Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
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 Band	)	IB Docket No. 01-185
	)	
Amendment of Section 2.106 of the Commission's Rules to Allocate Spectrum at 2 GHz for Use By the Mobile-Satellite Service	)	ET Docket No. 95-18

To: The Commission

PETITION FOR RECONSIDERATION
OF THE BOEING COMPANY

The Boeing Company ("Boeing"), by its attorneys and pursuant to Section 1.429 of the Commission's rules, 47 C.F.R. § 1.429, submits this limited Petition for Reconsideration requesting clarification of a discrete aspect of the Commission's decision in this proceeding.[1]

On February 10, 2003, the Commission released its long awaited *Flexibility Order*, authorizing licensees in the Mobile-Satellite Service ("MSS") to incorporate an ancillary terrestrial component ("ATC") in their networks. In order to ensure that ATC is used as a truly ancillary service, the Commission adopted gating requirements that MSS operators must meet as a condition to offering ATC services to consumers.

[1] *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*, Report and Order and Notice of Proposed Rulemaking, FCC 03-15 (Feb. 10, 2003) ("*Flexibility Order*").

One of the gating requirements that was adopted requires MSS operators applying for ATC authority to demonstrate compliance with geographic and temporal coverage requirements.[2] For 2 GHz MSS licensees, this requirement was stated as:

> For the 2 GHz MSS band, an applicant must demonstrate that it can provide space-segment service covering all 50 states, Puerto Rico, and the U.S. Virgin Islands one-hundred percent of the time, consistent with the coverage requirements for 2 GHz MSS GSO operators.[3]

A potential for confusion may exist, however, regarding whether the text of this gating requirement is fully consistent with the geographic coverage requirements for 2 GHz MSS GSO operators. As the Commission specified in its *2 GHz MSS Service Rules Order*, a GSO-based 2 GHz MSS operator must demonstrate that its system is

> capable of providing mobile satellite services on a continuous basis throughout the 50 states, Puerto Rico, and the U.S. Virgin Islands, if technically feasible.[4]

The potential differences between these two requirements – particularly the reference to technical feasibility – are extremely important for GSO-based 2 GHz MSS operators. As the Commission is aware, it is not technically possible to provide MSS to all of Alaska using a GSO satellite.[5] Furthermore, the percentage of Alaska that can be covered by a GSO-based MSS network changes continuously as the GSO satellite drifts north and south within its authorized latitudinal station keeping tolerance.

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[2] *See* 47 C.F.R. § 25.147(b)(1).

[3] *See* 47 C.F.R. § 25.147(b)(1)(i).

[4] *See* 47 C.F.R. § 25.143(b)(2)(iv) (2002); *In the Matter of The Establishment of Policies and Service Rules for the Mobile Satellite Service in the 2 GHz Band*, Report and Order, FCC 00-302, ¶ 59 (Aug. 25, 2000) ("*2 GHz MSS Service Rules Order*").

[5] *See id.*, ¶¶ 58-59.

The Commission acknowledged this technical reality in its gating requirements for GSO MSS networks operating in the L-band, requiring each L-band network licensee to demonstrate

> that it can provide space-segment service covering all 50 states, Puerto Rico, and the U.S. Virgin Islands one-hundred percent of the time, unless it is not technically possible for the MSS operator to meet the coverage criteria from its orbital position.[6]

The Commission should clarify that these same technical issues are applicable to its geographic gating requirement for 2 GHz MSS networks. In order to prevent confusion in the rules for 2 GHz MSS licensees, the Commission's geographic gating requirement for 2 GHz MSS operators should use the identical language as its geographic coverage requirement for 2 GHz MSS networks. Specifically, 2 GHz MSS network licensees applying for ATC authority should be required to demonstrate, *inter alia*, that their networks are

> capable of providing mobile satellite services on a continuous basis throughout the 50 states, Puerto Rico, and the U.S. Virgin Islands, if technically feasible.

The Commission has already concluded that it would serve the public interest to permit MSS operators to expand their services to consumers through the incorporation of ATC. As the Commission observed, MSS ATC can "allow MSS operators to develop new and innovative service offerings that satellite-only MSS systems cannot offer today."[7] ATC can also be used to improve the nation's overall ability to maintain critical telecommunications infrastructure in times of crisis or disaster.[8]

In order to enable 2 GHz MSS licensees to provide these new services to consumers, the Commission should promote the public interest by providing a consistent and predictable

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[6] *See* 47 C.F.R. § 25.147(b)(1)(ii).

[7] *Flexibility Order*, ¶ 23.

[8] *See id.*, ¶ 29.

regulatory environment for licensees investing in 2 GHz MSS networks. This should be done by using the same language in the Commission's geographic gating requirement for 2 GHz MSS licensees as the language that already exists in the Commission's geographic coverage requirement for 2 GHz MSS networks. By using the same language in Sections 25.143(b)(2)(iv) and 25.147(b)(1)(i) of its rules, the Commission will help 2 GHz MSS licensees in making the regulatory determinations necessary in order to ensure compliance with the Commission's requirements for providing ancillary terrestrial services to consumers.

CONCLUSION

For the reasons stated herein, Boeing urges the Commission to clarify its rules in the above referenced proceeding by adopting a geographic gating requirement for 2 GHz MSS networks that includes the same language and substantive requirements as the Commission's pre-existing geographic coverage rules for 2 GHz MSS licensees.

Respectfully submitted,

The Boeing Company

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