Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Amendment of Parts 25, 74, 78 and 101	)	
Of the Rules Regarding Coordination	)	ET Docket No. 03-254
Between the Non-Geostationary and	)	
Geostationary Satellite Orbit Fixed-	)	
Satellite Service and Fixed, Broadcast	)	
Auxiliary and Cable Television Relay	)	
Services in the 7 GHz, 10 GHz and	)	
13 GHz Frequency Bands	)	

REPLY COMMENTS

Globalstar, L.P. ("GLP"), Globalstar USA, L.L.C. ("GUSA"), and Globalstar Caribbean Ltd. ("GCL") (collectively, "Globalstar") submit these Reply Comments in response to the comments filed by the Society of Broadcast Engineers ("SBE") regarding coordination at 7 GHz between non-geostationary orbit Fixed-Satellite Service ("FSS") earth stations and terrestrial stations in the Fixed Service ("FS"), Broadcast Auxiliary Service ("BAS"), and Cable Television Relay Service ("CARS"). SBE was the only party commenting on the proposals for coordination of satellite and terrestrial stations at 7 GHz.

GLP is the manager of the global network for the Globalstar Mobile-Satellite Service ("MSS") business operating in the 1.6/2.4 GHz bands. GUSA and GCL are both licensed to operate FSS earth stations that use the 6875-7055 MHz band for space-to-earth feeder links. GUSA's Clifton, Texas, earth station and GCL's Cabo

Rojo, Puerto Rico, earth station are both grandfathered pursuant to Footnote NG172 to operate above 7025 MHz.[1]

In the NPRM in this docket, the Commission proposed to retain the existing coordination procedures between FSS earth stations (space-to-earth links) and terrestrial fixed and mobile stations operating at 7 GHz.[2] SBE does not object to the continuation of the coordination procedures proposed in the NPRM, nor does it cite to any difficulty experienced by individual FS, BAS or CARS stations in coordinating the use of these bands with FSS earth stations.

Rather, SBE argues that it is "unfair" for terrestrial stations to be required to protect FSS earth stations over a range of frequencies while protection for terrestrial stations is limited to one channel. And, it claims that there is some disparity in the coordination process because new terrestrial stations would be required to protect previously-licensed earth stations. It recommends that the coordination process only provide protection for FSS earth stations at frequencies "actually in use" and for angles of elevation to satellites "actually communicating" with the gateway earth station. (SBE Comments, at 2.)

SBE's arguments have been rejected twice by the Commission as contrary to the Commission's licensing procedures for FSS earth stations and the basic principles governing licensing of stations in co-primary services, and as

---

[1] See 47 C.F.R. § 2.106, NG 172.

[2] See Notice Proposed Rule Making, FCC 03-318, ¶¶ 21-35 (released Dec. 23, 2003), summarized at 69 Fed. Reg. 4908 (Feb. 2, 2004).

unsupported by any evidence of need for these changes. SBE still has failed to justify its proposals, and they should be rejected yet again.

I. SBE'S ARGUMENTS ARE REPETITIVE REQUESTS FOR RECONSIDERATION AND SHOULD BE DISMISSED.

SBE has made exactly these arguments previously in a petition for reconsideration in ET Docket No. 98-142 regarding the use of the 7 GHz band for MSS feederlinks. The Commission properly rejected them in the Memorandum Opinion and Order in that docket.[3] Moreover, SBE's objections to the differences in licensing between satellite earth stations and terrestrial fixed and mobile stations were raised even earlier by the Fixed Wireless Communications Coalition in IB Docket No. 00-203. The Commission dismissed the Coalition's proposals because the Coalition provided no evidence demonstrating injury to terrestrial services.[4] Like the Coalition, SBE has failed to base its objection on any cases of actual injury to terrestrial stations resulting from the Commission's earth station licensing rules.

SBE claims that it is making these arguments now because it suddenly realized that Section 309(j)(4)(B) of the Communications Act of 1934, as amended,

---

[3] See Amendment of Parts 2, 25 and 97 of the Commission's Rules with regard to the Mobile Satellite Service Above 1 GHz, 18 FCC Rcd 6897, 6904, ¶ 18 (2003) ("MSS Feederlinks Reconsideration Order"). As the Commission noted, the licensees of an FSS earth station and a mobile BAS station can develop short-term coordination arrangements if the latter desires to operate temporarily near the FSS earth station. Id., ¶ 19.

[4] See FWCC Request for Declaratory Ruling on Partial-Band Licensing of Earth Stations in the Fixed-Satellite Service That Share Terrestrial Spectrum, 17 FCC Rcd 2002, 2006-08 (2002).

supports its position. That section mandates that the Commission include performance requirements in rules for services subject to the competitive bidding procedure "to prevent stockpiling or warehousing of spectrum."[5] This statute is irrelevant to the issues regarding coordination between FSS stations and terrestrial FS, BAS and CARS stations.

First, lack of knowledge of an existing statute is not grounds for seeking reconsideration – late, or otherwise.[6] Section 309(j)(4)(B) was enacted in 1993,[7] and, if it were applicable, SBE could have with reasonable diligence cited the statute previously.

Furthermore, Section 309(j) does not apply to the 7 GHz frequencies used by earth stations because the Commisson does not process applications for earth stations communicating with licensed space stations through competitive bidding. And, the ORBIT Act precludes the licensing of frequencies used for international satellite services by auction.[8] Therefore, Section 309(j)(4)(B) does not support SBE's arguments, nor does it illuminate any aspect of the coordination process between FSS and terrestrial stations.

---

[5] 47 U.S.C. § 309(j)(4)(B).

[6] See 47 C.F.R. § 1.429(b).

[7] See Omnibus Budget Reconciliation Act of 1993, Pub. L. 103-66, § 6002, 107 Stat. 387, 389 (Aug. 10, 1993).

[8] See Open-Market Reorganization for the Betterment of International Telecommunications Act, Pub. L. 106-180, § 647, 114 Stat. 48, 57 (enacted Mar. 17, 2000), codified at 47 U.S.C. § 765f ("ORBIT Act").

It is well settled Commission law that reconsideration "will not be granted merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken."[9] SBE's comments do nothing more than raise arguments already rejected twice by the Commission in two different dockets. SBE's comments should be dismissed in this docket.

II. SBE'S CONCERNS ABOUT PRECLUSION OF BAS STATIONS ARE UNFOUNDED AND SHOULD BE IGNORED.

SBE is also simply wrong on the premises of its proposal. As the Commission pointed out in the Report and Order in ET Docket No. 98-142 (¶ 58),[10] long-standing practice and precedent require a newcomer station to protect all existing co-primary *stations*. A station is assigned specific frequencies, and those frequencies must be the basis for interference protection. A coordination rule based on usage would be impractical and would place the parties and the Commission in the position of having to resolve daily disputes over which station can use which frequencies at what times and for how long. The existing "first-in-time, first-in-right" principle based on the frequency assignment to a station is an objective and clear standard

---

[9] WWIZ, 37 FCC 685, 686 (1964), aff'd sub nom. Lorain Journal Co. v. FCC, 351 F.2d 824 (D.C. Cir. 1965), cert. denied, 383 U.S. 967 (1966).

[10] See Amendment of Parts 2, 25 and 97 of the Commission's Rules with regard to the Mobile Satellite Service Above 1 GHz, 17 FCC Rcd 2658, 2682 ¶¶ 57-58 (2002) ("MSS Feederlinks Order"); see also MSS Feederlinks Reconsideration Order, 18 FCC Rcd at 6904, ¶¶ 20-21.

that has worked satisfactorily for 70 years. SBE has provided no reason to change it.

Moreover, as Globalstar explained in the prior dockets, and as the Commission found in the Report and Order in ET Docket No. 98-142, there is a "hard-wired" direct translation between MSS service link frequencies and feeder link frequencies.[11] All the feeder link spectrum assigned to the Globalstar system is "in use" for traffic on the system. Therefore, there is no "unused" feeder link spectrum within Globalstar's 7 GHz spectrum assignment. And, since the satellites communicating with the earth stations are constantly moving toward, over and away from the earth stations, all licensed angles of elevation are potentially in use for transmissions between the satellites and the earth station. SBE's argument is simply premised on faulty assumptions about how satellite earth stations operate and why they are generally licensed for a frequency range broader than that used by terrestrial stations. The Commission has previously articulated the rationale for these differences; its explanation remains valid.[12]

SBE's concerns about preclusion of new BAS stations are unfounded and undocumented. (SBE Comments, at 4.) There will be relatively few FSS earth stations operating with non-geostationary orbit MSS systems in the 6875-7075 MHz band, and these will likely be placed in remote areas. The applicant for the earth

---

[11] MSS Feederlinks Order, 17 FCC Rcd at 2675, ¶ 39 and note 101.

[12] FWCC Request for Declaratory Ruling, 17 FCC Rcd at 2006-08.

station can determine from the Commission's records whether BAS stations, including mobile TV pick up ("TVPU") stations, have been licensed in the vicinity of its proposed site, and relocate the earth station if deemed necessary. Moreover, the available TVPU channels include frequencies outside the 6875-7075 MHz band, including 6425-6525 MHz and 7075-7125 MHz.[13] Therefore, a TVPU applicant can select a channel that would avoid the risk of interference into the earth station. Given the flexibility already present in the Commission's Rules, there is no reason for the Commission to curtail the critical services that can be provided over 7 GHz FSS gateway earth stations for global MSS networks.[14] The existing coordination procedures are fair and should be retained, as proposed in the NPRM.

---

[13] See 47 C.F.R. § 74.602.

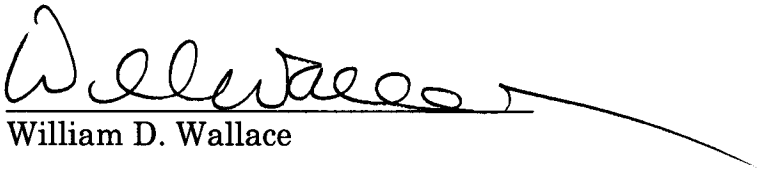
[14] For the same reasons, there is no need to impose large "exclusion zones" on FSS earth stations for 7 GHz uplinks, as SBE suggests (Comments, at 4). Such large, fixed exclusion zones arbitrarily limit spectrum usage, and SBE offers no substantial countervailing benefits.

III. CONCLUSION

For the same reasons that the Commission has rejected SBE's proposals at least twice in the past two years, it should reject them again, and adopt the proposals in the NPRM for coordination at 7 GHz between FSS earth stations (space-to-earth) and terrestrial stations.

Respectfully submitted,

GLOBALSTAR, L.P.
GLOBALSTAR USA, L.L.C.
GLOBALSTAR CARIBBEAN LTD.



William D. Wallace

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

Their Attorneys

Of Counsel:

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

Date: March 18, 2004