D. If Any Government Use is Permitted In The 37 GHz Band, It Should Be Limited To One 37 GHz Channel Pair

The NPRM solicits comments on possible government use of the 37 GHz band. BizTel is not aware that any federal agency or the Interdepartment Radio Advisory Committee has conclusively established a requirement for any proposed government use of the 37 GHz band. Should the Commission ultimately determine that proposed government use of 37 GHz spectrum is warranted, such use for any purposes should be limited to the 37.0 to 37.1 portion of the band and should be allowed on a shared basis. Any coordination that is necessary with government users should be accomplished pursuant to Section 21.100(d) of the Commission's Rules (or its successor provision in the new Section 101). BizTel and other commercial entities should *not* be required to make special accommodations for government use of the spectrum (e.g., maintaining data bases for government coordination purposes).[45] Furthermore, any proposed government use of the 37 GHz band should not be approved by NTIA for authorization if there is a viable alternative commercial source for the service.

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[45] See NPRM, at ¶ 120.

VI. CONCLUSION

For all of the above-stated reasons, the Commission should maintain a proper emphasis in the Rulemaking on promoting the timely, flexible, and efficient deployment of a full suite of competitive fixed wireless telecommunications services in the subject millimeter-wave frequency bands. The Commission should abandon punitive measures against incumbent applicants and licensees, process all pending incumbent applications, and not contravene the Communications Act by allowing the possibility of auction revenues to drive the formulation of policies and rule proposals in the Rulemaking. Among other things, any new licensing and service rules adopted in the Rulemaking should be uniformly applied, regardless of whether licensees have obtained authorizations under the pre-existing rule structure or through a competitive bidding process. The Commission should also act to preclude the real prospect of anti-competitive auction behavior by requiring: (i) local exchange service providers with monopoly power to forebear from bidding on licenses in their home territory; and (ii) full compliance by all licensees with a commercially realistic, reasonably timed construction threshold

requirement that is consistent with the recommendations provided herein above.

Respectfully submitted,

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