

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	)	

**REPLY OF THE U.S. GPS INDUSTRY COUNCIL**

The U.S. GPS Industry Council (the “Council” or “USGIC”), by its attorneys and pursuant to Section 1.2(b) of the Commission’s Rules (47 C.F.R. §§ 1.2(b)) as well as the *Public Notice* released January 27, 2012,<sup>1</sup> hereby replies to the Comments filed by LightSquared, Inc. (“LightSquared”) on February 27, 2012 in response to its own “Petition for Declaratory Ruling”(“Petition”). The Petition seeks, through a variety of means, to deprive Global Positioning System (“GPS”) receivers and their users of the interference protection to which they are entitled under a primary service spectrum allocation vis à vis terrestrial mobile transmissions that do not conform to the Commission’s Table of Frequency Allocations. LightSquared proposes such transmissions as an expansion of its mobile-satellite service (“MSS”) ancillary terrestrial component (“ATC”) operations.

The initial comments and oppositions filed in response to the *Public Notice* demonstrate conclusively that the Commission should dismiss or deny the LightSquared Petition. The relief

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<sup>1</sup> See FCC Public Notice, “International Bureau Establishes Pleading Cycle for LightSquared Petition for Declaratory Ruling,” DA 12-103, IB Docket No. 11-109 and ET Docket No. 10-142, released January 27, 2012 (setting Comment deadline of February 27, 2012 and a Reply Comment deadline of March 13, 2012) (“*Public Notice*”).

that LightSquared requests is fundamentally antithetical to the FCC's policies and rules, including the Table of Frequency Allocations, the regulations and allocation tables of the International Telecommunication Union ("ITU"), relevant statutory provisions and the specific terms of LightSquared's own MSS ATC license, as currently conditioned.

**1. LightSquared is the Only Party to File in Support of Its Petition.**

LightSquared itself is the only party that filed comments in support of the Petition.<sup>2</sup> Ten other entities, including the Council, timely filed either oppositions to the Petition or comments expressly critical of it.<sup>3</sup> Typical of the negative response to LightSquared's request for relief was the Opposition of Lockheed Martin, which accurately characterized the Petition as an attempt "to shift the burden for avoiding harmful interference that would be caused by its nonconforming use of spectrum to receiver manufacturers and users who are making fully conforming use of adjacent RNSS spectrum."<sup>4</sup> CTIA specifically noted that "Section 25.255 of the Commission's rules places full responsibility for any interference mitigation on the MSS/ATC licensee."<sup>5</sup> And APCO stated that it was "deeply troubled by LightSquared's approach, as it appears to contradict the assurances that LightSquared had given APCO and others that it would address interference

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<sup>2</sup> See Comments of LightSquared Inc., IB Dkt. No. 11-109 & ET Dkt. No. 10-142, filed February 27, 2012 ("LightSquared Comments").

<sup>3</sup> See Opposition of Deere & Company ("Deere Opposition"); Opposition of Lockheed Martin Corporation ("Lockheed Martin Opposition"); Opposition of the Coalition to Save Our GPS; Comments in Opposition of the Utilities Telecom Council; Opposition of the USGIC; Comments of the Association of Public-Safety Communications Officials International, Inc. ("APCO Comments"); Comments of the Consumer Electronics Association ("CEA Comments"); Comments of CTIA – The Wireless Association ("CTIA Comments"); Comments of the National Public Safety Telecommunications Council; Comments of T-Mobile USA, Inc. ("T-Mobile Comments"). All of the foregoing oppositions and comments were filed on February 27, 2012 in IB Docket No. 11-109 and ET Docket No. 10-142.

<sup>4</sup> Lockheed Martin Opposition at 7.

<sup>5</sup> CTIA Comments at 2.

caused to GPS receivers.”<sup>6</sup> Indeed, even two parties that were relatively less hostile to LightSquared’s requested relief nonetheless concluded that “LightSquared bears the primary responsibility for resolving interference concerns” (T-Mobile)<sup>7</sup> and affirmatively stated that “CEA does not believe FCC action is necessary at this time.”<sup>8</sup> Accordingly, there is no public support for the relief LightSquared seeks via the Petition.

## **2. The Recently Enacted Statutory Provisions Require That LightSquared Resolve Concerns Over Interference to GPS.**

In its own comments, LightSquared seeks to explain away the very clear provisions of two recently enacted statutory provisions<sup>9</sup> which each independently prohibit the Commission from taking any action that would allow LightSquared to proceed with deployment of a standalone terrestrial service absent resolution of “concerns of widespread harmful interference by such commercial terrestrial operations” to GPS devices.<sup>10</sup> Under LightSquared’s narrow, self-serving interpretation of these provisions, “the statute on its face is expressly limited to the *Conditional Waiver Order*, and does not purport to address the *Petition for Declaratory Ruling* at all.”<sup>11</sup> This characterization is false, as neither statutory provision is narrowly focused on the

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<sup>6</sup> APCO Comments at 2.

<sup>7</sup> T-Mobile Comments at 11.

<sup>8</sup> CEA Comments at 1.

<sup>9</sup> See LightSquared Comments at 2-4.

<sup>10</sup> See National Defense Authorization Act for Fiscal Year 2012, Pub. L. No. 112-81, at Title IX, Department of Defense Organization and Management, Subtitle B, Space Activities, § 911 (enacted Dec. 31, 2011) (with respect to GPS devices deployed by the Department of Defense). See also Consolidated Appropriations Act, 2012, Pub. L. No. 112-74, at Division C – Financial Services and General Government Appropriations Act, 2012 (enacted Dec. 23, 2011) (similar language with respect to commercially available GPS devices).

<sup>11</sup> LightSquared Comments at 2.

*Conditional Waiver Order*,<sup>12</sup> let alone “expressly limited” to its terms; both instead make plain that the Commission may not lift the conditions on LightSquared’s operations or “*otherwise permit such operations*” absent a clear demonstration that the concerns regarding interference to GPS have been fully resolved.<sup>13</sup> These legal requirements therefore are focused broadly on resolution, if such resolution is possible, of the interference issues, and not on the *Conditional Waiver Order* alone. The statutory admonition that the Commission may not “otherwise permit such operations” is a blanket proscription that precludes not just removal of the conditions contained in the *Conditional Waiver Order* but favorable action on the Petition or taking any other step that would permit LightSquared to implement ubiquitous terrestrial-only mobile service without demonstrating full capability to coexist with GPS without causing harmful interference.

**3. LightSquared Cannot Be Permitted to Evade Its Obligations as a Non-Conforming Spectrum User to Protect Primary Service Users from Interference.**

The Petition and Comments in support thereof represent nothing more than a continuation of LightSquared’s effort to evade by any means the clear obligation not to interfere with GPS. LightSquared seeks to achieve this inappropriate result by redefining the requirement out of existence instead of actually resolving the very real inter-service interference issues that exist. Resolution of these interference issues is required by the Commission’s Table of Allocations,<sup>14</sup>

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<sup>12</sup> See *LightSquared Subsidiary LLC*, 26 FCC Rcd 566 (Int’l Bur. 2011) (“*Conditional Waiver Order*”).

<sup>13</sup> See Consolidated Appropriations Act, 2012 at § 628 (emphasis added); National Defense Authorization Act for Fiscal Year 2012 at § 911 (emphasis added).

<sup>14</sup> See 47 C.F.R. § 2.106, US380.

the FCC's MSS ATC operational rules,<sup>15</sup> the *Conditional Waiver Order*<sup>16</sup> and the two statutory provisions noted above, and is also consistent with LightSquared's own prior statements.<sup>17</sup>

LightSquared variously asks the Commission to take one or more of the following overlapping actions: altering the relative rights of primary and non-conforming spectrum users in the L-band, shifting the responsibilities for the deficiencies in LightSquared's new spectrum-use scheme to users of long-deployed GPS receivers, redefining what is considered harmful interference for purposes of the *Conditional Waiver Order*, rewriting the history of the L-band MSS service to reallocate the spectrum for terrestrial use without the benefit of a rulemaking, or simply assuming the interference problem away.<sup>18</sup> None of these steps represents an acceptable course of action under the law or the FCC's regulations.<sup>19</sup>

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<sup>15</sup> See 47 C.F.R. § 25.255.

<sup>16</sup> See *Conditional Waiver Order*, 26 FCC Rcd at 586 & 588 (¶¶ 41 & 48).

<sup>17</sup> See *Conditional Waiver Order*, 26 FCC Rcd at 585 (¶ 40), citing Letter from Sanjiv Ahuja, Chairman and CEO of LightSquared, to Marlene H. Dortch, Secretary, FCC, File No. SAT-MOD-20101118-00239, at 1 (filed Jan. 21, 2011) ("LightSquared 1/21/11 *Ex Parte* Letter"). See also LightSquared 1/21/11 *Ex Parte* Letter at 2 ("being respectful of the concerns raised at the FCC by the GPS community, we are willing to accept as a condition on a grant of our request the creation of a process to address interference concerns regarding GPS and, further, that this process must be completed to the FCC's satisfaction before LightSquared commences offering commercial service pursuant to approval of our requested modification with regard to our L-band MSS frequencies").

<sup>18</sup> See LightSquared Comments at 8-9.

<sup>19</sup> See, e.g., USGIC Opposition to Petition for Declaratory Ruling, IB Dkt. No. 11-109 & ET Docket No. 10-142 (filed Feb. 27, 2012).

**4. Conclusion**

For all of the foregoing reasons, the Council urges the Commission to put an end to this proceeding expeditiously by dismissing the LightSquared Petition as both procedurally improper and substantively defective.

Respectfully submitted,

**U.S. GPS INDUSTRY COUNCIL**

By:           *s/ Raul R. Rodriguez*          

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March 13, 2012

Its Attorneys

**CERTIFICATE OF SERVICE**

I, Sharon A. Krantzman, hereby certify that on this 13<sup>th</sup> day of March, 2012, a copy of the foregoing "Reply of The U.S. GPS Industry Council" is being sent via first class, U.S. Mail, postage prepaid, to the following:

Jeffrey J. Carlisle  
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By: s/ Sharon A. Krantzman  
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