ends of the link, rather than a point-to-multipoint mode, its facilities are subject to the power limits of Section 27.50(a)(1) and the stringent out-of-band emission requirements of Section 27.53(a)(1).") ["Stratos Response to AT&T Waiver Request"].

<sup>9</sup> Letter from Roger S. Noel, Chief, Mobility Division, FCC, to James J.R. Talbot, Attorney, AT&T Inc., DA 10-1642 (rel. Aug. 27, 2010).

<sup>10</sup> See Petition Of AT&T For Waiver Of WCS External Antenna Restriction To Allow Continuation Of Existing Usage Pending Commission Action On Petition For Reconsideration And Request For Expedited Treatment, WT Docket No. 07-293, at 2 (filed Aug. 2, 2010).

<sup>11</sup> See Stratos Response to AT&T Waiver Request.

fixed “CPE” under Section 27.50(a)(2). And, if regulated as fixed “CPE”, Stratos’ point-to-point facilities would be subject to the 12.5% and 25% duty cycles imposed by new Section 27.50(a)(2) on operations in the 2305-2320 MHz band. Because point-to-point equipment is dedicated to serve a single user, and does not share capacity in the way that point-to-multipoint systems share upstream capacity, the equipment has not been designed to allocate capacity among multiple upstream users, and thus does not comport with the newly-adopted duty cycle mandate. In short, the net result of deeming Stratos’ point-to-point deployments as fixed “CPE” would be to jeopardize critical communications services throughout the Gulf.

Again, there is nothing in the *Report and Order* to suggest that the Commission intended to impose the Section 27.50(a)(2) limits on point-to-point facilities of the sort Stratos has deployed. The new limits on fixed “CPE” were adopted to protect SDARS receivers against potential interference from widely-deployed consumer mobile or point-to-multipoint subscriber equipment. Paragraph 141 of the *Report and Order* clearly evidences that fixed CPE was considered to only include devices controlled by subscribers and authorized to transmit at or below 20 watts peak EIRP, and does not extend to facilities such as those deployed by Stratos.<sup>12</sup>

Finally, whether a point-to-point link is located at a subscriber location, or at a third-party location, has nothing to do with its propensity to cause interference to SDARS subscribers. Having concluded that point-to-point links can operate at the power levels specified in Section 21.50(a)(1) without any duty cycle restrictions, there is no reason to impose more stringent power limits or duty cycle restrictions on those point-to-point links that happen to be at a subscriber location.

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<sup>12</sup> See *Report and Order* at ¶ 141 (“An examination of the Commission’s Equipment Authorization Database shows that although most 2.3 GHz WCS fixed CPE devices are authorized to use significantly lower EIRP levels (*e.g.*, in the 1 to 2 W range), some WCS fixed CPE devices are authorized to operate up to the 20-W EIRP currently allowed for WCS mobile devices.”) (citation omitted).

WHEREFORE, for the foregoing reasons, Stratos urges the Commission to confirm that point-to-point radio equipment installed at a subscriber's location is not considered to be fixed "CPE" so long as it complies with the spectral mask set forth in Section 27.53(a)(1), but rather is considered to be fixed equipment subject to Section 27.50(a)(1).

Respectfully submitted,

STRATOS OFFSHORE SERVICES  
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