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DOMESTIC FACILITIES DIVISION
SATELLITE RADIO BRANCH

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

)
In the Matter of the)
Applications of)
)
NORRIS SATELLITE)
COMMUNICATIONS, INC.)
)
For Authority to Construct,)
Launch and Operate Communications)
Satellites in the Ka-Band)
_____)

File Nos. 54-DSS-P/L-90
55-DSS-P-90

OPPOSITION OF MOTOROLA SATELLITE COMMUNICATIONS, INC.
TO PETITION FOR RECONSIDERATION
OF NORRIS SATELLITE COMMUNICATIONS, INC.

Motorola Satellite Communications, Inc. ("Motorola") hereby opposes the petition of Norris Satellite Communications, Inc. ("Norris") for reconsideration of the Commission's Order and Authorization, 7 FCC Rcd 4289 (released July 7, 1992) ("Order") in the above-captioned proceeding. In the Order, the Commission authorized Norris to construct two domestic communications satellites to operate in the 19.7-20.2 GHz and 29.5-30.0 GHz bands. Norris has separately petitioned the Commission to allocate the 19.7-20.2 GHz and 29.5-30.0 GHz bands to "general satellite service." Notice of Proposed Rule Making, 7 FCC Rcd 5626 (1992). In its latest Petition, Norris seeks additional authorization to operate in the 19.5-19.7 GHz and 29.3-29.5 GHz bands, for a total of 700 MHz in each direction.^{1/}

^{1/} Motorola is an interested party to this proceeding as an applicant that has requested authority to construct a low-earth orbit Mobile-Satellite Service ("MSS") system called IRIDIUM™ with feeder links in the 19.4-19.6 GHz and 29.1-29.3 GHz bands. See Application of Motorola for the IRIDIUM™ System; File Nos. 9-DSS-P-91(87), CSS-91-010 (Dec. 3, 1990).

Norris' Petition should be denied for the following reasons: first, Norris never applied for any authority to operate in the 19.5-19.7 GHz and 29.3-29.5 GHz bands. Second, Norris has not shown that it could meet the power flux density ("PFD") limits established for the 19.5-19.7 GHz band. Third, as a financially unqualified applicant, Norris should not be permitted to warehouse spectrum currently being sought by financially qualified MSS applicants for satellite system feeder links. Fourth, Norris has not established a need for the additional requested spectrum.

I. **NORRIS DID NOT REQUEST OPERATING AUTHORITY FOR THE 19.5-19.7 GHz AND 29.3-29.5 GHz BANDS**

One can search Norris' Application in vain for a clear indication that it desired any authority to operate in the 19.5-19.7 GHz and 29.3-29.5 GHz bands. Even in its Petition, Norris could not point to any such request in its Application, claiming only that:

The Transponder Frequency and Polarization Plan, including description of the bands 19.5-20.2 GHz and 29.3-30.0 GHz, as well as channel spacing of 29.12 GHz, is described on page of II-7 of the Technical Section of the application.

Norris' Petition at 3. A mere description of the Transponder Frequency and Polarization Plan in the Technical Section of an Application can hardly be sufficient to provide notice to the Commission, Motorola or other interested parties that Norris desired authority to operate in the 19.5-19.7 GHz and

29.3-29.5 GHz bands.^{2/} Norris' failure to make a clear request for such authority more than justifies the Commission's original decision and the denial of the Petition.

II. NORRIS HAS NOT SHOWN THAT IT CAN MEET THE PFD LIMITS FOR THE 19.5-19.7 GHz BAND

There are no PFD limits in the 19.7-20.2 GHz band, where the Commission authorized Norris to operate.^{3/} However, there are PFD limits in the 19.5-19.7 GHz band, where Norris now seeks additional authorization.^{4/} These PFD limits were established to protect terrestrial point-to-point service in the 18.8-19.7 GHz band. Norris did not show in its Application or Petition that its proposed system would meet these PFD limits. Such a failure to address this critical interference and sharing issue further evidences the lack of support for Norris' belated attempt to expand its authorization.

More importantly, there is no assurance that Norris can meet the PFD limits established for the 19.5-19.7 GHz band. Since Norris has made no showing that it could comply with the governing PFD limits, even if it had made such a request, the Commission would have been justified in limiting Norris' authorization to the 19.7-20.2 GHz band and the corresponding 29.5-30.0 GHz band.

^{2/} Although, as paragraph 4 of the Order seems to suggest, Norris may have requested authority to construct NorStar I with an extended bandwidth capability (19.5-19.7 GHz and 29.3-29.5 GHz), the Commission correctly recognized that the Application provided no notice that Norris ever requested authority to operate in these bands.

^{3/} Order and Authorization n. 6.

^{4/} 47 C.F.R. § 25.208(c).

III. A WAIVER OF FINANCIAL QUALIFICATIONS IS NOT JUSTIFIED FOR OPERATION BY NORRIS IN THE 19.5-19.7 GHz BAND

The Commission found that Norris did not meet its financial qualification standards. Order at ¶ 7. Norris sought to justify a waiver of the rules on the ground that it would "not preclude use of the requested frequencies by another qualified applicant." Order at ¶ 7.

Waiver of financial qualifications is warranted only in "special circumstances." Order at ¶ 8. The Commission granted a waiver for Norris to operate in the 19.7-20.2 GHz and 29.5-30.0 GHz bands because it "was the only commercial FSS applicant in a new and vacant frequency band." Order at ¶ 9. In granting this waiver, the Commission found that a "key consideration is that this waiver will not preclude additional entities from implementing their own systems in this band." Order at ¶ 10.

The Commission's rationale for granting to Norris a financial qualification waiver does not apply to the 19.5-19.7 GHz band. As the Commission is well aware from its submission of coordination material (Appendix 3) to the IFRB, Motorola intends to use the overlapping 19.4-19.6 GHz band for its IRIDIUM™ system gateway feeder downlinks. There is a substantial likelihood of interference from Norris' proposed operations in the 19.5-19.7 GHz band to the IRIDIUM™ system's operation in the 19.4-19.6 GHz band.^{5/} Thus, permitting Norris,

^{5/} This interference issue is currently being considered in the negotiated rulemaking proceeding established to consider rules for MSS systems above 1 GHz. See Public Notice, Report No. DS-1265 (December 15, 1992).

an applicant with no financial qualifications, to operate in the 19.5-19.7 GHz band could preclude a financially qualified applicant -- Motorola -- from using this band for its MSS feeder link. For this reason, a waiver of the Commission's financial qualifications standards for operation in the 19.5-19.7 GHz band is not justified.

IV. NORRIS HAS NOT DEMONSTRATED A NEED FOR 1.4 GHZ OF SPECTRUM

Finally, the Petition should be denied because Norris has not shown a need for an additional 400 MHz of spectrum. Norris attempts to justify its claim for this spectrum by stating that its projected income statement assumed that 24 transponders of 24 MHz each, requiring a total bandwidth of 576 MHz, would be available. Petition at 3. There are at least two problems with this argument. First, according to Norris, not all of this capacity is necessary for the system to be financially viable. Norris estimates the capital cost of constructing and launching its system to be \$190 million, while its revenue stream is projected to total \$630 million. Order at ¶ 5. Thus, based on Norris' own projections, its proposed system would appear to be viable even if it did not obtain authority to operate in the additional spectrum requested in its Petition.

Second, there is no basis for assuming that Norris could effectively utilize all of the spectrum it has requested. It has not presented the Commission with a lease or other agreement for transponder capacity, Order at ¶ 7, or otherwise submitted documentation of firm customer commitments.

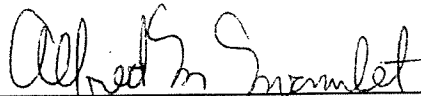
Since Norris could be financially viable with the spectrum it already has been assigned, and since there is no evidence that Norris can fill all of its authorized transponders, there is no reason to grant its Petition.

CONCLUSION

Norris' Petition should be denied. Norris did not request authority in its Application to operate in the additional bandwidth it now seeks. Nor has Norris shown that it can meet the PFD limits in the 19.5-19.7 GHz band. And, since Norris is not financially qualified, it should not be permitted to warehouse valuable spectrum being sought by others who are fully qualified to use the requested bands. Finally, Norris has not demonstrated that it needs additional spectrum.

Respectfully submitted,

MOTOROLA SATELLITE
COMMUNICATIONS, INC.



Philip L. Malet
Alfred M. Mamlet
STEPTOE & JOHNSON
1330 Connecticut Avenue, N.W.
Washington, D.C. 20036
(202) 429-3000

Michael D. Kennedy
Director, Regulatory Relations
Motorola Inc.
Suite 400
1350 I Street, N.W.
Washington, D.C. 20005
(202) 371-6900

March 22, 1993

Its Attorneys

CERTIFICATE OF SERVICE

I, Alfred M. Mamlet, hereby certify that on this 22nd day of March, 1993, I caused copies of the Opposition of Motorola Satellite Communications, Inc. to Petition for Reconsideration to be served, via first class mail, postage prepaid, to the following persons:

Cecily C. Holiday
Chief, Satellite Radio Branch
Common Carrier Bureau
Federal Communications
Commission
Room 6324
2025 M Street, N.W.
Washington, DC 20554

Thomas Tycz
Deputy Chief, Domestic
Facilities Division
Common Carrier Bureau
Federal Communications
Commission
Room 6010
2025 M Street, N.W.
Washington, DC 20554

Leslie A. Taylor, Esq.
6800 Carlynn Court
Bethesda, MD 20817

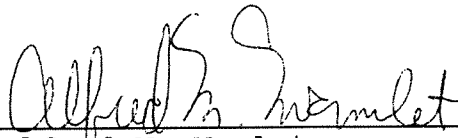
Lon C. Levin, Esq.
American Mobile Satellite
Corp.
4th Floor
1150 Connecticut Avenue, N.W.
Washington, DC 20036

Bruce D. Jacobs, Esq.
Fisher, Wayland, Cooper
& Leader
Suite 800
1255 23rd Street, N.W.
Washington, DC 20037

Mitchell F. Brecher, Esq.
Down & Cleary
Suite 850
1275 K Street, N.W.
Washington, DC 20005

Norman P. Leventhal, Esq.
Leventhal, Senter & Lerman
Suite 600
2000 K Street, N.W.
Washington, DC 20006

Mr. Charles T. Force
Associate Administrator
for Space Operations
National Aeronautics and
Space Administration
400 Maryland Avenue, S.W.
Washington, DC 20546



Alfred M. Mamlet