

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

In the Matter of)
)
Stratos Mobile Networks (USA), LLC)
and)
Marine Satellite Services, Inc.)
)
Petition for Waiver of)
Section 20.15(d) of the)
Commission's Rules)

ORDER

Adopted: December 28, 1999

Released: December 29, 1999

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. On July 2, 1998, the Commission released its Memorandum Opinion and Order and Notice of Proposed Rulemaking in WT Docket No. 98-100,¹ in which it determined, among other things, to forbear from enforcing the requirement that Commercial Mobil Radio Service (CMRS) providers file tariffs except in those situations in which a United States CMRS provider has a foreign affiliate.² See Section 20.15(d) of the Commission's rules, 47 C.F.R. § 20.15(d). In the *CMRS Forbearance Order*, the Commission stated that the purpose of this rule is to enable it to determine the presence of any anti-competitive price squeeze behavior by a CMRS provider.³

2. On July 13, 1999, Stratos Mobile Networks (USA), LLC and Marine Satellite Services, Inc. (collectively "Stratos"), filed a petition for waiver of section 20.15(d) of the Commission's rules to permit Stratos to cancel its tariff in its entirety. Stratos stated that the Commission had recently granted a request for a waiver of section 20.15(d) filed by GTE Airfone, Inc.⁴ and that

¹ Personal Communications Industry Association's Broadband Personal Communications Services Alliance's Petition for Forbearance for Broadband Personal Communications Services, *Memorandum Opinion and Order and Notice of proposed Rulemaking*, 13 FCC Rcd 16857 (1998) (*CMRS Forbearance Order*).

² *Id.* at 16884-87.

³ *Id.*

⁴ *In the Matter of GTE Airfone, Inc., Petition for Waiver of Section 20.15(d) of the Commission's Rules*, 14 FCC Rcd. 7903 (Wireless Telecommunications Bureau, 1999). See also *In the Matter of Iridium, U.S., L.P., Motorola Cellular Service, Inc., and Motorola Worldwide Information Network Services*, DA 99-1688 (released August 23, 1999).

similar circumstances existed in Stratos's case. Stratos also stated that it is required under Section 20.15(d) to file tariffs for service to only one country, Canada, where it is affiliated with a number of carriers who accept settlement payments from U.S. carriers. Stratos asserted that the rates for calls to Canada in its tariffs are the lowest rates charged for international calls. Specifically, Stratos stated that it uses a zone system to determine international rates and that Canada is in "zone 1" (that with the lowest rates) along with the United States, and will remain so. Stratos further argued that the volume of such calls is too small to allow it to use the affiliations in an anti-competitive manner, and that there is no reasonable alternative to a waiver.

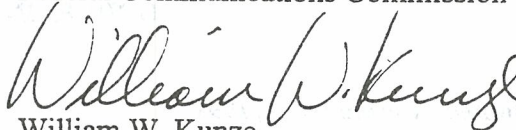
3. We find that Stratos has met the standard for grant of its petition for waiver of section 20.15(d) of the Commission's rules. Absent a waiver, Stratos is required to file tariffs for international calls to Canada. A request for a waiver of Commission rules must "set forth the reasons in support thereof including a showing that unique circumstances are involved and that there is no reasonable alternative within existing rules."⁵ We find that unique circumstances exist here because Stratos's rates for all international calls are determined by use of a zone system. In addition, we find that because the routes in question comprise only a very small portion of Stratos's service, there is no opportunity for anti-competitive pricing behavior by Stratos on those routes. Moreover, we note that in its waiver request Stratos affirmed its commitment to maintain its zone system and keep Canada in zone 1. Finally, there is no reasonable alternative to the filing of tariffs available to Stratos. Accordingly, we will grant its petition for waiver.

⁵ See Section 1.3 of the Commission's rules, 37 C.F.R. § 1.3; *WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied, 409 U.S. 1027 (1972).

4. Accordingly, IT IS ORDERED that, pursuant to section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and section 0.331 of the Communication's rules, 47 C.F.R. § 0.331, the petition filed by Stratos for waiver of the provisions of section 20.15(d) of the Commission rules, 47 C.F.R. § 20.15(d), IS GRANTED.

5. IT IS FURTHER ORDERED that this Order SHALL BE EFFECTIVE upon release, in accordance with section 1.103 of the Commission's rules, 47 C.F.R. § 1.103.

Federal Communications Commission



William W. Kunze

Deputy Chief

Commercial Wireless Division

Wireless Telecommunications Bureau

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

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| In the Matter of Application of |) | |
| |) | |
| ASTROLINK COMMUNICATIONS, INC. |) | FCC File No. 9506296 |
| |) | |
| to Provide 39 GHz Point-to-Point Microwave |) | |
| Service in Santa Fe, NM |) | |

ORDER ON RECONSIDERATION

Adopted: December 28, 1999

Released: December 29, 1999

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* We have before us a request from Astrolink Communications, Inc. (Astrolink) for reconsideration of the decision by the Licensing and Technical Analysis Branch (Branch) to dismiss an amendment to the above-captioned application to operate a new Point-to-Point Microwave Radio Service system in the 38.6-40.0 GHz (39 GHz) band.¹ For the reasons set forth below, we deny Astrolink's petition for reconsideration.

2. *Background.* On June 15, 1995, Astrolink filed the above-referenced application for authorization to provide 39 GHz point-to-point microwave service in Santa Fe, NM.² On August 15, 1995, No Wire LLC (No Wire) timely filed a competing application that was mutually exclusive with the Astrolink application.³

3. In an *NPRM and Order* released on December 15, 1995, the Commission suspended the processing of pending mutually exclusive 39 GHz applications and the filing of amendments thereto, pending the outcome of a rulemaking proceeding affecting this service.⁴ In a *Report and Order and Second NPRM* released on November 3, 1997, the Commission announced that it would dismiss, without prejudice, pending mutually exclusive applications.⁵

¹Letter from E. Ashton Johnston, counsel for Astrolink to Mary M. Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division (filed Apr. 5, 1999) (Astrolink Petition).

²FCC File No. 9506296. See *Public Notice*, Report No. 1141, Wireless Telecommunications Bureau Weekly Receipts and Disposals (rel. June 28, 1995).

³FCC File No. 9508163. See *Public Notice*, Report No. 1147, Wireless Telecommunications Bureau Weekly Receipts and Disposals (rel. Aug. 9, 1995).

⁴Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Notice of Proposed Rule Making and Order*, ET Docket No. 95-183, 11 FCC Rcd 4930, 4988-4989 ¶ 123 (1995).

⁵See Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0 GHz Bands, *Report and Order and Second Notice of Proposed Rulemaking*, ET Docket No. 95-183, 12 FCC Rcd 18600, 18641-45 ¶¶ 87-97 (1997).