

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Utilities Telecom Council and Winchester Cator, LLC	)	RM-11429
	)	
Petition for Rulemaking to Establish Rules Governing Critical Infrastructure Industry Fixed Service Operations in the 14.0-14.5 GHz Band	)	

**OPPOSITION TO UTC-WINCHESTER APPLICATION FOR REVIEW**

**I. Introduction**

EchoStar Satellite Operating Corporation and Hughes Network Systems, LLC (collectively EchoStar) oppose Utilities Telecom Council’s and Winchester Cator, LLC’s (“UTC-Winchester”) Application for Review of the Commission’s recent Order denying their Petition for Rulemaking.<sup>1</sup> Specifically, EchoStar urges the Commission to deny the Application for Review because the Petitioner has failed to propose an adequate plan to mitigate the potential for harmful interference to primary licensees in the Ku band, where UTC-Winchester proposes to operate.

**II. Discussion**

The Ku band is a critical frequency band for the operation of satellite services, which are afforded primary status in the band. EchoStar manages and operates 22 highly advanced communications satellites, several of which are located in orbital slots servicing the Ku band.

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<sup>1</sup> *Utilities Telecom Council and Winchester Cator, LLC Petition for Rulemaking to Establish Rules Governing Critical Infrastructure Industry Fixed Service Operations in the 14.0-14.5 GHz Band*, RM-11429, Order, DA 13-1093 (rel. May 15, 2013) (“Order”).

Utilizing these and other satellites, EchoStar provides a variety of advanced voice, data and video communications services directly and through other parties to U.S. consumers. To ensure that important satellite services, such as these, are protected, the FCC recognized in the *Order* that UTC-Winchester’s proposal to utilize portions of the Ku band on a secondary basis had the potential to cause harmful interference to primary satellite users and that its proposal failed to address how it would mitigate this interference.<sup>2</sup>

Specifically, EchoStar agrees with the Commission’s conclusion that UTC-Winchester’s proposed critical infrastructure industry (CII) license coordination process would not “successfully resolve interference issues with incumbent services.”<sup>3</sup> As the Commission recognizes, the UTC-Winchester centralized coordination role does not adequately address all cases of potential interference since it fails to take into account the particular sensitivities of individual satellites.<sup>4</sup> Further, UTC-Winchester has failed to articulate the details of its coordination plan, so it remains unclear how or whether it will apportion interference among its users, and what enforcement steps it will take upon discovering that aggregate interference levels are met or exceeded.<sup>5</sup> This failure leaves primary satellite operations in the band at risk to the potential of harmful interference—an untenable situation.

Further, EchoStar shares the Commission’s concern that UTC-Winchester’s plan, which implicates a “potentially unlimited number of CII and non-CII stations,” fails to account for an

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<sup>2</sup> See *Order* at ¶ 4 (“UTC-Winchester Petition makes assumptions about allocations, licensing and system operation that are not fully explained and that appear to rely on incorrect premises or that are inappropriate for the types of service that UTC-Winchester proposes, and the petition accordingly will be denied.”).

<sup>3</sup> *Order* at ¶ 6.

<sup>4</sup> See *id.* (“[H]armful’ interference strictly depends on the aggregate interference power *and* the receiver performance of the FSS satellite in orbit.”) (emphasis added).

<sup>5</sup> The Commission casts doubt on UTC-Winchester’s coordination process because it would be “internal to CII users.” *Order* at ¶ 6.

effective way to isolate particular instances of interference from the proposed terrestrial stations in the band.<sup>6</sup> As EchoStar has previously noted,<sup>7</sup> in the event of elevated aggregate interference from multiple terrestrial signals, the Petitioner fails to identify a method to isolate the offending transmitter and shut it down.<sup>8</sup> If the UTC-Winchester proposal was allowed to proceed, it would require primary incumbents to “report harmful interference after suffering degradation in service....”<sup>9</sup> This approach would “create unwarranted burdens on...primary licensees,”<sup>10</sup> making it unlikely that the Petitioner’s proposal would meet the requirements for a secondary service, since it could result in harmful interference to primary users in the Ku band.

Finally, EchoStar agrees with the Commission that UTC-Winchester has failed to identify why CII services<sup>11</sup> would not be better operated in other bands allocated for primary fixed service use.<sup>12</sup> By operating in a primary band for the fixed service, CII users would be benefited by being able to operate on a primary basis. Also, important satellite services would be protected from the potential for harmful interference.

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<sup>6</sup> Order at ¶ 8.

<sup>7</sup> *Utilities Telecom Council and Winchester Cator, LLC Petition for Rulemaking to Establish Rules Governing Critical Infrastructure Industry Fixed Service Operations in the 14.0-14.5 GHz Band*, Reply of EchoStar Corporation, RM-11429 (filed August 11, 2008) (“*EchoStar Reply*”).

<sup>8</sup> *Id.* at 1-2.

<sup>9</sup> Order at ¶ 8.

<sup>10</sup> Order at ¶ 8.

<sup>11</sup> See 47 C.F.R. § 90.7 (defining ‘critical infrastructure industry’ as “[s]tate, local government and non-government entities, including utilities, railroads, metropolitan transit systems, pipelines, private ambulances, volunteer fire departments, and not-for-profit organizations that offer emergency road services, providing private internal radio services provided these private internal radio services are used to protect safety of life, health, or property; and are not made commercially available to the public.”).

<sup>12</sup> Order at ¶ 11. See also *Utilities Telecom Council and Winchester Cator, LLC Petition for Rulemaking to Establish Rules Governing Critical Infrastructure Industry Fixed Service Operations in the 14.0-14.5 GHz Band*, Opposition of Hughes Network Systems, RM-11429, at 6 (filed August 11, 2008)(noting that the 27 GHz, 38 GHz and 71 GHz bands are underutilized FS bands).

### **III. Conclusion**

Petitioner's Application for Review should be dismissed because it fails to address how its proposed internal coordination process would protect incumbent services from harmful interference, and because the Petitioner has not included a workable plan to pinpoint specific interferers. Accordingly, EchoStar urges the Commission to deny UTC-Winchester's Application for Review.

Respectfully submitted,

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