

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

In the Matter of)	
)	IB Docket No. 11-109
LightSquared Inc.)	
)	ET Docket No. 10-142
Petition for Declaratory Ruling)	
)	

**OPPOSITION OF DEERE & COMPANY
TO LIGHTSQUARED INC. PETITION FOR DECLARATORY RULING**

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Summary

Deere & Company (“Deere”) urges the Commission to dismiss LightSquared’s Petition for Declaratory Ruling (“Petition”) as moot in light of the recent pronouncements by the Commission and the National Telecommunications Information Administration (“NTIA”) confirming that LightSquared’s network will cause harmful interference to GPS receivers. Given those developments, there is no need to consider the requested rulings aimed at enabling LightSquared to secure final authority to operate a high power terrestrial network in the Mobile Satellite Service band using Ancillary Terrestrial Authority; LightSquared has failed to satisfy the specific terms of the *Conditional Waiver Order*. Moreover, Deere opposes the Petition because it asks the Commission to make significant regulatory changes regarding spectrum management and stakeholder rights, each with broad legal, policy and technical ramifications, in the context of narrow process meant for eliminating a controversy under existing regulation and not intended to be a backdoor procedure for adopting widespread rule changes.

Fundamentally, the Petition is a challenge to the terms of the *Conditional Waiver Order* requiring LightSquared to address GPS interference to the Commission’s satisfaction, a condition that LightSquared agreed to, but now seeks to undermine. This approach should be dismissed not only as a late attempt to gain reconsideration of the *Conditional Waiver Order*, but also as an inappropriate request for the Commission to disregard specific federal statutes that prohibit the Commission from allowing, *in any way*, LightSquared to operate a terrestrial network that causes interference with GPS services, to abrogate the Commission’s commitment to protect GPS from interference, and to flout Executive Branch policy to ensure the viability of GPS and international agreements that obligate the U.S. to protect GPS/GNSS signals from interference.

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Deere & Company (“Deere”), through undersigned counsel, files this Opposition to the Petition for Declaratory Ruling filed by LightSquared Inc. (“LightSquared”) in the above-referenced dockets on December 20, 2011 (the “Petition”).¹ In the Petition, LightSquared takes direct aim at the GPS community and asks the Commission to adopt sweeping changes to rules and policies in direct contravention to prior Commission decisions and Congressional mandates. Among other things, LightSquared urges the Commission to declare that unlicensed GPS receivers are not entitled to protection from interference caused by LightSquared’s unrestrained conversion of Mobile Satellite Service (“MSS”) spectrum to uses not authorized by the Commission’s Part 2 Table of Allocations.² LightSquared urges this view on the Commission despite the explicit language of the January 28, 2011 *Conditional Waiver*³ that requires

¹ *LightSquared Inc. Petition for Declaratory Ruling*, Petition for Declaratory Ruling, IB Docket No. 11-109, ET Docket No. 10-142 (filed Dec. 20, 2011) (“Petition”). *See also* Public Notice, International Bureau Establishes Pleading Cycle for LightSquared Petition for Declaratory Ruling, IB Docket No. 11-109 & ET Docket No. 10-142, DA 12-103 (rel. Jan. 27, 2012) (“*Declaratory Ruling Public Notice*”).

² *See* Petition, at 2.

³ *See LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component*, Order and Authorization, SAT-MOD-20101118-00239, Call Sign: S2358, DA 11-133 (rel. Jan. 26, 2011) (“*Conditional Waiver*”).

LightSquared to protect GPS from interference, the Commission's long-held policy that it would protect GPS, federal statutes that prohibit interference to GPS, as well as Executive Branch policy to protect and promote GPS.

I. LIGHTSQUARED'S PETITION

The Petition requests that the Commission make four rulings:

- (i) Manufacturers and users of unlicensed commercial GPS receivers lack standing to file complaints or other pleadings seeking "protection" from allegedly incompatible operations in adjacent MSS bands--including ATC operations--that are permitted by the Commission's rules and the U.S. Table of Frequency Allocations;
- (ii) Commercial GPS receivers have no independent right to "protection" from operations in adjacent MSS bands, independent of the license conditions that limit the out-of-band power that may be emitted by MSS band transmitters into the RNSS band, and other than the benefit afforded by the guard band that should separate LightSquared's terrestrial operations in the MSS band from commercial GPS operations in the RNSS band;
- (iii) Commercial GPS devices that receive GPS signals in the MSS band are "nonconforming" and inconsistent with the MSS allocation in that band, and as such are not entitled to any "protection" regardless of whether they are licensed; and
- (iv) The costs of ensuring that GPS devices are compatible with adjacent band operations--including any costs necessary to retrofit legacy devices--are the responsibility of GPS manufacturers--or, at a minimum, are not the obligation of MSS/ATC licensees.⁴

The Commission should reject LightSquared's Petition as another attempt to run roughshod over the legitimate and significant concerns of the GPS community regarding severe widespread interference harm that will result if LightSquared is permitted to proceed with its proposed high power terrestrial-only network in the MSS L-Band. These concerns affect hundreds of millions of GPS users that rely on devices embedded in many sectors ranging from

⁴ Petition, at 2-3.

critical safety-of-life applications, including in aviation and military,⁵ to important industrial and commercial applications such as high-precision agriculture,⁶ to consumer applications.⁷

For the reasons set forth below, the Commission should dismiss the Petition.

II. THE PETITION SHOULD BE DISMISSED AS MOOT IN LIGHT OF THE NTIA'S NEGATIVE ASSESSMENT AND THE COMMISSION'S PLAN TO VACATE LIGHTSQUARED'S ATC AUTHORITY

As a threshold issue, recent developments at the Commission and at the National Telecommunications Information Administration (“NTIA”) have rendered LightSquared’s petition moot. A request for agency action is rendered moot “when no live controversy remains for review.”⁸ The petition essentially asks the Commission to declare that GPS interests have no standing to complain, commercial GPS receivers cannot claim protection, GPS signals in the MSS band do not warrant protection, and the costs of changing out GPS receivers to accommodate LightSquared’s signals are not LightSquared’s responsibility.

⁵ See generally Statement of General William L. Shelton, Commander, Air Force Space Command, Department of the Air Force Presentation to the Subcommittee on Strategic Forces, Committee on Armed Services, U.S. House of Representatives, *Sustaining GPS for National Security* (Sept. 15, 2011) (noting critical use of GPS by the military); Letter from Michael P. Huerta, Acting Administrator, Federal Aviation Administration, to Lawrence E. Strickling, Administrator, National Telecommunications and Information Administration, at 1-2 (Jan. 27, 2012) (noting use of GPS aviation operations).

⁶ See generally *LightSquared Subsidiary LLC Request for Modification of its Authority for an Ancillary Terrestrial Component*, Petition for Reconsideration of Deere & Company, SAT-MOD-20101118-00239, at 1-9 (filed Feb. 25, 2011) (describing use of high-precision GPS receivers in U.S. agricultural industry).

⁷ See, e.g., Letter from Stephen D. Baruch, Counsel for the United States GPS Industry Counsel, to Marlene H. Dortch, Secretary, FCC, SAT-MOD-20101118-00239 (filed Jan. 20, 2011) (attaching report by Scott Burgett and Bronson Hokuf of Garmin International demonstrating widespread impact LightSquared’s services would have on consumer GPS devices).

⁸ *Petition of the State Independent Alliance and the Independent Telecommunications Group For A Declaratory Ruling That the Basic Universal Service Offering Provided By Western Wireless In Kansas Is Subject To Regulation As Local Exchange Service*, *Petition of U.S. Cellular Corporation For Reconsideration of the Order on Reconsideration*, Memorandum Opinion and Order, WT Docket No. 00-239, ¶ 7 (rel. Jan. 26, 2010) (citing *Tenn. Gas Pipeline Co. v. Fed. Power Comm’n.*, 606 F.2d 1373, 1379 (D.C. Cir. 1979)).

LightSquared is seeking these overlapping declarations as a means to secure final Commission authority to operate its proposed terrestrial-only high power network. However, the Commission has made clear that LightSquared must demonstrate noninterference to GPS in order to obtain such final authority. In a letter dated February 14, 2012, the NTIA advised Chairman Genachowski that the NTIA has independently reviewed the interference potential of the proposed LightSquared terrestrial service and concluded that “there is no practical way to mitigate the potential interference to GPS devices at this time.”⁹ NTIA oversaw significant independent technical assessments of LightSquared’s proposed terrestrial operations. Based on that independent testing, the NTIA determined:

- With respect to aviation GPS receivers, “absent replacement receivers, LightSquared’s proposals would require constant, individualized monitoring and adjustment to over 40,000 sites nationwide to ensure consistency with air safety requirements. Th[e] FAA concluded, and we agree, that this is not a practical solution, particularly where safety of life is involved.”¹⁰
- “All parties participating in the TWG agreed last summer that base station signals in the lower 10 MHz will cause unacceptable interference to GPS receivers used for high-precision and precision timing applications.” ... “[S]ince LightSquared and the federal agencies have been unable to resolve the interference issues associated with personal/general navigation and aviation GPS receivers, there is no reason for federal agencies to undertake the expense and resource commitment to test high-precision and precision timing GPS receivers at this time.”¹¹
- With respect to space-based receivers operated by NASA, “the next generation of space-based GPS receivers will have wider front-end filter bandwidths and will be impacted by a signal in the lower 10 MHz.”¹²

⁹ See Letter from Lawrence E. Strickling, Assistant Secretary for Communications and Information, United States Department of Commerce, to Hon. Julius Genachowski, Chairman, Federal Communications Commission, at 1 (Feb. 14, 2012) (“NTIA Letter”).

¹⁰ *Id.*, at 6.

¹¹ *Id.*, at 6.

¹² *Id.*, at 7.

The NTIA's conclusions are fully consistent with those of the Technical Working Group ("TWG"), the broad industry group convened in response to the *Conditional Waiver* to conduct technical studies of the impact of LightSquared's network on GPS receivers, which likewise found that LightSquared's proposed operations, even as modified, would result in widespread interference to many classes of GPS receivers.¹³

Based on the NTIA's findings, the Commission has concluded that under the specific terms of the *Conditional Waiver*, "the Interference Resolution Process has not been successfully completed and harmful interference concerns have not been resolved,"¹⁴ and "it is highly unlikely that LightSquared will, in any reasonable period of time, be able to satisfy the requirements of the *Conditional Waiver Order* for providing commercial ATC service in the 1525-1559 MHz band."¹⁵ The Commission has accordingly proposed to vacate LightSquared's conditional waiver and "suspend indefinitely" LightSquared's ATC authority.¹⁶

The declaratory rulings sought in the Petition are directly related to LightSquared's quest to operate a terrestrial network pursuant to its ATC authority,¹⁷ and to shift the responsibility

¹³ See generally Working Group Final Report, SAT-MOD-20101118-00239 (dated June 30, 2011) ("*TWG Final Report*") (demonstrating wide-ranging interference with GPS receivers, and in particular, augmented GPS receivers such as those employed by Deere). With respect to augmented high-precision devices, such as those employed by Deere, during open air, "live sky" testing in Las Vegas those receivers under test experienced interference and lost the ability to track GPS satellites at ranges up to 15 kilometers away from the experimental LightSquared base station, and suffered severe interference up to 22 kilometers. See *TWG Final Report*, at 255. Radiated laboratory tests likewise demonstrated that high precision receivers operating in an agricultural setting would be susceptible to interference and loss of satellite lock at distances of 22 kilometers. See *TWG Final Report*, at 277.

¹⁴ *NTIA Letter Public Notice*, at 3.

¹⁵ *Id.*, at 4.

¹⁶ See *id.*, at 4.

¹⁷ The first sentence of the Petition associates the relief sought therein to LightSquared's ATC operations: LightSquared Inc. ... hereby petitions the Commission for a declaratory ruling regarding the regulatory status of commercial Global Positioning System ("GPS") receivers *vis-à-vis* LightSquared's authorized operations in the 1525-1559 MHz Mobile-Satellite Service ("MSS") band." Petition, at 1 (emphasis added). Thereafter, the first third of the Petition is devoted to a discussion of LightSquared's

onto GPS manufacturers and users for any costs associated with retrofitting devices in order to avoid interference from LightSquared's proposed operations.¹⁸ However, the NTIA report and letter, as well as the Commission's announcement in its February 15 Public Notice, establish that LightSquared has not and, in fact, cannot obtain final authority to begin terrestrial operations under the express terms of the *Conditional Waiver*.¹⁹ In light of these developments, the Petition is moot, and should be dismissed.²⁰

III. A DECLARATORY RULING IS AN INAPPROPRIATE VEHICLE TO CONSIDER FUNDAMENTAL REGULATORY CHANGES WITH BROAD LEGAL, TECHNICAL AND POLICY IMPLICATIONS

To the extent that LightSquared's Petition seeks significant changes to policy and regulation with broad legal, technical and policy implications, it should be dismissed as an inappropriate vehicle in which to make such sweeping revisions. Section 1.2 of the Commission's Rules provides that declaratory rulings are intended to "terminate a controversy or

proposed broadband network and its ATC authority. *See* Petition, at 3-9. Clearly, the relief requested in the Petition is directly tied to the LightSquared ATC authority, and as such, is now rendered moot.

¹⁸ *See id.*, at 3.

¹⁹ *See* FCC Public Notice, *Status of Testing in Connection with LightSquared's Request for ATC Commercial Operating Authority*, IB Docket No. 11-109, DA 11-1537 (rel. Sept. 13, 2011) (clarifying that the Commission is coordinating with NTIA concerning further testing of LightSquared's proposed services and will await NTIA's results before rendering final decision).

²⁰ Further, LightSquared's request for a Commission declaration that GPS manufacturers and users must bear the costs of retrofitting or changing equipment as a result of interference from LightSquared's proposed terrestrial operations is premature, and not ripe for Commission review, given that LightSquared holds no authority to provide terrestrial service at this time. *See Omipoint Communications, Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 10785, ¶ 9 (1996) (ripeness is factor in determining when Commission should exercise its discretion to issue declaratory rulings and declining to issue decision with respect to specific controversy that was not ripe for review). Even if the Commission were to address LightSquared's entreaty to impose the cost burdens on GPS stakeholders, there is ample reason for the Commission to follow its prior determinations that the public interest requires parties making new uses of spectrum to bear the costs and burdens of the impact to incumbent users. *See, e.g., Improving Public Safety Communications in the 800 MHz Band, etc.*, WT Docket No. 02-55, ET Docket No. 00-258, RM-9498, RM-10024 and ET Docket No. 95-18, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, FCC 04-168, ¶¶ 149, 251 (rel. Aug. 6, 2004)(fashioning requirement that Nextel pay to move incumbent users.)

remove[e] uncertainty.”²¹ The Commission has held that declaratory rulings “may not be used to substantively change a policy.”²² Rather, significant regulatory and marketplace changes, such as those contemplated by the Petition,²³ are more properly addressed in the context of a petition for rulemaking,²⁴ where the proposed changes to existing policy are specifically spelled out, sufficient public notice is given, and public input is accepted to enable the Commission to determine whether to propose rule changes. Any proposed changes would be subject to the Commission’s rulemaking proceeding which contemplates sufficient public notice and opportunity for public comment on the proposed changes.

LightSquared urges the Commission to take new policy positions: that GPS interests have no standing to complain, commercial GPS receivers cannot claim protection, GPS signals in the MSS band do not warrant protection, and the costs of changing out GPS receivers to accommodate LightSquared’s signals are not LightSquared’s responsibility. Together, LightSquared essentially seeks ratification of its view that the L-Band can now be used for stand-

²¹ 47 C.F.R. § 1.2.

²² *In the Matter of Travelers Info. Stations; Am. Ass’n of Info. Radio Operators Petition for Ruling on Travelers Info. Station Rules; Highway Info. Sys., Inc. Petition for Rulemaking; Am. Ass’n of State Highway & Transp. Officials Petition for Rulemaking*, Order and Notice of Proposed Rulemaking, 25 F.C.C.R. 18117, 18118 (2010).

²³ See Petition, at 2-3 (requesting declarations by the Commission that GPS devices enjoy no interference protection, that GPS devices that receive signals in the MSS band are “nonconforming” under the Commission’s rules, and that the costs of ensuring GPS devices are compatible with new operations should be borne by incumbent providers rather than by a new entrant).

²⁴ See *In the Matter of Petition for Declaratory Ruling That Any Interstate Non-Access Serv. Provided by S. New England Telecommunications Corp. Be Subject to Non-Dominant Carrier Regulation*, 11 F.C.C.R. 9051, 9052 (1996). The Administrative Procedure Act (“APA”) mandates that new agency rules in conflict with prior definitive interpretations require notice and comment. See 5 U.S.C. § 500 *et seq.* See also *Calvary Chapel of Costa Mesa, Inc.*, 23 FCC Rcd 9971, at 3 (2008) (citing *Syncor Int’l Corp. v. Shalala*, 127 F.3d 90, 94 (D.C. Cir. 1997) (for proposition that “new interpretation of agency rule in conflict with prior definitive interpretation requires notice and comment”).

alone terrestrial networks.²⁵ If the Commission were to make the requested declarations, the result would be a significant change in regulation governing the use of the spectrum. Deere submits that such a change would require a notice of proposed rules including a proposal to modify the Table of Allocations to make mobile wireless operations a co-primary service²⁶ and a full and fair opportunity for public comment. A rulemaking proceeding would provide the Commission the information necessary to assess fully the public interest benefits and costs associated with such proposed changes. It is noteworthy that last year the Commission did make just such a change to the 2 GHz band in the Table of Allocations *after a full notice and comment rulemaking proceeding*.²⁷ Because the Petition seeks to fundamentally change Commission policy with respect to the use of spectrum and the rights and obligations of stakeholders, rather than to eliminate a controversy under existing policy and regulation, a declaratory ruling is inappropriate for the relief LightSquared seeks.

IV. THE PETITION IGNORES THE PRINCIPAL ISSUE: LIGHTSQUARED HAS FAILED TO SATISFY THE NON-INTERFERENCE REQUIREMENTS ESTABLISHED IN THE 2011 WAIVER ORDER

The Commission should resist LightSquared's effort to sidetrack the Commission's consideration of the principal issue -- that LightSquared's network will cause severe interference to GPS -- by dragging all parties into a *new* debate about LightSquared's current (and unsupportable) view that GPS companies should be prevented from requiring protections against

²⁵ See Petition, at 2 (requesting ruling allowing LightSquared to "deploy its network in all of its licensed spectrum."). See also *id.*, at 3 (requesting expedited relief "to ensure that consumers can benefit from the competitive retail services to be offered over LightSquared's network as soon as possible.").

²⁶ See 47 C.F.R. § 2.106 (listing mobile satellite (space-to-Earth) as primary service in the 1525-1559 MHz bands).

²⁷ See *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*, Report and Order, ET Docket No. 10-142 (rel. Apr. 6, 2011) (acting on proposals set forth in 2010 NPRM on the same).

harmful interference from LightSquared’s operations. Unable to satisfy the conditions of the *Conditional Waiver*, LightSquared attacks the policies underlying the waiver itself through its requests for Commission declarations that, among other things, “[m]anufacturers and users of unlicensed GPS receivers lack standing to file complaints . . . seeking protection from allegedly incompatible operations in adjacent MSS bands.”²⁸

The *Conditional Waiver* explicitly established that LightSquared’s proposed conversion of its satellite spectrum for terrestrial services is premised on a demonstration of non-interference to GPS. “As a condition of granting this waiver, the process . . . addressing the interference concerns regarding GPS must be completed to the Commission’s satisfaction before LightSquared commences offering commercial service pursuant to this waiver on its L-band MSS frequencies.”²⁹ LightSquared accepted this condition to the ATC authority modification order.³⁰

However, more than a year later, and after multiple rounds of government and nongovernment testing, LightSquared has failed to demonstrate that it can operate its proposed network without interfering with GPS. The *Conditional Waiver* establishes that the Commission would lift the restrictions placed on LightSquared *only* upon “consultation with NTIA, [the Commission] concludes that the harmful interference concerns have been resolved and sends a

²⁸ Petition, at 2.

²⁹ *Conditional Waiver*, ¶ 41.

³⁰ “[I]n order to address the concerns raised, LightSquared states that it would accept, as a condition of the grant of its request, the creation of a process to address interference concerns regarding GPS and, further, that this process must be completed to the Commission’s satisfaction before LightSquared commences offering commercial service, pursuant to the approval of its request, on its L-Band MSS frequencies.” *Conditional Waiver*, ¶ 40 (citing Letter from Sanjiv Ahuja, Chairman and CEO of LightSquared, to Marlene H. Dortch, Secretary, Federal Communications Commission, SAT-MOD-20101118-00239, at 1 (filed Jan. 21, 2011)).

letter to LightSquared stating that the process is complete.”³¹ As none of the TWG, NTIA or the Commission found that the LightSquared interference issues have been or even could be addressed, the requirements under the terms of the *Conditional Waiver* have not been met. LightSquared’s attack on the right of GPS companies and the Commission’s long-standing policy to protect GPS³² is nothing more than a belated challenge to the terms of the *Conditional Waiver* itself. Therefore, LightSquared’s Petition should be dismissed as an untimely and inappropriate attempt to gain reconsideration of the *Conditional Waiver* more than one year after the Commission’s release of that order.³³

³¹ *Conditional Waiver*, ¶ 43.

³² The protection of GPS has been a consistent theme in numerous Commission proceedings. For example, in 2000 the Commission stated: “we believe that it is vitally important that critical safety systems operating in the restricted frequency bands, including GPS operations, are protected against interference,” and that “use of GPS is expanding for use by businesses and consumers for all sorts of applications, such as for navigation by automobiles, boats and other vehicles, surveying, hiking, and geologic measurements. Therefore, *any harmful interference to GPS could have a serious detrimental impact on public safety, businesses and consumers.*” *Revision of Part 15 of the Commission’s Rules Regarding Ultra-Wideband Transmission Systems*, Notice of Proposed Rule Making, 15 F.C.C.R. 12086, ¶¶ 24, 28 (2000) (emphasis added). “We believe that it is vitally important to ensure that critical safety systems, including GPS operations, are protected from harmful interference.” *Id.*, ¶ 29. *See also In the Matter of Revision of Part 15 of the Commission’s Rules Regarding Ultra-Wideband Transmission Systems*, First Report and Order, 17 F.C.C.R. 7435, ¶ 34 (2002) (“GPS will be increasingly relied upon for air navigation and safety, and is a cornerstone for improving the efficiency of the air traffic system. GPS also may be used by commercial mobile radio E-911 services to enable police and fire departments to quickly locate individuals in times of emergency. Moreover, businesses and consumers are now employing GPS for various applications, such as for navigation by automobiles, boats and other vehicles, surveying, hiking, and geologic measurements. Therefore, any harmful interference to GPS could have a serious detrimental impact on public safety, businesses and consumers.”). *See also In the Matter of Lockheed Martin Corporation Application to Launch and Operate a Geostationary Orbit Space Station in the Radionavigation Satellite Service at 133° W.L.*, Order and Authorization, 20 F.C.C.R. 11023, 11032 (2005) (“We note that the U.S. GPS system uses the same frequencies that Lockheed is requesting . . . [w]e recognize that the U.S. GPS system provides service of national importance to U.S. Government, including the military, businesses and civilians. Therefore, we find that it is critical that Lockheed’s space station operations do not cause harmful interference to the operations of the U.S. GPS system.”).

³³ *See* 47 C.F.R. § 1.106(f), providing that petitions for reconsideration must be filed within 30 days of final Commission action.

V. THE COMMISSION IS REQUIRED BY STATUTE AND INTERNATIONAL AGREEMENTS TO ENSURE THAT GPS SERVICES ARE PROTECTED FROM INTERFERENCE

As the Commission has identified both in the *Declaratory Ruling Public Notice* and the *NTIA Letter Public Notice*, the ongoing viability of GPS and protection from LightSquared interference is expressly protected under statute. The 2012 Appropriations Act, HR 2055, states: “[n]one of the funds made available in this Act may be used by the Federal Communications Commission to remove the conditions imposed on commercial terrestrial operations in the Order and Authorization adopted by the Commission on January 26, 2011 (DA 11–133), *or otherwise permit such operations*, until the Commission has resolved concerns of potential widespread harmful interference by such commercial terrestrial operations to commercially available Global Positioning System devices.”³⁴ The Petition should be dismissed because the Commission is prohibited from allowing, *in any way*, LightSquared to operate a terrestrial network that causes interference with GPS services.

Further, LightSquared’s requests cannot be reconciled with U.S.- European Union agreements that obligate both parties to protect each other’s GPS/GNSS signals from interference by the radio frequency emissions of other systems.³⁵ The United States also has a long-standing commitment to provide GPS for civil use by other nations,³⁶ and President

³⁴ Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, § 628 (enacted Dec. 23, 2011) (emphasis added). Likewise, the 2012 Defense Authorization Act, provides that “[t]he Federal Communications Commission shall not lift the conditions imposed on commercial terrestrial operations in the Order and Authorization adopted on January 26, 2011 (DA 11–133), *or otherwise permit such operations*, until the Commission has resolved concerns of widespread harmful interference by such commercial terrestrial operations to covered GPS devices.” National Defense Authorization Act for Fiscal Year 2012, Pub. Law No: 112-81, § 911(a)(1) (enacted Dec. 31, 2011) (emphasis added).

³⁵ See *Agreement on the Promotion, Provision and Use of Galileo and GPS Satellite-Based Navigation Systems and Related Applications*, at 16, June 26, 2004, available at: <http://www.gps.gov/policy/cooperation/europe/2004/gps-galileo-agreement.pdf>.

³⁶ See, e.g., *Joint Announcement on United States-Japan GPS Cooperation*, Jan. 13, 2011 available at: <http://www.gps.gov/policy/cooperation/japan/2011-joint-announcement/>; *Joint Announcement on*

Obama's *National Space Policy* likewise demonstrates the United States' commitment to ensuring the viability of GNSS, dedicating the United States to "maintain its leadership in the service, provision, and use of global navigation satellite systems (GNSS),"³⁷ "[p]rovide continuous worldwide access, for peaceful civil uses, to the Global Positioning System (GPS) and its government-provided augmentations, free of direct user charges,"³⁸ and "[i]nvest in domestic capabilities and support international activities to detect, mitigate, and increase resiliency to *harmful interference to GPS*...."³⁹

LightSquared's network operations, and by extension the Petition, cannot be reconciled with these U.S. national policies. Section 303(r) of the Act provides the Commission authority to "make such rules and regulations *and prescribe such restrictions and conditions*, not inconsistent with the law, as may be necessary to carry out the provisions of this Act, or any international radio or wire communications treaty or convention insofar as it relates to the use of radio, to which the United States is or may hereafter become a party."⁴⁰ The Commission is well within its authority to restrict the use of the L-Band for high power terrestrial services that would be contrary to U.S.-international treaties or conventions.

United States-Japan GPS Cooperation, Jan. 18, 2012, available at: <http://www.gps.gov/policy/cooperation/japan/2012-joint-announcement/>; *Joint Announcement by the United States of America and Australia on Bilateral Cooperation in the Civil Use of GPS and Civil Space Activities*, Oct. 27, 2010, available at: <http://www.gps.gov/policy/cooperation/australia/2010-joint-announcement/>; *United States-India Joint Statement Cooperation in the Use of GPS and Space-Based Positioning, Navigation and Timing Systems and Applications*, Feb. 28, 2007, available at: <http://www.gps.gov/policy/cooperation/india/2007-joint-statement/>.

³⁷ National Space Policy of the United States of America, at 5 (June 28, 2010), available at http://www.whitehouse.gov/sites/default/files/national_space_policy_6-28-10.pdf.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ 47 U.S.C. § 303(r) (emphasis added).

VI. CONCLUSION

LightSquared's Petition requests that the Commission apply sweeping changes in rules and policies in direct contravention with prior Commission decisions and Congressional mandates. Further, the relief requested in the Petition is now rendered moot due to the recent developments with respect to the NTIA recommendation and the Commission's acceptance of the same. For the reasons set forth herein, Deere strongly opposes LightSquared's Petition, and urges the Commission to dismiss the same.

Respectfully submitted,

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