

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Amendment of Parts 2.106 and 25.202)
of the Commission's Rules to Allocate)
the 37.5-38.6 GHz Band to the)
Fixed-Satellite Service and)
to Establish Technical Rules)
for the 37.5-38.6 GHz Band.)

RM No. 8811

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REPLY COMMENTS OF U S WEST, INC.

U S WEST, Inc. ("U S WEST") submits these reply comments in response to the initial submissions addressing the above-captioned Petition for Rulemaking (or "Petition") filed by Motorola Satellite Communications, Inc. ("Motorola").¹ In its Petition, Motorola has requested that the Federal Communications Commission ("Commission") amend its rules to allocate the 37.5-38.6 GHz band to Fixed-Satellite Service ("FSS")(space-to-earth) on a co-primary basis. U S WEST supports those commenters advocating consolidation of Motorola's Petition into ET Docket No. 95-183.²

¹ Motorola Petition for Rulemaking, filed Mar. 4, 1996. See Public Notice, Office of Public Affairs Reference Operations Division Petitions for Rulemaking Filed, Report No. 2132, rel. May 21, 1996.

² In the Matter of Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, 37.0-38.6 GHz and 38.6-40.0 GHz, Notice of Proposed Rule Making and Order, 11 FCC Rcd. 4930 (1995) ("37/39 GHz proceeding"). Commenters supporting consolidation of Motorola's Petition into the

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I. BACKGROUND

In the 37/39 GHz proceeding, the Commission sought comment on rules which would make the 37.0-38.6 GHz band available for fixed point-to-point communications.³ The Commission proposed that this band be used to support broadband PCS and cellular operations. The Commission also sought comment on whether other services, such as mobile and space research, should be permitted in the band.

In its Reply Comments in the 37/39 GHz proceeding, U S WEST supported flexible fixed use of the 37.0-38.6 GHz band, but opposed shared use with mobile and space research operations.⁴ Such shared allocations would disrupt point-to-point communications and would prevent bidders from placing an appropriate value on the 37.0-38.6 GHz spectrum.⁵

37/39 GHz proceeding include: BizTel, Inc. (Partial Opposition (“BizTel”) and Motion to Consolidate (“BizTel Motion to Consolidate”) filed June 20, 1996); The Harris Corporation - Farinon Division (Opposition filed June 21, 1996) (“Harris”); The Fixed Point-To-Point Communications Section Network Equipment Division Of The Telecommunications Industry Association (Opposition filed June 21, 1996) (“TIA”); WinStar Communications, Inc. (Opposition filed June 20, 1996) (“WinStar”).

³ The 37/39 GHz proceeding also proposed licensing and technical rules for operation in the 37.0-38.6 GHz band as well as in the 38.6-40.0 GHz band.

⁴ U S WEST Reply Comments, ET Docket No. 95-183, RM-8553, PP Docket No. 93-253, filed Apr. 1, 1996 at 3.

⁵ Id.

II MOTOROLA'S PETITION SHOULD BE COMBINED WITH THE ONGOING 37/39 GHz PROCEEDING

The allocation proposed by Motorola in its Petition presents the same issues as those raised in the 37/39 GHz proceeding. As several commenters point out, there is considerable doubt as to whether FSS and fixed point-to-point operations can share the 37.0-38.6 GHz band.⁶ Commission resolution of this issue necessarily impinges on the 37/39 GHz proceeding. Similarly, without simultaneous resolution of the two proceedings, 37.0-38.6 GHz spectrum point-to-point bidders will be unable to appropriately evaluate the spectrum, knowing that additional -- and perhaps harmful -- operations could potentially be sharing the band.⁷

III. CONCLUSION

For the above reasons, Motorola's Petition must be addressed in the 37/39 GHz proceeding. Merging the two proceedings will not only ensure a comprehensive

⁶ We note that several parties have indicated that Motorola has failed to provide the requisite information to determine the feasibility of sharing between FSS and terrestrial fixed services. TIA at 2, 4; WinStar at 7; BizTel Opposition at 3. Two parties also comment that the Commission has previously rejected sharing attempts in circumstances similar to those proposed by Motorola. WinStar at 6; BizTel at 4.

In the 28 GHz proceeding, the Commission tentatively concluded that FSS and Local Multipoint Distribution Service cannot share the 28 GHz band. See In the Matter of Rulemaking to Amend Parts 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band, to Reallocate the 29.5 - 30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services and Suite 12 Group Petition for Pioneer's Preference, Third Notice of Proposed Rulemaking and Supplemental Tentative Decision, 11 FCC Rcd. 53, 68 ¶ 39 (1995).

⁷ BizTel at 6. See WinStar at 3, n.7.

record and resolution which will satisfy the rights of all interested parties, but will also conserve Commission resources by eliminating duplicative consideration of issues.⁸ Accordingly, U S WEST respectfully requests that Motorola's Petition be considered in conjunction with the 37/39 GHz proceeding.

Respectfully submitted,

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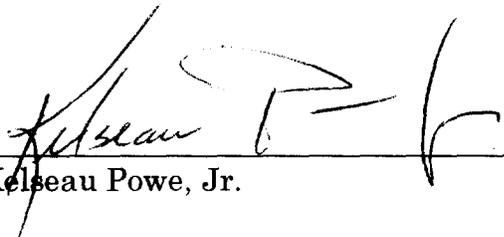
Of Counsel,
Dan L. Poole

July 5, 1996

⁸ WinStar at 3; BizTel at 5. See also BizTel Motion to Consolidate.

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr. do hereby certify that on this 5th day of July, 1996, I have caused a copy of the foregoing **REPLY COMMENTS OF U S WEST, INC.** to be served via first-class United States Mail, postage prepaid, upon the persons listed on the attached service list.


Kelseau Powe, Jr.

***Via Hand-Delivery**

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