Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	
Redesignation of the 17.7-19.7 GHz Frequency Bank, 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 17.2-17.8 GHz and 24.75-25.25 GHz Frequency Bands for Broadcast Satellite-Service Use	IB Docket No. 98-172
Petition for Interim Relief of the Fixed Point-to-Point Communications Section, Wireless Communications Division of the Telecommunications Industry Association	RM-9005
Emergency Request for Immediate Relief of the Independent Cable & Telecommunications Association	RM-9118

REPLY COMMENTS OF WATSON COMMUNICATIONS SYSTEMS, INC.

Watson Communications Systems, Inc. ("Watson"), by counsel, hereby submits these Reply Comments in support of those comments filed in opposition to the Commission's proposals in the above-referenced proceeding.[1] Specifically, Watson opposes the redesignation to Geostationary Orbit Fixed Satellite Service ("GSO/FSS") of the 18.3-18.55 GHz band for primary use. In addition, Watson opposes the proposed September 18, 1998 cut-off date for the

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List A B C D E

[1]On November 20, 1998, the International Bureau issued a Public Notice (DA 98-2344) seeking comment on a Petition for Interim Relief filed November 2, 1998 by the Fixed Point-to-Point Communications Section, Wireless Communications Division of the Telecommunications Industry Association and on an Emergency Request For Immediate Relief filed November 5, 1998 by the Independent Cable & Telecommunications Association. To the extent applicable, this pleading is intended to serve as comments to those pleadings as well.

grandfathering of terrestrial fixed service operations that have been either licensed or for which applications are pending. In support of its position, Watson states as follows:

On September 25, 1998, Watson filed with the Commission an application for authority to operate an 18 GHz microwave system in order to provide video distribution services to six individual office buildings in San Francisco, California. Watson proposes to operate in the 18.142-18.580 GHz band, which is currently designated for terrestrial fixed and satellite services on a co-primary basis. Under the Commission's current proposal Watson would not have grandfathered protection in the 18.3-18.55 GHz band.

The Commission's proposal does not give terrestrial fixed service operators any incentive to commence the operation of recently licensed systems or any capability to expand existing systems. As articulated by the Independent Cable & Telecommunications Association ("ICTA") and RCN Telecom Services, Inc. ("RCN"), the adoption of the Commission's spectrum redesignation proposal, by assigning secondary interference status to these systems, would impede new fixed service video systems and the growth of existing fixed service video systems. The Commission's proposal discourages fixed service video providers from filing applications for authorization to activate microwave systems newly licensed in that band. As a result of having secondary interference status, all fixed service video licensees that filed applications after September 18, 1998, would be subject to interference from blanket-licensed satellite operators without any recourse. Furthermore, such licensees would be compelled to cease the provision of any services that interfered with blanket-licensed satellite earth stations. The microwave systems utilized by fixed service video providers are very sensitive to interference, and fixed service video providers have no commercially reasonable means of predicting whether their microwave systems

will cause interference with future satellite earth stations. Under the Commission's proposal, fixed service video providers would be required to undertake a substantial risk that they would be unable to operate a microwave system even after obtaining a license from the Commission. Thus, the spectrum redesignation proposal, if adopted, would significantly discourage competition within the fixed service video industry because few entities would seek authorization to operate a microwave system for fixed service video purposes without any assurance that the system could be operated without interference over a significant period of time.

Second, the Commission's spectrum redesignation proposal effectively precludes any beneficial use of the spectrum available to fixed service video operators, even on a secondary basis. By assigning fixed service video providers a secondary interference status in the 18.3-18.55 GHz band, the Commission would be encumbering use of up to 250 MHz of the 440 MHz of contiguous spectrum presently allocated for primary use by private video systems. Currently, private cable operators utilize *all* of the 440 MHz spectrum in the 18.142-18.58 GHz band to transmit 72 channels of video service. Therefore, the elimination of unfettered use of the 18.3-18.55 GHz band would significantly limit the number of channels private cable operators can provide. Clearly this is a competitive disadvantage not easily overcome. Although the Commission's proposal designates additional portions of the spectrum to terrestrial users on a primary use, the utilization of these portions of the spectrum would require the redesign of equipment or the acquisition of new equipment -- both prohibitively expensive options. The Commission's failure to suggest viable alternatives for fixed service video providers to continue their current service while operating under the proposed spectrum redesignation further hinders the expansion of fixed service video systems. Accordingly, the Commission's proposal

discourages the introduction or expansion of fixed service video systems. To encourage competition and growth within the fixed service video industry, the Commission should maintain the *status quo* and decline to revise the allocation of the 18 GHz band.

Finally, the Commission's September 18, 1998 cut-off date for the grandfathering of terrestrial fixed services unfairly and arbitrarily penalizes those applicants that through no fault of their own failed to file applications to utilize the 18.3-18.55 GHz band. As noted in the November 11, 1998 letter from AESCO Systems:

> It takes many months to negotiate a contract for private cable service to a single property. These contracts are negotiated after planning, site surveys and preliminary engineering work is completed. Part of this effort includes microwave site and path surveys. Only after the contract is signed is the design finalized, and the paths coordinated, and the application for microwave licenses submitted to the FCC.
>
> This entire process takes about six months, costs thousand of dollars and does not permit the possibility of speculative applications.
>
> The September 18, 1998 cut-off of co-primary status in the 18.3-18.55 GHz band means that contracts that are already signed to deliver 70 channels of microwave service for an extended period will be impossible to fulfill when ubiquitously deployed earth stations with primary status are deployed in the same service area.
>
> Thus we are placed in the impossible position of having contractually committed to provide services which we will be unable to provide. With contracts to deliver 70 channels of service, and the almost certain loss of 40 of these channels when the "GSO/FSS" is deployed in 2 or 3 years we face breach of contract problems at this properties.

> A freeze designed to prevent speculative accumulation of licenses is certainly understandable but this type of activity is totally impossible in our business.[2]

The Commission has previously lifted a freeze pending a final decision on a proposed action. As noted by the Telecommunications Industry Association, in a proceeding involving paging systems the Commission initially imposed a freeze on all 900 MHz applications effective upon the release of the NPRM in that proceeding. The Commission later decided to temporarily lift the freeze and permit paging operators to file applications and operate in compliance with the current rules regarding paging systems until the Commission reached the merits of its proposed action. The Commission based its decision on the fact that paging operators subject to the freeze would be unable to execute service expansion plans that were formulated prior to the release of the NPRM.[3] The September 18, 1998 cut-off date in this proceeding, together with the implications of the Commission's spectrum redesignation proposals discussed *supra*, will impair the ability of fixed service video operators to fulfill plans and contracts made prior to the cut-off date. As such, in this proceeding, the Commission should permit the licensing of fixed service video systems on a primary basis until the Commission determines whether it will adopt its spectrum redesignation proposals.

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[2]November 11, 1998 letter from Richard Ocko, AESCO Systems, to FCC in support of ICTA's Emergency Request for Immediate Relief, filed November 5, 1998, in IB Docket No. 98-172.

[3]Telecommunications Industry Associations's Petition for Interim Relief, filed November 2, 1998, in IB Docket No. 98-172 (citing *In the Matter of Amendment of the Commission's Rules to Provide Channel Exclusivity to Qualified Private Paging Systems at 929-930 MHz*, Notice of Proposed Rulemaking, 8 FCC Rcd 2227, 2233 (1993) and Order, 8 FCC Rcd 1460 (1993)).

Wherefore, Watson Communications Systems, Inc. opposes the Commission's proposal to redesignate 18.3-18.55 GHz band for primary use by GSO/FSS.

Respectfully submitted,

Watson Communications Systems, Inc.

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Dated: December 21, 1998

CERTIFICATE OF SERVICE

I, Debra A. McGuire, hereby certify that a copy of the foregoing Reply Comments of Watson Communications Systems, Inc., was served, via hand delivery or United States first class mail, postage pre-paid, this 21st day of December, 1998 upon the following:

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