

Before The  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Part 2 of the Commission's	)	ET Docket No. 00-258
Rules to Allocate Spectrum Below 3 GHz	)	
For Mobile and Fixed Services to Support	)	
The Introduction of New Advanced	)	
Wireless Services, Including Third	)	
Generation Wireless Systems	)	
	)	
Amendment of Section 2.106 of the	)	ET Docket No. 95-18
Commission's Rules to Allocate Spectrum	)	
At 2 GHz for the Mobile Satellite Service	)	
	)	
The Establishment of Policies and Service	)	IB Docket No. 99-81
Rules for the Mobile-Satellite Service	)	
In the 2 GHz Band	)	
	)	
Petition for Rule Making of the Wireless	)	RM-9498
Information Networks Forum Concerning	)	
The Unlicensed Personal Communications	)	
Service	)	
	)	
Petition for Rule Making of UTStarcom, Inc.	)	RM-10024
Concerning the Unlicensed Personal	)	
Communications Service	)	

**REPLY OF GLOBALSTAR, L.P.**

Pursuant to Section 1.429 of the Commission's Rules (47 C.F.R. § 1.429),  
Globalstar, L.P. ("GLP"), hereby replies to the oppositions to the Petition for

Reconsideration of the Third Report and Order<sup>1</sup> filed by the Satellite Industry Association (“SIA”). GLP is an Executive Member of SIA.<sup>2</sup>

In its Petition, SIA asked the Commission to reconsider the decision to reallocate the 1990-2000 MHz band from the Mobile Satellite Service (“MSS”) to the terrestrial Advanced Wireless Service (“AWS”). SIA pointed out that the 1990-2000 MHz band is part of globally-harmonized MSS spectrum at 2 GHz, and, the Commission has long recognized that access to globally-harmonized spectrum is critical to the future of the MSS industry. SIA also explained why the Commission had not justified the reallocation of this band to AWS based on failure to consider adequately the importance of the Commission’s policy for providing access to globally-harmonized MSS spectrum. Moreover, the Commission failed to evaluate alternatives to using 1990-2000 MHz as a guardband against alleged interference into PCS systems operating at 1930-1990 MHz from MSS-ATC terminals. Several parties opposed SIA’s Petition, but none of them refuted SIA’s arguments for restoring the 1990-2000 MHz band to MSS.

---

<sup>1</sup> Third Report and Order, Third Notice of Proposed Rulemaking and Second Memorandum Opinion and Order, FCC 03-16 (released Feb. 10, 2003) (“Order”).

<sup>2</sup> GLP was granted a 2 GHz MSS license in July 2001. Globalstar, L.P., 16 FCC Rcd 13739 (Int’l Bur./OET 2001). The license was cancelled on January 30, 2003. Globalstar, L.P., DA 03-328 (released Jan. 30, 2003). GLP’s Emergency Application for Review and Request for Stay of that decision remain pending.

**I. ACCESS TO 20 MHZ OF GLOBALLY-HARMONIZED SPECTRUM IS ESSENTIAL FOR 2 GHZ MSS SYSTEMS.**

As SIA explained in its Petition (at 3-6), the Commission's decision to reallocate the 1990-2000 MHz flies in the face of the Commission's long-standing effort to promote the use of globally-harmonized spectrum for satellite and other services.<sup>3</sup> Indeed, just weeks after the Commission decided to take globally-harmonized spectrum away from 2 GHz MSS, it emphasized the importance of this policy in the context of a Notice of Proposed Rulemaking to allocate and promote the use of globally-harmonized spectrum for unlicensed devices at 5 GHz.<sup>4</sup>

Moreover, as SIA points out (Petition, at 5-6), the Order represents an unexplained reversal of a policy specifically for 2 GHz MSS that dates back almost 10 years. When the Commission allocated to PCS the 1980-1990 MHz band, which had been designated internationally for MSS, it stated that it intended to pursue

---

<sup>3</sup> The Wireless Communications Association International, Inc., suggests in its Opposition (at 8) that the satellite industry has not previously expressed an interest in globally-harmonized spectrum at 2 GHz. This, of course, flatly contradicts the record on the allocation. See Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use by the Mobile-Satellite Service, 12 FCC Rcd 7388, ¶ 14 (1997) ("2 GHz MSS Allocation Order") ("In making our domestic allocation, therefore, we are supporting international plans for MSS in the 2 GHz band."), aff'd on recon., 13 FCC Rcd 23949, ¶ 10-11 (1998). Moreover, since there was little opposition to the full 70 MHz allocation seven years ago, there was little need to defend choices of which spectrum to retain for MSS.

<sup>4</sup> See Revisions to Parts 2 and 15 of the Commission's Rules to Permit Unlicensed National Information Infrastructure (U-NII) Devices, ET Docket No. 03-122, News Release (May 15, 2003). All five Commissioners in their public statements on the adoption of the NPRM made reference to the importance of globally-harmonized spectrum for the Part 15 devices.

additional international allocations for MSS at 2 GHz to make up for the use of the 1980-1990 MHz band.<sup>5</sup> The Commission did precisely that at the 1995 World Radiocommunication Conference, resulting in additional international allocations for MSS that were adopted domestically in 1997.<sup>6</sup> The decision to reverse this policy of making the domestic allocations for 2 GHz MSS consistent with international allocations was not justified in the Order.

The opponents of SIA's Petition all claim that whatever benefits may accrue to MSS from access to globally-harmonized spectrum must yield to the need to protect PCS receivers operating at 1930-1990 MHz from out-of-band emissions from MSS ancillary terrestrial component ("ATC") terminals.<sup>7</sup> However, as explained by SIA (Petition, at 8-10), the Commission failed to establish in the Third Report and Order that a 10 MHz separation between PCS and MSS was necessary to provide protection for PCS. Without an adequate showing that the 10 MHz guardband between existing PCS and potential MSS-ATC terminals was necessary, access to globally harmonized spectrum must take precedence. Because the Third Report and Order is deficient in articulating a sufficient rationale for the Commission's

---

<sup>5</sup> Amendment of the Commission's Rules to Establish New Personal Communications Services, 9 FCC Rcd 4957, ¶ 97 (1994).

<sup>6</sup> 2 GHz MSS Allocation Order, 12 FCC Rcd at 7392, ¶ 8.

<sup>7</sup> See The Wireless Communications Association International, Inc. ("WCA"), Opposition to Petitions for Reconsideration, at 3-6; AT&T Wireless Services, Inc., et al., Comments in Response to Petitions for Reconsideration, at 12-14; Cellular Telecommunications & Internet Association ("CTIA"), Opposition to Petitions for Reconsideration, at 5-8.

abandonment of its policy of promoting access to globally-harmonized MSS spectrum, SIA's Petition should be granted.<sup>8</sup>

**II. THE INTERFERENCE "CONCERNS" RAISED BY THE CELLULAR/PCS INDUSTRY DO NOT JUSTIFY REALLOCATION OF THE 1990-2000 MHZ BAND.**

The parties opposing SIA's request claim that the alleged interference into PCS receivers from ATC mobile handsets requires at least the 10 MHz guardband that the Commission's reallocation scheme provides.<sup>9</sup> As SIA demonstrated (Petition, at 8-10), the essential flaw in this argument is that the Commission never found that the claims of interference were fully justified, or that, if such interference was a true concern, a 10 MHz guardband was needed between PCS and MSS.

The Third Report and Order itself is the best evidence that the claims of interference were not adequately established. At paragraph 35, the Commission states simply: "[W]e share CTIA's concerns regarding potential interference to existing PCS operations at 1930-1990 MHz." There is no technical discussion of the "claims of potential interference," and more importantly, no *findings* on this issue by the Commission. The companion order on MSS Flexibility does adopt an out-of-band emissions limit for MSS-ATC transmissions, but does so only for MSS systems

---

<sup>8</sup> See also ICO Global Communications, Petition for Reconsideration, at 5-8.

<sup>9</sup> See WCA Opposition, at 3-5; AT&T et al. Comments, at 12-14; CTIA Opposition, at 6-7.

operating above 2000 MHz.<sup>10</sup> In the two orders, the Commission does not evaluate fully the *need* for taking the 1990-2000 MHz band from MSS to protect against the alleged interference. And, with respect to the representations of the terrestrial wireless industry in the record, the Commission found their analyses overly restrictive, including how much frequency separation was required.<sup>11</sup>

Since there are no technical findings on the need to reallocate the 1990-2000 MHz band, there is no discussion of alternatives to a 10 MHz guardband that would have preserved the opportunity for MSS to access the “important resource” (Order, ¶ 35) of globally-harmonized spectrum, including, for example, more stringent out-of-band emission limits, or a smaller guardband for ATC services. If a smaller guardband would be adequate to protect PCS, the Commission could have allowed the MSS licensees to make the decision whether to choose the 1990-1995 MHz band as a Selected Assignment, and, if so, whether to attempt to use the lower part of that band for ATC. The failure of the Commission adequately to document its decision on this technical issue that, even though raised very late in the proceeding, was critical to the outcome, is a failing that renders the decision arbitrary and capricious.<sup>12</sup>

---

<sup>10</sup> See Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands, IB Dkt. No. 01-185, FCC 03-15, ¶ 119 and App. C-1, § 3.1 (2003).

<sup>11</sup> Id., ¶ 118.

<sup>12</sup> See AT&T Wireless Services, Inc. v. FCC, 270 F.3d 959, 968 (D.C. Cir. 2002) (“Conclusory explanations for matters involving a central factual dispute

(continued...)

Finally, the Commission noted that one benefit of its decision was that existing PCS providers could expand into the 1990-2000 AWS band based on operations in 1930-1990 MHz (Order, ¶ 35). Yet, at the same time, the Commission authorized MSS and MSS ATC to be offered at 2000 MHz and higher without a guard band. The Commission has not fit the facts of the re-allocation decision to the alleged concerns regarding interference into the AWS allocation, and that, too, indicates that the decision is unreasonable.<sup>13</sup>

---

(...continued)

where there is considerable evidence in conflict does not suffice to meet the deferential standards of our review.”). Moreover, the Commission did not reconcile its analysis with Nextel’s demonstration that no guardband was needed. See SIA Petition, at 8-9.

<sup>13</sup> See, e.g., Fresno Mobile Radio, Inc. v. FCC, 165 F.3d 965, 968-70 (D.C. Cir. 1999) (failure to present adequate explanation of decision renders FCC action arbitrary and capricious).

**III. CONCLUSION**

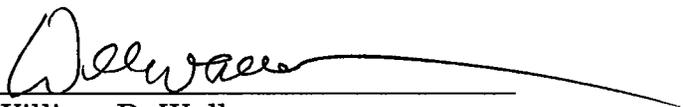
For the reasons set forth in SIA's Petition and above, GLP urges the Commission to grant reconsideration and restore the 1990-2000 MHz band to the United States allocation for MSS at 2 GHz.

Respectfully submitted,

GLOBALSTAR, L.P.

Of Counsel:

William F. Adler  
Vice President, Legal and  
Regulatory Affairs  
Globalstar, L.P.  
3200 Zanker Road  
San Jose, CA 95134  
(408) 933-4401

  
\_\_\_\_\_  
William D. Wallace

CROWELL & MORING LLP  
1001 Pennsylvania Avenue, N.W.  
Washington D.C. 20004  
(202) 624-2500

Its Attorneys

May 29, 2003

## CERTIFICATE OF SERVICE

I, William D. Wallace, hereby certify that I have on this 29th day of May, 2003, caused to be served true and correct copies of the foregoing "Reply of Globalstar, L.P." upon the following persons via first-class United States mail, postage prepaid:

L. Andrew Tollin  
Kathryn A. Zachem  
Craig E. Gilmore  
Wilkinson Barker Knauer, LLP  
2300 N Street, N.W., Suite 700  
Washington, D.C. 20037

John T. Scott, III  
Charla M. Rath  
Verizon Wireless  
1300 I Street, N.W., Suite 400-W  
Washington, D.C. 20005

Richard DalBello  
Satellite Industry Association  
225 Reinekers Lane  
Suite 600  
Alexandria, VA 22314

Michael F. Altschul  
Diane J. Cornell  
Christopher Guttman-McCabe  
Cellular Telecommunications & Internet  
Association  
1250 Connecticut Avenue, N.W.  
Suite 800  
Washington, D.C. 20036

J.R. Carbonell  
Carol L. Tacker  
David G. Richards  
Cingular Wireless LLC  
5565 Glenridge Connector, Suite 1700  
Atlanta, GA 30342

Douglas I. Brandon  
AT&T Wireless Services, Inc.  
1150 Connecticut Avenue, N.W.  
Washington, D.C. 20036

Christopher J. Wright  
Mark A. Grannis  
Harris, Wiltshire & Grannis LLP  
1200 Eighteenth Street, N.W.  
Washington, D.C. 20036

Lawrence H. Williams  
Suzanne Hutchings  
ICO Global Communications (Holdings)  
LTD.  
1730 Rhode Island Avenue, N.W.  
Suite 100  
Washington, D.C. 20036

Andrew Kreig  
President  
The Wireless Communications  
Association International, Inc.  
1140 Connecticut Avenue, N.W.  
Suite 810  
Washington, D.C. 20036-4001

---

William D. Wallace