

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

In the Matter of)	
)	
Revisions to Parts 2 and 25 of the Commission’s Rules to Govern the Use of Earth Stations Aboard Aircraft Communicating with Fixed-Satellite Service Geostationary-Orbit Space Stations Operating in the 10.95-11.2 GHz, 11.45-11.7 GHz, 11.7-12.2 GHz and 14-14.5 GHz Frequency Bands)	IB Docket No. 12-376
)	
Service Rules and Procedures to Govern the Use of Aeronautical Mobile Satellite Service Earth Stations in Frequency Bands Allocated to the Fixed Satellite Service)	IB Docket No. 05-20 (proceeding terminated)
)	

COMMENTS OF GOGO LLC

Gogo LLC (“Gogo”) hereby comments on the Notice of Proposed Rulemaking in the above-captioned proceeding.¹ Gogo strongly supports the proposal in the Notice to accord primary status to Earth Stations Aboard Aircraft (“ESAAs”) in the 14-14.5 GHz band.

INTRODUCTION

Gogo is the world’s leading provider of in-flight connectivity and a pioneer in wireless in-cabin digital entertainment solutions. Gogo offers service today through its proprietary platform and dedicated air-to-ground (“ATG”) network, and provides a variety of in-cabin offerings that make it easy and convenient for passengers to extend their connected

¹ *Revisions to Parts 2 and 25 of the Commission’s Rules to Govern the Use of Earth Stations Aboard Aircraft Communicating with Fixed-Satellite Service Geostationary-Orbit Space Stations Operating in the 10.95-11.2 GHz, 11.45-11.7 GHz, 11.7-12.2 GHz and 14-14.5 GHz Frequency Bands*, Notice of Proposed Rulemaking and Report and Order, IB Docket Nos. 12-376 & 05-20, FCC 12-161 (rel. Dec. 28, 2012). Gogo herein refers to the Notice of Proposed Rulemaking portion of this Commission decision as the “Notice,” and to the Report and Order portion as the “Order.”

lifestyles to the aircraft cabin. Gogo serves both the commercial aviation and general aviation markets. North American airlines that use the Gogo broadband service today include Delta Air Lines, American Airlines, Alaska Airlines, and US Airways. From the inception of its service in August 2008 to December 31, 2012, the company provided approximately 31.5 million Gogo sessions to passengers, and today more than 1800 commercial aircraft are equipped with Gogo's technology. In addition to offering in-flight connectivity to passengers, Gogo provides service to the airlines for their own communications, as well as to various federal agencies.

To supplement its ATG network that provides coverage of the contiguous U.S. and portions of Alaska, Gogo last year applied for a blanket license for ESAA terminals using Ku-band Fixed-Satellite Service ("FSS") capacity.² That application was granted earlier this month. The satellite component will allow Gogo to expand the coverage of its in-flight offerings beyond the U.S. and provide continuous in-flight connectivity on transoceanic and other domestic and international flights.

In this proceeding, the Commission established a regulatory framework for ESAA operations to facilitate future licensing of in-flight satellite networks. The framework is similar to the rules for other mobile services provided via FSS capacity, including earth stations on vessels ("ESVs") and vehicle-mounted earth stations ("VMESs"),³ with one important difference. The Commission has defined ESVs and VMESs as FSS applications entitled to primary status in the conventional Ku-band for both downlink (11.7-12.2 GHz) and uplink (14-14.5 GHz) spectrum.⁴ For ESAAs, however, the Order extends primary treatment only in the 11.7-

² *Gogo LLC*, Call Sign E120106, File Nos. SES-LIC-20120619-00574; SES-AMD-20120731-00709 & SES-AFS-20121008-00902.

³ *See* Order at ¶ 5.

⁴ *See* 47 C.F.R. § 2.106, footnotes NG183 & NG187.

12.2 GHz band and specifies that ESAA operations in the 14-14.5 GHz band are secondary.⁵

The Notice seeks comment on whether to elevate the allocation status of ESAAs to primary in the 14-14.5 GHz band to put ESAAs on the same footing as ESVs and VMESs.⁶

DISCUSSION

Gogo agrees with the Commission's tentative conclusion that earth stations aboard aircraft should be treated as an FSS application entitled to primary status in the 14-14.5 GHz band.⁷ Allowing ESAAs to operate on a primary basis in this spectrum will serve the public interest by promoting regulatory certainty and encouraging investment to respond to demand for in-flight services.

The record in this proceeding demonstrates that ESAA operation is compatible with existing FSS networks. ESAA networks have been successfully operating for a dozen years in the conventional Ku-band.⁸ The Commission observes that during this time there have been "no reported instances of interference to other users."⁹ This is not surprising, because the technical framework applicable to existing ESAA licenses, which is now codified in the rules adopted by the Order, is designed to ensure that transmissions from ESAA stations conform to the characteristics of other fixed and mobile FSS networks, such as Very Small Aperture Terminals ("VSATs"), ESVs, and VMESs.¹⁰ Furthermore, in the unlikely event that interference

⁵ See Order at ¶ 4.

⁶ See *id.* at ¶ 5 & ¶ 142.

⁷ See *id.* at ¶ 142.

⁸ See *id.* at ¶ 9 & n.8 (listing the blanket licenses for Ku-band in-flight services issued since 2001).

⁹ See *id.* at ¶ 23 (footnote omitted).

¹⁰ See *id.* at ¶ 8 ("Because of the technical similarity to VSAT systems, the rules governing the operations of mobile FSS applications are similar to those that govern the operation of VSATs.").

issues involving ESAA operations arise in the future, the Commission has imposed data logging requirements that will facilitate prompt identification and resolution of such concerns.¹¹

Given this technical similarity, there is no reason to differentiate between ESAAs and other networks with respect to protection from interference. Treating ESAAs, ESVs and VMESs consistently will facilitate coordination among these services.¹² In contrast, maintaining secondary treatment of ESAA uplinks would perpetuate an unwarranted distinction that could have serious operational implications. As Boeing has observed:

an operating environment where ESVs and VMES are primary, but [ESAAs are] secondary, would force [ESAA] networks to accept harmful interference from ESVs or VMES, could potentially require [ESAA] networks to provide unusually high levels of protection to ESV and VMES terminals, and could force [ESAA] networks to shut down if the origins of interference from ESV or VMES networks to primary FSS transmissions could not be promptly ascertained. Such divergent treatment is inappropriate particularly in light of the critical communication services that are provided by [ESAA] networks.¹³

The Commission can avoid these issues by unifying the regulatory treatment of mobile services provided over FSS capacity. Specifically, Gogo urges the Commission to adopt its proposed modified footnote NG55 to specify that ESV, VMES, and ESAA terminals are all authorized to communicate with geostationary FSS spacecraft on a primary basis in both the

¹¹ *See id.* at ¶¶ 86-89.

¹² When it adopted rules for ESV operations, the Commission expressly found that “inter-system coordination among FSS operators can be more readily accomplished if each service within the allocation is afforded primary status.” *Procedures to Govern the Use of Satellite Earth Stations on Board Vessels in the 5925-6425 MHz/3700-4200 MHz Bands and 14-14.5 GHz/11.7-12.2 GHz Bands*, IB Docket No. 02-10, Report and Order, FCC 04-286, 20 FCC Rcd 674, 706 (2005).

¹³ Letter of Bruce A. Olcott and Joshua T. Guyan, Counsel to The Boeing Company, to Mindel De La Torre, Chief, International Bureau, FCC, IB Docket No. 05-20 (filed Apr. 20, 2010) at 4.

11.7-12.2 GHz and 14-14.5 GHz bands.¹⁴ Gogo agrees with the Commission that this change is supported by the technical framework for ESAAs adopted in the Order,¹⁵ and therefore no alterations are needed in the ESAA regulatory regime to accommodate primary status for ESAAs in the 14-14.5 GHz band.

In short, upgrading ESAAs to a primary allocation in the 14-14.5 GHz band will further the Commission’s goal to “speed the deployment of ubiquitous broadband service aboard commercial and private aircraft.”¹⁶ Accordingly, the Commission should act promptly to adopt the allocation change set forth in proposed new footnote NG55.

Respectfully submitted,

GOGO LLC

By: /s/ William J. Gordon

Of Counsel

Karis A. Hastings
SatCom Law LLC
1317 F Street, N.W., Suite 400
Washington, D.C. 20004
Tel: (202) 599-0975

William J Gordon
VP, Regulatory Affairs
Gogo LLC
1250 N Arlington Heights Road
Itasca, IL 60521
Tel: (202) 870-7220

Michele C. Farquhar
David L. Martin
Hogan Lovells US LLP
555 13th Street, N.W.
Washington, D.C. 20004
Tel: (202) 637-5600

Dated: May 22, 2013

¹⁴ See Order at ¶ 142.

¹⁵ See *id.*

¹⁶ See *id.*