

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington DC 20554**

In the Matter of)
)
Amendment of Part 101 of the)
Commission’s Rules to Facilitate the Use)
of Microwave for Wireless Backhaul and) WT Docket No. 10-153
Other Uses and to Provide Additional)
Flexibility to Broadcast Auxiliary Service)
and Operational Fixed Microwave)
Licensees)

**OPPOSITION OF
THE NATIONAL ASSOCIATION OF BROADCASTERS
AND THE SOCIETY OF BROADCAST ENGINEERS, INC.**

Pursuant to Section 1.4(b)(1) of the Commission’s rules, 47 C.F.R. § 1.4(b)(1), the National Association of Broadcasters (NAB)¹ and the Society of Broadcast Engineers, Inc. (SBE)² hereby respond to the petitions for reconsideration of the Report and Order³ in the above-captioned docket submitted by Motorola Solutions, Inc. (MSI) and the Fixed Wireless Communications Coalition (FWCC), respectively.⁴ As discussed

¹ NAB is a nonprofit trade association that advocates on behalf of local radio and television stations and also broadcast networks before Congress, the Federal Communications Commission and other federal agencies, and the courts.

² SBE is the national association of broadcast engineers and technical communications professionals, with more than 5,000 members worldwide.

³ Amendment of Part 101 of the Commission’s Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses and to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees, WT Docket No. 10-153, *Report and Order, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order*, 26 FCC Rcd 11614 (2011) (Wireless Backhaul Order).

⁴ Petition for Partial Reconsideration of Motorola Solutions, Inc., WT Docket No. 10-153, RM-11603 (filed Oct. 27, 2011) (MSI Petition); Petition for Reconsideration of the Fixed Wireless Communications Coalition, WT Docket Nos. 10-153, 09-106 and 07-121 (filed Oct. 27, 2011) (FWCC Petition) (collectively, the “Petitioners”). NAB has no comment at this time on the two other petitions for reconsideration filed in the docket: (1) Petition for Reconsideration, Wireless Communications Association, WT Docket No. 10-153 (filed Oct. 27, 2011); and (2) EIBASS Comments to Further Notice of Proposed Rulemaking and Petition for Partial Reconsideration, WT Docket No. 10-153 (filed Sep. 27, 2011).

below, adopting these requests would undermine the Commission's dual goals for this proceeding to enable more intensive use of the 7 and 13 GHz bands for Fixed Services (FS) wireless backhaul operations,⁵ without reducing their use for critical Broadcast Auxiliary Service (BAS) electronic newsgathering operations (ENG).⁶

I. Background

In the Wireless Backhaul Order⁷, the Commission allowed FS operators to share the 7 and 13 GHz bands currently used for BAS operations and Cable TV Relay Service (CARS). However, given interference concerns, the Commission determined that it is only feasible to allow FS to share the bands in areas where mobile and temporary fixed TV pickup stations are not licensed.⁷

In doing so, the Commission recognized the importance broadcast ENG services. *Id.* at 11629. Local television stations are the most trusted and popular source of news, and provide critical, often life-saving information during times of crisis.

⁵ Broadcasters support the Commission's efforts to expand broadband access, including the need to increase wireless backhaul capabilities. Comments of the Association of Maximum Service Television, Inc. and the National Association of Broadcasters, WT Docket No. 10-153, at 2-3 (filed Oct. 25, 2010) (NAB Comments) (citing the television industry's cooperation in the 2 GHz BAS band transition, and the digital television transition).

⁶ Wireless Backhaul Order, 26 FCC Rcd at 11630; Amendment of Part 101 of the Commission's Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses and to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees, WT Docket No. 10-153, *Notice of Proposed Rulemaking and Notice of Inquiry*, 25 FCC Rcd 11246, 11251 (2010) (Wireless Backhaul NPRM/NOI); *Public Notice*, "Wireless Backhaul: Further Inquiry into Fixed Service Sharing of the 6875-7125 MHz and 12700-13200 MHz bands," DA 11-1011, WT Docket No. 10-153, at ¶ 9 (June 7, 2011) (Further Inquiry).

⁷ Wireless Backhaul Order, 26 FCC Rcd at 11624-25. TV pickup stations are an essential element of mobile BAS, as they are authorized to transmit program material, orders concerning such material and related communications from the scenes of events that occur in places other than a television studio to associated television stations. TV pickup stations are usually licensed either for a specified radius around a set of coordinates or for a television market.

Television stations deliver vital initial and ongoing reports during emergencies. NAB Comments at 4. As explained by Disney, fixed and itinerant links that provide the backbone of broadcasters' ENG services are essential to these efforts to cover "breaking news" on both the local and national level, as well as the high-quality coverage of sporting and entertainment events viewers have come to expect.⁸ It is also critical that broadcasters be able to establish these links on short notice to provide live, on-the-scene coverage. The 7 and 13 GHz bands are actively used on a daily basis throughout entire operational areas, in virtually all television markets, and at all times of the day and night,⁹ and the integrity of these links must be preserved to allow broadcasters to continue delivering these important services.

II. Approval of the Petitioners' Requests Would Jeopardize the Integrity of BAS Links in the 7 and 13 GHz Bands and Potentially Undermine Television Electronic Newsgathering

A. Permitting 7 GHz Band Channel Bandwidths Larger Than 25 MHz Would Result in the Inefficient Use of Spectrum

In the Wireless Backhaul Order, the Commission retained the same 25 MHz bandwidth channelized band plan that already applied to the 7 and 13 GHz bands. Wireless Backhaul Order, 26 FCC Rcd at 11627-28. In its Petition, MSI urges the Commission to reconsider this finding for the 7 GHz band, claiming that such a change would allow for more "robust microwave backhaul use" in that band, without decreasing the efficiency of the band. MSI Petition at 3-4. MSI states that permitting larger bandwidth channels for FS operations in the 7 GHz band would "best serve the

⁸ Reply Comments of the Walt Disney Company, WT Docket No. 10-153 (filed Nov. 22, 2010) (discussing the intensive use of 7 and 13 GHz bands by ABC News, ESPN/ABC Sports, ABC owned stations and the ABC television network).

⁹ Comments of the Society of Broadcast Engineers, WT Docket No. 10-153, at 3 (filed Oct. 25, 2010) (SBE Comments).

Commission's goal of promoting the use of fixed services for microwave backhaul operations." *Id.* at 3.

However, MSI tells only half the story, ignoring the other aspect of the Commission's dual goal of the Commission for this proceeding, namely, to ensure that increased wireless backhaul use of the 7 and 13 GHz bands "does not conflict with TV pickup stations that support important electronic newsgathering functions." Wireless Backhaul Order, 26 FCC Rcd at 11623. The Commission's approach struck a reasonable balance that both promotes its broadband goals and safeguards important ENG operations in the band. MSI's proposal would upset that balance by reducing the number of available channels for new ENG use, thereby hindering the ability of television stations to deliver live, on-the-scene coverage of breaking news events to viewers throughout the country.

MSI's proposal is defective in other respects as well. First, it directly contradicts the Commission's desire to replicate current operations in the band following the expansion of wireless backhaul operations. The Commission specifically retained the 25 MHz channel-width band plan in part because it "best conforms to existing operations in the band," *Id.* at 11628, and accommodated current users of the band as much as possible.¹⁰ Second, based on the record and its own analysis, the Commission expressly rejected alternative channelization plans such as MSI's because the 7 GHz band has many pre-existing 25 MHz channels. Permitting larger channel segments would result in uneven, unnecessary overlap with 25 MHz channels, thereby

¹⁰ *Id.* citing Comments of Vislink, WT Docket No. 10-153, at 2 (filed June 27, 2011); Comments of FWCC, WT Docket No. 10-153, at 5-6 (filed June 27, 2011).

impacting operation on multiple 25 MHz BAS channels and limiting the number of available channels for fixed operations in a given market area.¹¹

Accordingly, MSI's request for reconsideration of the Commission's determination to maintain 25 MHz channel bandwidths in the 7 GHz band should be denied.

B. The Introduction of Additional FS Operations in the 13 GHz Band is Incompatible with Effective, Unpredictable Itinerant ENG Services

The Commission should also reject FWCC's request for reconsideration of the Commission's decision to prohibit FS links in the 13 GHz band within the service areas of authorized TV BAS pickup stations. 47 C.F.R. § 101.147 note 34. FWCC contends that permitting FS in such areas would substantially increase the population coverage of FS operations.¹² FWCC claims that the "only plausible reason for barring FS on vacant 13 GHz channels is to preserve growth opportunities for BAS service." FWCC Petition at 3.

Although preserving opportunities for future BAS services is important, it is far from the only reason for prohibiting FS in areas with BAS pickup stations. As the Commission explained, BAS pickup stations fall into two categories: those that are fixed in one place, and those that move around to different locations, commonly referred to as temporary fixed or mobile operations. Mobile BAS, also known as itinerant ENG,

¹¹ See, e.g., Comments of Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS), WT Docket No. 10-153, at 3-4 (filed June 7, 2011). In addition, contrary to MSI's assertions, it makes sense to allow greater bandwidth channels in the 13 GHz band while limiting 7 GHz users to 25 MHz channels, because the 13 GHz band has more spectrum for FS than the latter. As a result, 50 MHz channels could be accommodated more easily in the 13 GHz band without hindering BAS. Comments of the Wireless Internet Service Providers Association, WT Docket No. 10-153, at 4 (filed June 27, 2011).

¹² FWCC refers only to channels not shared with BAS. FWCC Petition at 3-5.

includes television pickup stations, which are authorized to transmit programming and related communications from the scene of events. Wireless Backhaul Order, 26 FCC Rcd at 11623. Temporary fixed BAS may require longhaul ENG links (*e.g.*, a link from an ENG truck to a studio) or shorthaul ENG links (*e.g.*, a link from a mobile handheld camera to the nearby ENG truck. NAB Comments at 4.

Broadcasters' ability to establish and operate such links on short notice must be preserved because such links are essential to broadcasters' coverage of time-sensitive emergency situations like dangerous weather and traffic conditions, as well as other breaking or live news events that occur inside federal and state capitol buildings, court houses, schools, local retail establishments, and sporting venues, among other locations. Pre-existing, often informal local coordination agreements or practices among fixed and itinerant BAS operations that share spectrum make it possible for broadcasters to establish BAS links on short-notice. Wireless Backhaul Order, 26 FCC Rcd at 11623.

Adopting FWCC's proposal would cause an influx of FS operations into the 13 GHz band. FWCC concedes this fact, claiming that allowing additional FS operations into the band could roughly triple the population covered by such services. FWCC Petition at 5. The introduction of new wireless backhaul operations would be incompatible with effective, unpredictable itinerant newsgathering and news reporting,¹³ and it would disserve the public if ENG services at the scene of breaking news were

¹³ Comments of the National Spectrum Management Association, WT Docket No. 10-153, at 3-4 (filed Oct. 25, 2010) (NSMA Comments).

undermined by interference concerns caused by the presence of nearby wireless backhaul operations.¹⁴

Moreover, as the Commission observed, it is not feasible for FS and BAS operations to coordinate use of the 13 GHz band to prevent interference. Wireless Backhaul Order, 26 FCC Rcd at 11623. Fixed and mobile BAS operators are motivated to coordinate spectrum availability because the same organizations use both types of facilities for news operations.¹⁵ The Commission found that “FS operators do not have the same incentives to accommodate the needs of TV pick-up operations . . . as few of them are involved in video newsgathering or video coverage of other live events.”¹⁶ Permitting additional FS licensees into the 13 GHz band in areas with authorized BAS pickup stations, regardless of whether they operate on a co-channel basis, would not allow for the time-sensitive, real-time coordination typically required for itinerant ENG operations.¹⁷ The Part 101 coordination procedure for coordinating fixed links is insufficient where there are mixed itinerant mobile facilities and fixed links. Instead, the SBE local coordination procedure is appropriate, as the Commission has previously found.¹⁸ Indeed, FWCC itself reached a similar conclusion in its comments on the

¹⁴ NAB Comments at 8. Interference caused by FS to BAS is not the only potential problem. ENG could also be hindered by concerns that BAS operations might cause interference to existing FS operations.

¹⁵ Wireless Backhaul Order, 26 FCC Rcd at 11623 citing EIBASS Comments at 2-4.

¹⁶ *Id.* at 11624 citing EIBASS Comments at 3-4.

¹⁷ NSMA Comments at 4. In the Further Inquiry, the Wireless Bureau also observed that “[i]f the Commission were to permit FS operations in the 7 and 13 GHz bands only outside of the authorized service areas of TV pickup stations... it could likewise maintain the existing requirements that FS and fixed BAS and CARS applicants coordinate using more formal Part 101 procedures,” while maintaining the less formal procedures that currently are used to coordinate the operations of TV pickup stations. Further Inquiry at ¶ 15.

¹⁸ Revisions to Broadcast Auxiliary Service Rules, *Report and Order*, 17 FCC Rcd 22979, 23005 (2002).

Further Inquiry: “While making the bands available for FS use only outside the service area of co-channel TV pickup station licenses would mitigate the most serious interference concerns, there would nevertheless be potential for interference between systems in adjacent areas or with BAS systems operating under the ‘720 hour rule.’”¹⁹

The Commission carefully analyzed these issues, and crafted a balanced compromise that enables the introduction of FS operations in 54 percent of the land area in the 7 GHz band and 64 percent of the land area in the 13 GHz band, without hindering critical newsgathering functions in either band. Wireless Backhaul Order, 26 FCC Rcd at 11625. NAB continues to support this approach.

The Commission correctly modified its rules to only allow more intensive FS use of the 13 GHz band in areas where no authorized BAS operations are present. FWCC has shown no basis for reconsidering or reversing that approach now.

C. The Commission Correctly Eliminated the Final Link Rule

Finally, FWCC also seeks reconsideration of the Commission’s elimination of the “final link rule,” which barred television stations from using FS stations as the final link in the chain of distribution of program material to broadcast stations. 47 C.F.R. § 101.603(a)(7). This rule change provides broadcasters additional flexibility and access to FS spectrum. FWCC characterizes the increased FS access to these bands permitted in the Wireless Backhaul Order as a key rationale for deleting the rule, but contends that, given the limited nature of such access, the Commission should

¹⁹ FWCC Further Inquiry Comments at 3 citing 47 C.F.R. § 74.24 (permitting BAS licensees to operate certain Part 74 stations for up to 720 hours annually without a license). Many operations under the 720 hour rule are mobile, itinerant ENG facilities.

eliminate the final link rule only in areas where FS can use the 7 or 13 GHz bands. FWCC Petition at 5.

NAB opposes FWCC's proposal. The Commission struck an appropriate balance in the Wireless Backhaul Order. Specifically, the Commission concluded that the final link rule represented an "artificial distinction based solely on the type of content provided" via the link, which makes little sense as both broadcasters and FS operations move to digital technologies. Wireless Backhaul Order, 26 FCC Rcd at 11631. We agree with the Commission that the rule is essentially obsolete, and imposes an unnecessary burden on broadcasters. For example, some broadcasters must establish duplicative facilities to carry program material to the transmitter site and another system to handle other data. *Id.*

We also note the overwhelming majority of other FS licensees who expressed no concerns with elimination of the final link rule, and the lack of evidence of any actual costs associated with deleting the rule. *Id.* As NSMA explained, there does not appear to be a pent-up demand for extensive use of the 7 and 13 GHz bands for final link use. Instead, NSMA expects a gradual expansion of such use in a manner that should not hinder FS operations in the bands. NSMA Comments at 5.

FWCC offers no evidence to the contrary, nor any other facts or arguments beyond its bare assertion that eliminating the rule is irrational because the Commission did not expand FS access to the 7 and 13 GHz bands to a sufficient extent, in FWCC's view. Therefore, FWCC's suggestion regarding the final link rule should be denied.

III. Conclusion

For the reasons stated above, the Commission should deny the Petitions for Reconsideration submitted by MSI and FWCC.

Respectfully submitted,



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Filed: December 16, 2011