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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

In the Matter of	)	
	)	
Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands	)	ET Docket No. 95-183 RM-8553
	)	
Implementation of Section 309(j) of the Communications Act -- Competitive Bidding, 37.0-38.6 GHz and 38.6-40.0 GHz	)	PP Docket No. 93-253

To: The Commission

MOTION TO ACCEPT LATE-FILED COMMENTS

Alcatel Network Systems, Inc., Digital Microwave Corporation, and Harris Corporation-Farinon Division (hereinafter the "Joint Commenters") hereby move the Commission to accept the attached late-filed Reply Comments in the captioned proceeding.[1]

It was not possible to file the attached Reply Comments relating to the 39 GHz Band proceeding until now. This delay was caused by the need to coordinate among the individual Joint Commenters. Since further comments are not contemplated, no

[1]Replies to oppositions were due on April 16, 1998. 63 Fed. Reg. 13669 (Mar. 20, 1998); Public Notice, Report No. 2263 (rel. Mar. 16, 1998).

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party will be prejudiced by these late-filed Reply Comments. Thus, "good cause" exists for grant of this Motion and the Joint Commenters request that the Commission accept the attached Reply Comments.

Respectfully submitted,

ALCATEL NETWORK SYSTEMS, INC.

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May 1, 1998

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C.

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Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands	)	ET Docket No. 95-183 RM-8553
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To: The Commission

REPLY COMMENTS

In November 1997, the Federal Communications Commission (the "Commission") amended its rules for the terrestrial fixed point-to-point microwave radio service ("FS") in the 38.6-40.0 GHz band ("39 GHz Band") and it adopted new rules for the FS in the 37.0-38.6 GHz band ("37 GHz Band").[2] In April 1998, several parties filed Oppositions and Comments in response to Petitions for Reconsideration and/or Clarification of the Order.

Alcatel Network Systems, Inc. ("Alcatel"), Digital Microwave Corporation ("DMC"), and Harris Corporation-Farinon Division ("Harris")[3] (hereinafter the "Joint

---

[2]Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, Report and Order and Second Notice of Proposed Rulemaking, 12 FCC Rcd 18600 (1997) ("Order").

[3]Alcatel, DMC, and Harris are all major manufacturers of FS equipment.

Commenters") hereby reply to the Oppositions and Comments of WinStar Communications, Inc. ("WinStar"), Advanced Radio Telecom ("ART"), and BizTel, Inc. ("BizTel"), which were filed on April 6, 1998, and to the Reply of Columbia Millimeter Communications, L.P. ("CMC"), which was filed on April 20, 1998, in the captioned proceeding.

As detailed below, certain issues raised in these pleadings merit further comment. First, TRW, Inc.'s ("TRW") request, that the Commission clarify that licenses issued to FS providers in the 39 GHz Band should not be exclusive,[4] must be rejected. Second, concerns over 39 GHz Band coordination procedures expressed by WinStar, ART, and CMC must be addressed.

FS/SATELLITE 39 GHz BAND SHARING IS UNACCEPTABLE

WinStar, ART, BizTel and CMC all oppose the request by TRW to restrict terrestrial wireless authorizations in the 39 GHz Band and frequencies below 39.5 GHz, to reserve the 39.5-40.0 GHz band for fixed satellite operations, and to adopt rules to facilitate sharing between satellite and terrestrial operations in the 39 GHz Band.[5] The Joint Commenters agree with these parties that TRW's proposals must be rejected.

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[4]TRW Petition for Reconsideration at 8.

[5]ART Opposition at 1-4; WinStar Opposition at 1-3; BizTel Opposition at 1-3; CMC Reply at 4.

The Commission specifically considered and addressed the issue of shared band use by satellite and terrestrial users.[6] It acknowledged that various satellite entities, as well as terrestrial users, conceded that sharing between FS and the proposed satellite systems in this band was not likely.[7] Thus, the Joint Commenters support WinStar, ART, BizTel, and CMC's contention that TRW has failed to show that the Commission's channel plan for the 39 GHz Band should be revisited.[8] The Commission properly decided that the best use of the band is for continued exclusive terrestrial fixed operations.

39 GHz BAND COORDINATION PROCEDURES MUST BE ADDRESSED

Both WinStar and ART request that the Commission consider the frequency coordination procedures in the Order as interim in nature pending recommendations of the National Spectrum Managers Association ("NSMA"). The Commission indicated in its Order that its interference rules would be interim pending adoption of procedures by NSMA that minimize interference and facilitate coordination in the 39 GHz Band.[9] The Joint Commenters support this approach and believe that NSMA is best suited to recommend the proper coordination distance and procedures between systems.

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[6]Order, 12 FCC Rcd at 18608.

[7]Id.

[8]WinStar Opposition at 1-3; ART Opposition at 2-4; BizTel Opposition at 2-3; CMC Reply at 4.

[9]Order, 12 FCC Rcd at 18633.

CONCLUSION

For all the foregoing reasons, the Joint Commenters respectfully request that, on reconsideration of the Report and Order, the Commission take action consistent with the foregoing comments.

Respectfully submitted,

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May 1, 1998

CERTIFICATE OF SERVICE

I, Cris Cary, hereby certify that a true and correct copy of the foregoing Reply Comments was sent this 1st day of May, 1998, via first class mail, postage prepaid, to the following:

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