

Federal Communications Commission

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

In the Matter of)	
)	
)	
Amendment of Parts 2 and 25 of the Commission's)	
Rules to Permit Operation of NGSO FSS Systems)	ET Docket No. 98-206
Co-Frequency with GSO and Terrestrial Systems in)	RM-9147
the Ku-Band Frequency Range;)	RM-9245
)	
Amendment of the Commission's Rules to Authorize)	
Subsidiary Terrestrial Use of the)	
12.2-12.7 GHz Band by Direct Broadcast Satellite)	
Licensees and Their Affiliates; and)	
)	
Applications of Broadwave USA,)	
PDC Broadband Corporation, and)	
Satellite Receivers, Ltd. to Provide)	
A Fixed Service in the 12.2-12.7 GHz Band)	

ERRATUM

Released: June 4, 2002

By the Chief, Public Safety and Private Wireless Division:

1. On May 23, 2002, the Commission released a *Memorandum Opinion and Order and Second Report and Order* (FCC 02-116) in the above captioned proceeding. Rule sections 101.147(p)-(q)(1) "Frequency assignments" and 101.1421(c) "Coordination of adjacent area MVDDS stations and incumbent public safety POFS stations" in Appendix D contained the wrong date. Therefore, with this Erratum we correct rule sections 101.147(p)-(q)(1) and 101.1421(c) to conform to the text of the *Memorandum Opinion and Order and Second Report and Order*. In addition, in paragraph 2 of the Final Regulatory Flexibility Analysis in Appendix E, the name of the service was titled incorrectly, and we correct the section to conform to the text of the *Memorandum Opinion and Order and Second Report and Order*.

2. Section 101.147(p)-(q)(1) in Appendix D is changed to read as follows:

(p) 12,000-12700 MHz. The Commission has allocated the 12.2-12.7 GHz band for use by the Direct Broadcast Satellite Service (DBS), the Multichannel Video Distribution and Data Service (MVDDS), and the Non-Geostationary Satellite Orbit Fixed Satellite Service (NGSO FSS). MVDDS shall be licensed on a non-harmful interference co-primary basis to existing DBS operations and on a co-primary basis with NGSO FSS stations in this band. MVDDS use can be on a common carrier and/or non-common carrier basis and can use channels of any desired bandwidth up to the maximum of 500 MHz provided the EIRP does not exceed 14 dBm per 24 megahertz. Private operational fixed point-to-point microwave stations authorized after September 9, 1983, are licensed on a non-harmful interference basis to DBS and are required to make any and all adjustments necessary to prevent harmful interference to operating domestic DBS receivers. Incumbent public safety licensees shall be afforded protection from MVDDS and NGSO

FSS licensees, however all other private operational fixed licensees shall be secondary to DBS, MVDDS and NGSO FSS licensees. As of May 23, 2002, the Commission no longer accepts applications for new licenses for point-to-point private operational fixed stations in this band, however, incumbent licensees and previously filed applicants may file applications for minor modifications and amendments (as defined in § 1.929 of this chapter) thereto, renewals, transfer of control, or assignment of license. Notwithstanding any other provisions, no private operational fixed point-to-point microwave stations are permitted to cause harmful interference to broadcasting-satellite stations of other countries operating in accordance with the Region 2 plan for the Broadcasting-Satellite Service established at the 1983 WARC.

(q) Special provisions for incumbent low power, limited coverage systems in the band segments 12.2-12.7 GHz.

(1) As of May 23, 2002, the Commission no longer accepts applications for new stations in this service and incumbent stations may remain in service provided they do not cause harmful interference to any other primary services licensed in this band as described in paragraph (p) of this section. However, incumbent licensees and previously filed applicants may file applications for minor modifications and amendments (as defined in § 1.929 of this chapter) thereto, renewals, transfer of control, or assignment of license.

3. Section 101.1421(c) in Appendix D is changed to read as follows:

(c) Licensees shall coordinate their facilities whenever the facilities have optical line-of-sight into other licensees' areas or are within the same geographic area. Licensees are encouraged to develop operational agreements with relevant licensees in the adjacent geographic areas. Incumbent public safety POFS licensee(s) shall retain exclusive rights to its channel(s) within the relevant geographical areas and must be protected in accordance with the procedures in § 101.103 of this part. A list of public safety incumbents is attached as Appendix I to the Memorandum Opinion and Order and Second Report and Order, Docket 98-206 released May 23, 2002. Please check with the Commission for any updates to that list.

4. Final Regulatory Flexibility Analysis in Appendix E:

A. Need for, and Objectives of, the *Second Report and Order*

By this action, Multichannel Video Distribution and Data Service (MVDDS) providers will share the 12.2-12.7 GHz band with new NGSO FSS operators on a co-primary basis and on a non-harmful interference basis with incumbent direct broadcast satellite (DBS) providers. The objective of this *Second Report and Order* is to adopt licensing, service and technical rules for the MVDDS. Specifically, we seek: (1) to accommodate the introduction of innovative services; and (2) to facilitate the sharing and efficient use of spectrum. Furthermore, the rules adopted in this *Second Report and Order* are designed to implement Congress's goal of giving small businesses the opportunity to participate in the provision of spectrum-based services in accordance with Section 309(j) of the Communications Act of 1934, as amended.¹ Thus, we believe that this service will facilitate the delivery of communications services, such as video and broadband services, to various populations including those that are deemed to be unserved and/or underserved.

¹ 47 U.S.C. §§ 257, 309(j)(Communications Act).

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5. Accordingly, IT IS ORDERED that this Erratum is issued pursuant to Section 0.331 of the Commission's rules on delegated authority, 47 C.F.R. § 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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