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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 20554

In the Matter of

**Redesignation of the 17.7-19.7 GHz  
Frequency Band, Blanket Licensing of  
Satellite Earth Stations in the 17.7-20.2  
GHz and 27.5-30.0 GHz Frequency Bands,  
and the Allocation of Additional Spectrum  
in the 17.3-17.8 GHz and 24.75-25.25 GHz  
Frequency Bands for Broadcast Satellite-  
Service Use**

IB Docket No. 98-172  
RM-9005  
RM-9118

**OPPOSITION OF MOTOROLA, INC.**

Motorola, Inc. ("Motorola"), Ka-band licensee and applicant in the Fixed-Satellite Service ("FSS"), hereby opposes the Petition for Interim Relief filed on November 2, 1998, by the Fixed Point-to-Point Communications Section, Wireless Communications Division of the Telecommunications Industry Association ("TIA Fixed Section").<sup>1</sup> The Commission should promptly deny the requested relief for the following reasons.

**First**, contrary to the assertions of the TIA Fixed Section, there currently is no

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<sup>1</sup> The TIA Fixed Section states that it is filing its Petition pursuant to Rule 1.41, thereby invoking the shortened pleading cycle of Rule 1.45(d) (oppositions due seven days after filing; no replies permitted). Motorola only became aware of this Petition on November 6, 1998. Petitioner did not serve Motorola with a copy of this Petition; nor did it provide Motorola with a courtesy copy even though satellite and terrestrial interests (including representatives from

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“freeze” – de facto or otherwise -- on filing terrestrial microwave applications in the subject bands. As the quoted paragraph from the Notice of Proposed Rulemaking states,

For those terrestrial facilities applied for after the release of the NPRM, we reiterate that such terrestrial facilities will be required to accept interference from satellite operations and if a terrestrial facility interferes with a satellite earth station, and the terrestrial licensee can not cure it, the terrestrial licensee would be required to discontinue the operation of the interfering facility.<sup>2</sup>

The TIA Fixed Section does not allege – nor can it – that there are no alternative bands available to deploy terrestrial facilities or allow for anticipated growth. Indeed, applicants are still free to apply for terrestrial facilities in the restricted bands (comprising 750 MHz) or to apply for facilities in adjacent spectrum (totaling 1.25 GHz) on a primary or co-primary basis. As to the former, operators could utilize their licensed facilities for some time before an NGSO FSS system became operational, and only then would they have to avoid causing interference to the NGSO FSS earth terminals deployed nearby. There currently are no similar requirements for any of the spectrum that the Commission proposes to keep as primary or co-primary for Fixed Service operations.

**Second**, even if the Commission’s actions could be interpreted as imposing a freeze on terrestrial applications in certain 18 GHz bands, there is ample precedent for affirming such a freeze pending the adoption of proposed rules. See, e.g., Harvey Radio Laboratories, Inc. v. United States, 289 F.2d 458, 460 (D.C. Cir. 1961) (imposing licensing freeze during

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Motorola and the TIA Fixed Section) met to discuss the 18 GHz band plan the day after the Petition was filed at the Commission.

pendency of clear channel proceeding); Kessler v. FCC, 326 F.2d 673, 684 (D.C. Cir. 1963) (freeze not arbitrary and capricious in light of Commission's rationale that such action was "essential . . . [to] avoid compounding present difficulties with a continual flow of new assignments based upon existing, possibly inadequate, standards."); see also Neighborhood TV Company, Inc. v. FCC, 742 F.2d 629, 637 (1984); Buckeye Cablevision, Inc., 438 F.2d 948, 953 (1971).

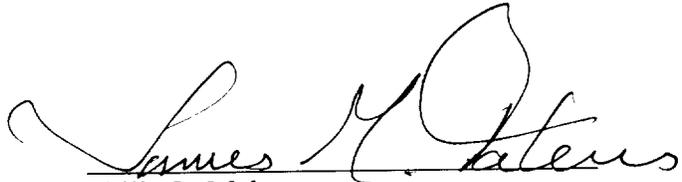
**Third**, the Commission's decision not to freeze future applications from terrestrial users during the pendency of this rulemaking proceeding, but instead to maintain the status quo, strikes an appropriate balance between terrestrial and satellite interests. On the one hand, terrestrial microwave users are allowed to continue to deploy their systems in the 18 GHz band either on a primary (or co-primary) basis or subject to certain non-interference restrictions. On the other hand, the satellite community must await final action in this proceeding before being assured that it will be able to deploy FSS terminals on a ubiquitous basis in at least a portion of this spectrum. The Commission, therefore, has preserved its options for redesignating the 18 GHz band in a manner that will allow for future satellite systems to enter the market on reasonable economic terms while not unduly constraining the Fixed Service.

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<sup>2</sup> In the Matter of Redesignation of the 17.7-19.7 GHz Frequency Band, Notice of Proposed Rulemaking, FCC 98-235 (rel. Sept. 18, 1998) ("NPRM") at para. 40.

Under such circumstances, to allow Fixed Service deployment to continue in the proposed bands designated for ubiquitous FSS terminals pending completion of this proceeding clearly would not be in the public interest. Accordingly, the Commission should deny the Petition for Interim Relief.

Respectfully submitted,



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November 9, 1998

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I hereby certify that copies of the foregoing Opposition were sent this 9<sup>th</sup> day of November, 1998, by first-class mail, to the following persons:

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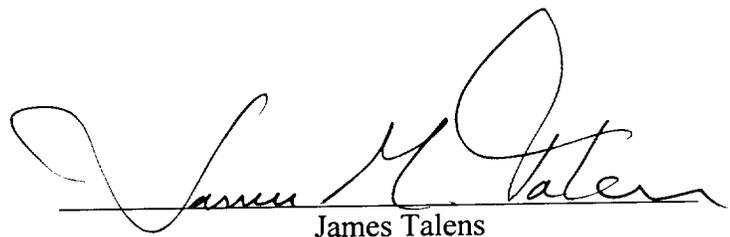
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