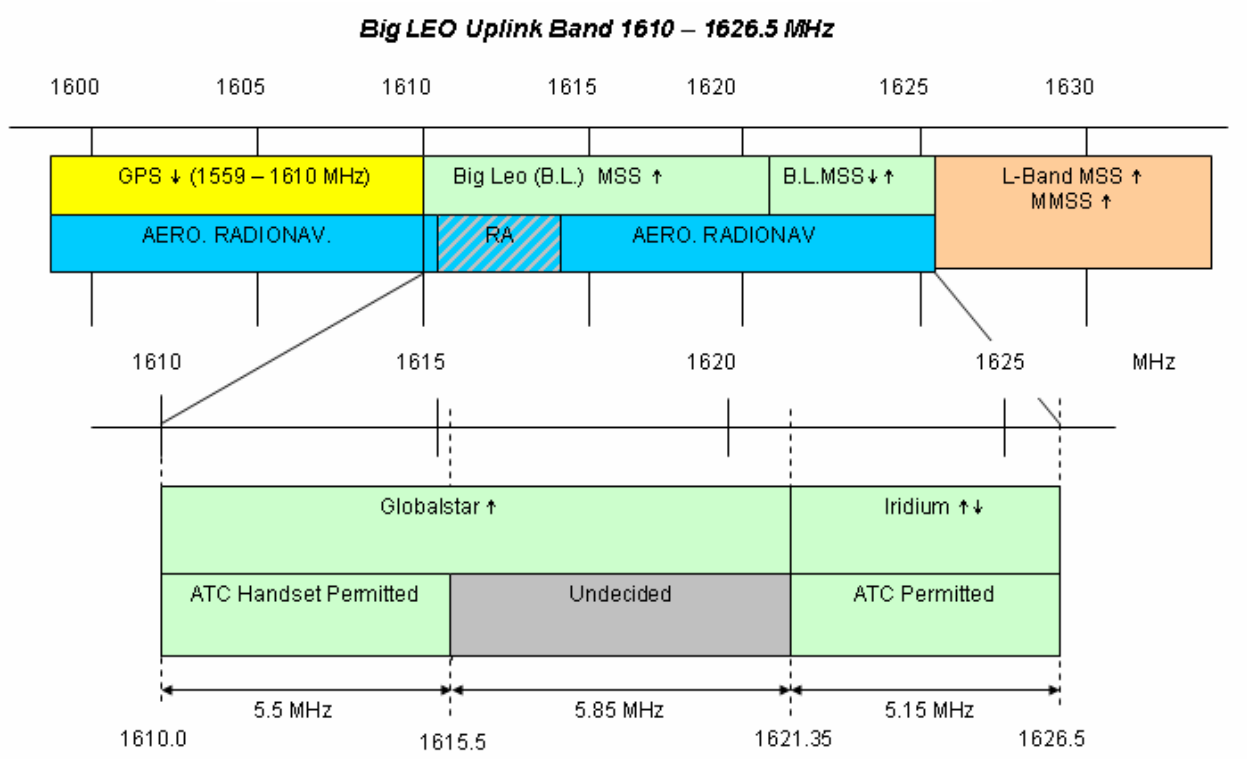
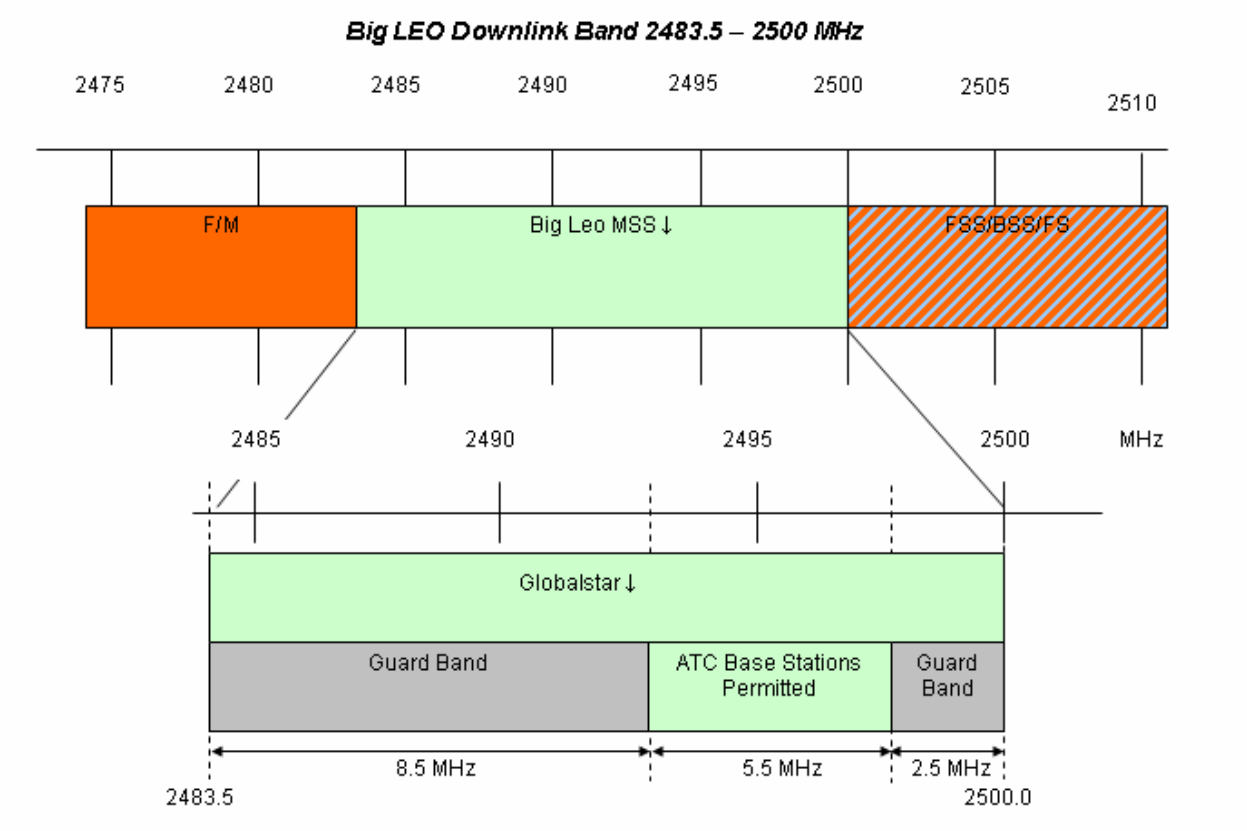
Appendix F


Big LEO Uplink Band 1610 – 1626.5 MHz
1600
1605
1610
1615
1620
1625
1630
GPS ↓ (1559 – 1610 MHz)
Big Leo (B.L.) MSS ↑
B.L.MSS↓↑
L-Band MSS ↑
MMSS ↑
AERO. RADIONAV.
RA
AERO. RADIONAV
1610
1615
1620
1625
MHz
Globalstar ↑
Iridium ↑↓
ATC Handset Permitted
Undecided
ATC Permitted
5.5 MHz
5.85 MHz
5.15 MHz
1610.0
1615.5
1621.35
1626.5


Big LEO Downlink Band 2483.5 – 2500 MHz
2475
2480
2485
2490
2495
2500
2505
2510
F/M
Big Leo MSS ↓
FSS/BSS/FS
2485
2490
2495
2500
MHz
Globalstar ↓
Guard Band
ATC Base Stations Permitted
Guard Band
8.5 MHz
5.5 MHz
2.5 MHz
2483.5
2500.0

STATEMENT OF
CHAIRMAN MICHAEL K. POWELL

Re: *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands*

Re: *Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems.*

Today the Commission releases a family of orders that grants flexibility to licensees that provide substantial satellite service, strictly enforces our satellite milestone policies, and reallocates 30 MHz of spectrum for terrestrial use. Taken together, these orders reflect the Commission's commitment to vigorously guard the public's spectrum resource and to ensure that resource is used efficiently in the public interest. In addition, these orders will further increase the portfolio of spectrum-based services emerging as viable competitors in the voice and broadband marketplace. While I believe today's orders represent the optimal outcome under the constraints of the existing licensing regime, they also highlight areas of our current spectrum policy that warrant particular attention, from the Commission and Congress, if we are to maximize the public interest in spectrum policy.

First, we grant existing satellite providers in three bands the option of using their spectrum assignments on the ground as well as in space. Under our traditionally bifurcated licensing regime, satellite and terrestrial spectrum rights have been assigned independent of one another. In some cases, assignment of either satellite or terrestrial rights effectively barred the assignment of the other because of interference concerns. Advances in technology have changed some of these assessments. Sharing is now often possible between satellite and terrestrial, fixed services. Indeed, in cases where the services are severable, the Commission has decided to license the rights to different parties. In other cases, the capacity of two independent services to share is far more limited.

In the bands at issue here, the satellite-based services as well as the proposed terrestrial services are mobile, making sharing less feasible. Moreover, the satellite services are already licensed and, in two of the three bands at issue, satellite licensees are already offering service. In the end, I concluded that granting additional rights to existing satellite licensees best protected those services from harmful interference and ensured the spectrum currently allocated to satellite services in these three bands was fully utilized. The dissent argues that the Commission should have sought additional comment on our authority to assess a fee on satellite licensees who would be granted these additional rights. As an initial matter, it should be pointed out that the Commission already sought comment in this proceeding on that very issue. Further comment seems unproductive. However, I concur in the recommendation of the Spectrum Policy Task Force that Congress consider granting the Commission fee authority. Authorizing such fees would provide the Commission with an important tool for ensuring efficient use of the public spectrum resource.

Second, today's orders emphasize the importance of milestones in our satellite licensing regime. The Commission has long acknowledged that satellite-based communications present unique challenges. Specifically there is often a tremendous lag time between the filing of an application and the actual provision of service. The ITU satellite filing and coordination regime further complicate this process. The time and regulatory resources involved strongly counsel in favor of policies that ensure satellite spectrum goes to providers committed to using the spectrum promptly. Strict enforcement of milestones ensures this result. We will continue to be vigilant that satellite licensees fulfill their obligations to build

systems – or the spectrum will be returned and re-licensed. Adherence to the obligation to construct new systems also advances our goal of multiple, facilities-based competitors in all sectors of the communications marketplace, including satellite services.

While milestone enforcement is an important policy, the Commission is also examining its satellite policies in a broader context to determine whether our processes unduly hinder market access, and thereby limits competition in voice, broadband, and other markets. The Commission is currently reassessing its satellite licensing regime to determine what improvements can be made. Our current system takes much too long and makes the challenges associated with launching and operating a satellite service all the more complex. Satellite providers should succeed or fail in the marketplace on their own merits – not to have their business plans atrophy on the shelf while the FCC takes years to issue a license. We can and must do better.

Finally, the Commission today reallocates 30 MHz of spectrum at 2 GHz previously allocated for satellite use. The Commission also seeks comment on reallocating additional spectrum in the Big LEO band. These actions are not taken lightly. However, I believe that the highest-valued use of this spectrum is no longer for satellite service, and it is more prudent to explore other uses.

Going forward, it would be best if the Commission were not called upon to make such command-and-control determinations. If, for example, Congress were to repeal the international satellite competitive bidding prohibition in the ORBIT Act as the Task Force recommended, the Commission would be able to adopt a flexible allocation including satellite and terrestrial uses. If mutually exclusive applications were then accepted for filing, the resulting auction would allow the marketplace – rather than the Commission – to decide the highest valued use of the spectrum in question. I believe such an outcome would maximize the public interest and, accordingly, ask Congress to consider allowing the FCC the option of distributing flexible spectrum rights via auction.

Once the Commission determined that 30 MHz of satellite spectrum at 2 GHz would be reallocated, we faced the challenging task of selecting the appropriate bands. One of the most difficult aspects of that decision was to reallocate 10 MHz of globally harmonized spectrum at 1990-2000 MHz. Globally harmonized spectrum is a vital resource and we remain committed to the ITU process and the goals of global harmonization. However, the United States had years ago determined that the 1930-1990 band would be used for PCS. That service succeeded beyond our greatest expectations. Although during this period the Commission had yet to issue 2 GHz satellite licenses because of continuing international allocation issues, it had established certain technical operating parameters. As we came closer to a decision in these proceedings, it became increasingly clear that there would be interference issues between the PCS providers at 1930-1990 and satellite operators above 1990. The resulting interference may well have jeopardized the reliability and success of each service. Thus, although I highly value internationally harmonized operations, I determined that the ability of both services to operate reliably outweighed international concerns in this circumstance. Although I am disappointed that both interests could not be accommodated, I believe in the end stronger satellite and terrestrial services will result.

The decisions we reach today are significant and complex. The Commission's talented staff deserves credit and recognition for the long hours and tireless efforts that culminated in these orders' adoption. Together their efforts will allow for more efficient utilization of the spectral resource, the development of innovative service offerings, and more diverse and competitive alternatives for consumers throughout the country.

SEPARATE STATEMENT OF

COMMISSIONER KATHLEEN Q. ABERNATHY

Re: *Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2GHz Band, the L-Band, and the 1.6/2/4 GHz Bands and Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands, IB Docket No. 01-185 and IB Docket No. 02-364.*

By granting flexibility to mobile satellite service providers we are maximizing the value of the radiocommunications spectrum resource to deliver benefits to consumers consistent with the Commission's statutory obligations. In this proceeding the Commission was faced with balancing several public interest goals in determining how to maximize the efficiency of the spectrum resource in the 2 GHz, the Big Leo and the L bands. I believe that granting mobile satellite service providers the ability to add an ancillary terrestrial service component to their service offerings balances these goals in a manner that best serves the public interest.

Specifically, the record in this proceeding demonstrates that the shared usage of these bands by separate MSS operators and terrestrial operators would likely result in the inability for both systems to operate effectively. This is especially the case for L-band and Big Leo satellite operations. Therefore, the Commission was faced with a difficult decision: it could either isolate out the terrestrial rights from the satellite rights and auction these licenses separately despite the technical limitations, or allow integrated ancillary terrestrial use of these bands by MSS operators. In permitting an ancillary terrestrial component, the Commission will enable enhanced operations by the MSS licensees. While some had argued the terrestrial component of the spectrum should be auctioned, such an option would have devalued the amount of spectrum usable by any entity and denied services to consumers.

The record reflects many public interest benefits associated with the provision of global mobile satellite services, including the ability of these systems to provide service to rural and remote locations where traditional services may not yet operate. In addition, satellite operators have the potential to develop ubiquitous mobile telecommunications and broadband services. The Commission has adopted stringent requirements that must be met by the satellite operator to ensure that an ATC applicant will provide its terrestrial component consistent with the ancillary use requirement. These include requirements that the ATC applicant provide substantially a satellite service and that the provision of any terrestrial service remains an integrated service component of the overall satellite system.

Spectrum is important because it is a finite natural resource with immense potential value to the American people. That value is derived from commercial services, public safety and national security. Of course, fallow spectrum in general has little value. So the Commission's goal is to create regulatory policies that foster effective investment to deliver services. I believe that today's action helps to move this goal forward in the near future.

SEPARATE STATEMENT OF
COMMISSIONER MICHAEL J. COPPS
Approving in Part, Dissenting in Part

Re: *In the Matter of Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands; IB Docket No. 01-185, IB Docket No. 02-364.*

I agree with today's decision to grant MSS licensees the authority to provide ancillary terrestrial service for their customers. The MSS industry is in its infancy. But it has great promise -- great promise to improve rural service, to enhance national security, and to strengthen the overall satellite infrastructure. It is with hope that ATC will further efforts to turn this promise into reality that I approve of the majority of today's order.

But it is also with the intention of maintaining the promise of the 2 GHz band, L-band, and big-LEO band that I support the strict gating requirements we insist on before ATC authority may be exercised. Satellite licensees must protect the vitality of satellite services in order to win ATC rights. This means operating their own satellite facilities, meeting tough construction and deployment milestones, providing "substantial satellite service," providing satellite-capable phones at point of sale, and either complying with the dual-mode-phone safe harbor or successfully demonstrating that another arrangement protects satellite service.

I must dissent on one point, however. The majority rejects the proposal contained in the NPRM to charge licensees fees for the additional spectrum usage rights we grant in this order. MSS licensees did not pay for their spectrum licenses at auction, since this is prohibited by Congress. This means that the public has not been compensated for this private use of public spectrum. Additionally, licensees who have not internalized the cost of purchasing spectrum licenses do not have the same incentive to use spectrum resources intensively. Charging MSS licensees a usage fee could mitigate these problems.

Questions about the fee's structure and FCC authority remain, even after the record on this proposal was received in response to the NPRM. I therefore would have made a tentative conclusion to impose such fees and would have initiated a second NRPM more specifically asking how to create a fee system, what authority the FCC has, and how fee amounts should be set. Doing so would have begun the process of insuring that the American people are adequately compensated for private use of a public resource, and that all spectrum users have the incentive to use spectrum intensively. While some in the majority believe this is "unproductive," I believe that working to find ways to promote the efficient use of spectrum and to compensate the public for the use of a public resource is our responsibility.

SEPARATE STATEMENT OF
COMMISSIONER JONATHAN S. ADELSTEIN

Re*: In the Matter of Flexibility for Delivery of Communications by Mobile Satellite Service Providers in the 2 GHz Band, the L-Band, and the 1.6/2.4 GHz Bands; Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands; IB Docket No. 01-185, IB Docket No. 02-364.*

The issues addressed in today's Report and Order have been heavily debated before the Commission for almost two years, and I commend the staff for its hard work on this often contentious issue. I also commend the Chairman and my fellow Commissioners for their collective leadership on such a difficult and challenging matter. I am hopeful that today's decision facilitates the provision of mobile satellite services, particularly in those areas of the country, including rural areas, which currently are underserved by other wireless services.

I remain concerned, however, that our decision raises the possibility of unintended consequences – our decision should not allow a Mobile Satellite Services (MSS) system with an ancillary terrestrial component to evolve into a terrestrial system with an ancillary mobile satellite component. I thus write separately to underscore my commitment to ensuring that mobile satellite service licensees fully comply with the so-called "gating" restrictions prior to receiving ancillary terrestrial authority. I will pay particular attention to MSS licensees not presently operating systems to make certain that they satisfy the gating requirements by operating their own satellite facilities and providing substantial satellite service to the public prior to receiving authority to provide terrestrial services. I also intend to ensure that the restrictions are maintained throughout the grant of ancillary terrestrial authority by all MSS licensees.

Finally, I also share a keen interest in Congressional consideration of a grant of fee authority to the Commission.