

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

In the Matter of)
)
LightSquared Subsidiary LLC)
) RM-11681
Petition for Rulemaking to Allocate the)
1675-1680 MHz Band for Terrestrial)
Mobile Use)

COMMENTS OF THE COALITION TO SAVE OUR GPS

The Coalition to Save our GPS (the “Coalition”), pursuant to Section 1.405 of the Commission’s rules and the Public Notice issued by the Commission on November 9, 2012, submits these comments in response to the above-referenced Petition for Rulemaking (“Petition”) filed by LightSquared Subsidiary LLC (“LightSquared”).^{1/} The Petition requests that the Commission amend the U.S. Table of Allocations to add a primary allocation permitting non-Federal terrestrial mobile use of the band 1675-1680 MHz. The Coalition urges the Commission not to take separate action on LightSquared’s request, but to address its potential use of the band 1675-1680 MHz only as part of an overall resolution of LightSquared’s future plans to provide terrestrial mobile services.

I. BACKGROUND AND INTRODUCTION

The Coalition, which consists of representatives from a broad range of industries, including aviation, agriculture, transportation, construction, engineering, and surveying, as well as GPS-based equipment manufacturers and service providers, was formed in March 2011 to safeguard the reliability and viability of GPS. It has over 70 major members and 130 associate

^{1/} See Petition for Rulemaking, filed by LightSquared Subsidiary LLC, RM-11681 (filed Nov. 2, 2012) (“Petition”); *Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed*, Public Notice, Report No. 2967 (rel. Nov. 9, 2012).

members representing more than 100,000 companies and millions of employees.^{2/} The Coalition and its members have actively engaged in every step of the proceedings designed to evaluate whether LightSquared should be permitted to proceed with its planned nationwide terrestrial network using L-Band Mobile Satellite Service (“MSS”) spectrum that is directly adjacent to the spectrum used by GPS.

The Petition is one of several recent LightSquared submissions to the Commission. In addition to the Petition, which requests that the Commission reallocate the 1675-1680 MHz band for terrestrial use (and presumably license it to LightSquared), LightSquared also submitted an application for modification to its authorization to, among other things, add the use of the 1675-1680 MHz band^{3/} and a Petition for Rulemaking that would modify the regulations governing MSS in a manner that would permit LightSquared to provide terrestrial wireless services using, among others, the 1526-1536 MHz band.^{4/}

As the Coalition has often expressed, its prime concern with LightSquared’s proposed provision of terrestrial services is the impact that it may have on the reception of satellite signals by GPS devices.^{5/} LightSquared is authorized to use, among others, the 1545-1555 MHz band,

^{2/} A full list of members and associate members can be found on the Coalition’s website at <http://www.saveourgps.org/coalition-members.aspx>, and a description of certain of the Coalition’s most active members can be found in the Coalition’s comments responding to the report of the FCC-mandated technical working group. *See* Comments of the Coalition to Save Our GPS, IB Docket No. 11-109, IBFS File No. SAT-MOD-20101118-00239, at 3-7 (filed Aug. 1, 2011) (“Coalition Comments”).

^{3/} *See* Modification Application, filed by LightSquared Subsidiary LLC, IBFS File Nos. SAT-MOD-20120928-00160, SAT-MOD-20120928-00161, SES-MOD-20121001-00872 (filed Sept. 28, 2012 and Oct. 1, 2012); *Federal Communications Commission Invites Comment on LightSquared Request to Modify its ATC Authorization*, Public Notice, IB Docket No. 12-340, DA 12-1863 (rel. Nov. 16, 2012).

^{4/} *See* Petition for Rulemaking, filed by LightSquared Subsidiary LLC, RM-11683 (filed Sept. 28, 2012) (“September Petition for Rulemaking”); *Consumer & Governmental Affairs Bureau Reference Information Center Petition for Rulemaking Filed*, Public Notice, Report No. 2968 (rel. Nov. 16, 2012).

^{5/} *See, e.g.*, Coalition Comments, *supra* note 2, at 12-19; Reply Comments of the Coalition to Save Our GPS, IB Docket No. 11-109, IBFS File No. SAT-MOD-20101118-00239, ET Docket No. 10-142, at

which is almost immediately adjacent to the band 1559-1610 MHz, in which GPS units receive distant satellite signals. The Commission's International Bureau has tentatively confirmed the GPS community's concerns and, as a result, LightSquared is not yet permitted to provide terrestrial services using its L-Band spectrum.^{6/}

LightSquared's proposed use of the 1675-1680 MHz band is in partial response to the evidence that it cannot use the 1545-1555 MHz band. However, its September Petition for Rulemaking represents a comprehensive plan of how LightSquared may be able to provide terrestrial services in the future. While the Coalition takes no position on the potential use of the 1675-1680 MHz band for terrestrial operations generally, it is inappropriate for the Commission to consider the use of that band for LightSquared out of context; the Petition is only part of the solution that LightSquared proposes. Instead, the Commission should comprehensively address the issues raised by the February 2012 Public Notice and LightSquared's September Petition for Rulemaking. In any case, the Commission should also consider whether it has the authority to award the 1675-1680 MHz band to LightSquared without an auction.

II. COMMENTS

The Coalition takes no position on the potential use of the band 1675-1680 MHz for terrestrial mobile operations. It recognizes the need for additional spectrum to support the expanding mobile broadband market. Indeed, because GPS technology is often embedded in mobile communications devices, it is keenly aware of the growth of the mobile wireless communications industry. The Coalition therefore strongly supports the Commission's efforts to make additional spectrum available for mobile wireless operations when it determines that the

26-33 (filed Mar. 30, 2012); Reply Comments of the Coalition to Save Our GPS, IB Docket No. 11-109, ET Docket No. 10-142, at 2-8 (filed Mar. 13, 2012).

^{6/} See *International Bureau Invites Comment on NTIA Letter Regarding LightSquared Conditional Waiver*, Public Notice, 27 FCC Rcd 1596 (2012) ("February 2012 Public Notice").

technical bases for doing so are sound. To the extent that the Commission continues to consider LightSquared's proposal, the Coalition expects that the Commission will fully evaluate the impact that the use of the 1675-1680 MHz band has on incumbent services before it modifies the U.S. Table of Allocations.

Regardless of how the Commission resolves the future use of the 1675-1680 MHz band, it should more broadly address the outstanding issues regarding LightSquared's potential provision of service, using either its current, or substitute spectrum. It has now been nearly ten months since the Commission issued the February 2012 Public Notice proposing to take action with respect to LightSquared's conditional authorization and its ancillary terrestrial component ("ATC") authority.^{7/} In the interim, and as noted above, LightSquared has submitted other proposals designed to allow it to provide terrestrial services.^{8/}

Therefore, instead of acting only on the Petition, the Commission should address all of the outstanding issues before it with respect to LightSquared's ability to use the L-Band, or any substitute spectrum, for terrestrial operations. A piecemeal approach to resolving LightSquared's requests is not in the public interest and merely continues to create uncertainty both for LightSquared and the GPS community. As part of that process, the Commission may address LightSquared's potential use of the 1675-1680 MHz band for terrestrial wireless use. As the Commission is aware, there is a significant embedded base of GPS units that may be adversely affected by LightSquared's possible terrestrial use of the MSS L-Band.^{9/} Action on

^{7/} *Id.*

^{8/} *Supra*, notes 3 and 4.

^{9/} *See, e.g.*, Coalition Comments, *supra* note 2, at 12-19; Reply Comments of the Coalition to Save Our GPS, IB Docket No. 11-109, IBFS File No. SAT-MOD-20101118-00239, at 2-5 (filed Aug. 15, 2011); *see also* Letter from Lawrence E. Strickling, Assistant Secretary for Communications and Information, U.S. Dep't of Commerce, to Julius Genachowski, Chair, FCC, IB Docket No. 11-109 (dated Feb. 14, 2012).

LightSquared's Petition does not address these well-documented concerns. The Commission should therefore resolve those basic issues instead of addressing only one aspect of the various issues before it.

Regardless of whether it considers the issue on a stand-alone basis or, as the Coalition recommends, as part of an overall approach to LightSquared's proposed service, the Commission must carefully consider the legal basis for LightSquared to utilize the 1675-1680 MHz band for terrestrial services as an alternative to the 1545-1555 MHz band. Section 309(j)(1) of the Communications Act generally requires the auction of spectrum that will be used to provide terrestrial wireless services for profit.^{10/} Indeed, the Middle Class Tax Relief and Job Creation Act of 2012 envisions the potential auction of the very spectrum that is the subject of LightSquared's request.^{11/}

Yet, LightSquared did not originally secure its spectrum through auction. As the Coalition has demonstrated, the Commission's characterization of the limited utility of ATC spectrum was a critical factor in determining that ATC authority should not be subject to auction.^{12/} However, the type of service that LightSquared now contemplates, whether using its L-Band MSS spectrum or substitute 1675-1680 MHz spectrum, cannot be similarly characterized; it is plainly intended to be used for the type of services for which an auction is required. Therefore, the Commission must consider whether it may allow LightSquared to

^{10/} 47 U.S.C. § 309(j)(1) (2012).

^{11/} See 47 U.S.C. § 1451(a)-(b) (2012) ("*Spectrum Act*").

^{12/} Letter from James A. Kirkland, Trimble Navigation Limited, to Marlene H. Dortch, Secretary, FCC, IB Docket No. 11-109, IBFS File No. SAT-MOD-20101118-00239, Appendix at 7 (dated Oct. 11, 2012).

exchange spectrum it acquired under a set of expectations that did not require the use of auctions for other spectrum that the Commission would otherwise be required to auction.^{13/}

III. CONCLUSION

The Coalition recognizes the need for additional spectrum to support the growth of the mobile broadband market and the mobile wireless industry. It therefore takes no position on the potential use of the 1675-1680 MHz band for terrestrial operations generally. However, regardless of how the Commission decides to regulate and allocate the 1675-1680 MHz band, it should address all of the outstanding issues before it with regard to LightSquared's ability to use the L-Band for terrestrial operations rather than take separate actions to resolve LightSquared's several requests. Such a piecemeal approach is not in the public interest and creates continued uncertainty for LightSquared and the GPS community. Moreover, the Commission should also consider the legal basis for using the 1675-1680 MHz band as an alternative to the 1545-1555 MHz band without an auction.

Respectfully submitted,

/s/Joel Jankowsky

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^{13/} Among the other issues that the Commission must consider is the unjust enrichment that LightSquared would recognize from trading spectrum not obtained through auction for spectrum that would otherwise be auctioned.

Certificate of Service

I, Marie Manganelli, do hereby certify that on this 10th day of December, 2012, I caused a copy of the foregoing Comments of The Coalition to Save Our GPS, to be served via First Class U.S. Mail, postage prepaid, on the following:

Jeffrey J. Carlisle
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/s/ Marie Manganelli
Marie Manganelli