

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

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In the Matter of:	)	
	)	
LightSquared Subsidiary, LLC	)	SAT-MOD- 20101118-00239
	)	
Application for Modification of Its Authority	)	
for an Ancillary Terrestrial Component	)	

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**COMMENTS OF AT&T INC.**

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## EXECUTIVE SUMMARY

AT&T continues to support the Federal Communications Commission's goal, as identified in the National Broadband Plan, of identifying 500 MHz of additional wireless broadband spectrum, including 300 MHz for commercial mobile broadband services in the near term. AT&T also shares the Commission's belief that rationalizing the Mobile Satellite Services spectrum bands for increased terrestrial broadband use could be one important mechanism for achieving this goal. However, any action the Commission takes on these matters should be done in the context of rulemakings of general applicability, with all the appropriate protections of due process and regulatory fairness they bring, rather than through individual licensee-specific adjudications or modifications.

LightSquared's recently filed revised business plan outlines a strategy for bringing a substantial new, competitive mobile broadband network to the public. AT&T did not oppose the transaction that created LightSquared, and it takes no position with respect to the merits of LightSquared's proposal. Nonetheless, LightSquared's application to modify its ATC authority is in conflict with the Commission's ATC gating criteria and constitutes a novel re-interpretation of the Commission's integrated service requirement, which as Commission precedent makes clear, prohibits the offering of stand-alone terrestrial service to the public.

Accordingly, the Commission should consider LightSquared's request for modification of the ATC gating criteria in the context of the currently pending MSS rulemaking proceeding. To rule on LightSquared's proposal in the truncated modification proceeding the Commission has opened in this instance would conflict with the Commission rules, which require a thirty day comment period on major modification applications. LightSquared did not request, much less justify, expedited treatment of its request, or any exception from the Commission's procedural rules.

Taking up its proposal expeditiously in the rulemaking docket would ensure orderly and deliberative consideration of LightSquared's request in a proceeding in which questions regarding adjustment of the ATC gating criteria already have been raised. Moreover, instead of affording a single licensee preferential treatment and risking serious competitive harm, addressing LightSquared's request in the MSS rulemaking would yield rules of general applicability and advance the objective of competitive neutrality.

Should the Commission elect to proceed with the licensee-specific relief LightSquared has requested, it should do so in accordance with its procedural rules and in a manner that reduces the possibility of competitive harm. Specifically, the Commission should require LightSquared to file a formal request for waiver and to demonstrate that its proposal satisfies the public interest requirements for such relief. To the extent a waiver is granted, the Commission should impose restrictions to mitigate the potential for anticompetitive harm to other MSS players and the wireless broadband industry as a whole.

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**COMMENTS OF AT&T INC.**

AT&T Inc. (“AT&T”) hereby submits these comments in response to the Federal Communications Commission’s (“Commission”) public notice announcing the filing of an application for modification by LightSquared Subsidiary, LLC (“LightSquared”) of its Ancillary Terrestrial Component (“ATC”) authorization.<sup>1</sup>

**I. INTRODUCTION**

AT&T supports the Commission’s National Broadband Plan goal of identifying an additional 500 MHz of spectrum for wireless broadband use in the next ten years. Bringing additional flexibility to Mobile Satellite Service (“MSS”) bands could promote competition, new market entry, innovation, and increased broadband availability. In taking further steps to realize this goal, however, the Commission should act through rulemakings of general applicability that will apply uniformly to all MSS and wireless operators. The Commission should not effectuate important policy changes through license modifications or waivers that will unfairly, and on a scant record, provide a particular competitor with additional flexibility without regard to how that policy shift will affect other similarly situated spectrum users.

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<sup>1</sup> Policy Branch Information, Satellite Space Applications Accepted for Filing, *Public notice*, Report No. SAT-00738 (rel. Nov. 19, 2010) (“Public Notice”).

In its recent filing, LightSquared outlined its vision of becoming a nationwide wholesale provider of mobile broadband capacity through its MSS ATC wireless broadband network. In particular, LightSquared requests that it be permitted indirectly to offer terrestrial only services to retail users of its MSS ATC network. To be clear, AT&T takes no position here on the merits of LightSquared's request, and AT&T did not oppose the Harbinger/SkyTerra transaction that created LightSquared. But LightSquared's proposal to indirectly offer terrestrial only retail service is clearly inconsistent with the spirit and purpose of the Commission's "integrated service" ATC gating criterion.<sup>2</sup> Whether a relaxation of the gating criteria is an appropriate means to promote mobile broadband use of the MSS bands is properly before the Commission in the pending MSS rulemaking proceeding,<sup>3</sup> and the novel issues raised by the LightSquared modification application should be addressed in that proceeding, where a robust record is being developed, not through the rushed administrative process initiated by the Commission with the public notice. Indeed, even if the Commission were to proceed on LightSquared's application in isolation, its departure from its own procedural rules in this instance, particularly when LightSquared did not request, much less justify expedited treatment of its proposal, is both unwise and unwarranted. Commission rules require a thirty day comment period on LightSquared's major modification request rather than the truncated comment period—even after a three day extension—the Commission has prescribed here.<sup>4</sup>

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<sup>2</sup> 47 C.F.R. § 25.149(b)(4).

<sup>3</sup> See Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 16262.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, *Notice of Proposed Rulemaking and Notice of Inquiry*, 25 FCC Rcd 9481(2010) ("MSS NPRM & NOI").

<sup>4</sup> 47 C.F.R. § 25.154

## **II. AT&T SUPPORTS THE COMMISSION'S EFFORTS TO PROMOTE MOBILE BROADBAND USE OF THE MSS SPECTRUM.**

AT&T supports the National Broadband Plan goal of identifying 500 MHz of additional spectrum to meet the explosive demand for wireless broadband services, including 300 MHz of spectrum to for mobile broadband over the next five years.<sup>5</sup> As the Commission recognized in the Plan, additional wireless broadband spectrum is needed to ensure continued innovation and economic growth, and to provide the opportunity for all Americans to enjoy the benefits of advances in broadband technology. The record in the National Broadband Plan proceeding demonstrates that current spectrum resources will be insufficient to support the projected growth in mobile broadband demand, and with next generation network deployments currently underway, the need for additional spectrum is increasingly pressing.

AT&T also supports the National Broadband Plan's identification of the MSS bands as a significant and promising source of spectrum, important to meeting its spectrum goals. The Plan projected that through increased flexibility in the MSS bands, up to 90 MHz of additional mobile broadband spectrum could be gained. As expressed in its comments on the recent *MSS NPRM/NOI*, AT&T fully supports efforts to promote market mechanisms for transitioning the MSS spectrum to mobile broadband use.<sup>6</sup>

The MSS spectrum in the range of 1525-1559 MHz and 1626.5-1660.5 MHz (the "L-Band MSS spectrum") is one promising source for additional mobile broadband capacity, and AT&T applauds the Commission's efforts to transition this spectrum in a fair and equitable manner to terrestrial use. Indeed, AT&T did not oppose the Harbinger/SkyTerra transaction. In

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<sup>5</sup> See *Connecting America: The National Broadband Plan*, Recommendation 5.8.4, pp. 87-88 (2010) ("NBP").

<sup>6</sup> See generally, Comments of AT&T Inc., ET Docket No. 10-142 (filed Sept. 15, 2010).

fact, AT&T believes the Commission took an important step through the *Harbinger/SkyTerra Order* to make 40 MHz of MSS spectrum available for mobile broadband use. LightSquared has committed to build a terrestrial LTE broadband network covering 260 million people with 40,000 terrestrial base stations within 5 years, and has reportedly invested billions toward that end.<sup>7</sup> However, in determining whether and where increased spectrum flexibility is appropriate or necessary, the Commission must ensure that any action is taken with appropriate respect for due process and based upon a complete record, as it has begun to do through the pending MSS rulemaking.

### **III. ANY EASING OF THE MSS ATC GATING CRITERIA SHOULD BE CONDUCTED THROUGH THE EXISTING MSS RULEMAKING PROCEEDING.**

To the extent that the Commission determines that it should ease the MSS ATC gating criteria to promote terrestrial use of MSS spectrum—either for all the MSS bands or for specific allocations—it should do so promptly through the existing MSS rulemaking proceeding, which will allow for full public participation and the promulgation of competitively neutral rules that will apply uniformly throughout the industry. Should the Commission grant LightSquared’s modification application in isolation, such action would amount to preferential treatment of LightSquared relative to other MSS licensees, who would, comparatively, be more restricted in their permissible use of their spectrum resources. Rather than introducing flexibility on a rushed and one-off basis through a company-specific application, the Commission should instead expeditiously address this request in the context of the pending MSS rulemaking proceeding, where these issues have already been properly raised.

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<sup>7</sup> See LightSquared Subsidiary LLC, Request for Modification of ATC Authority, IBFS File No. SAT-MOD- 20101118-00239, Narrative at 2 (filed Nov. 18, 2010); see also Jenny Strasburg and Spencer E. Ante, *Wireless Network Races for Funds*, WALL STREET JOURNAL (July 19, 2010).



**A. LightSquared’s Revised Business Plan Proposes a Novel Interpretation of the Commission’s ATC Gating Criteria.**

LightSquared’s business plan, in which it will serve as a wholesale provider of an integrated MSS/ATC wireless broadband service to retailers and other service providers, offers a novel interpretation of the integrated service requirements. Section 25.149(b)(4) of the Commission’s rules requires that MSS ATC licensees certify that they will offer an integrated service of MSS and ATC.<sup>8</sup> The Commission’s rules indicate that an MSS ATC licensee can satisfy this requirement either by demonstrating that it will rely upon the use of a dual-mode handset that can communicate with both the MSS network and the ATC component, or through other evidence establishing that the operator will offer an integrated service to the public.<sup>9</sup> In its initial application for ATC authority, LightSquared’s predecessor, Mobile Satellite Ventures Subsidiary LLC (“MSV”), satisfied the integrated service showing by certifying that the handsets that would be used to access its ATC network would exclusively be dual-mode devices that could also be used for MSS communication.<sup>10</sup>

LightSquared’s recent filing seeks to modify this earlier certification and replaces it with a detailed discussion of its revised business plan. While LightSquared argues that its business plan technically complies with the integrated service requirement, the business plan laid out in the filing marks a substantial departure in spirit and intent from the Commission’s requirements. In short, LightSquared has described a business plan that would allow its wholesale partners to offer predominantly, if not exclusively, terrestrial-only services over LightSquared’s MSS spectrum.

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<sup>8</sup> 47 C.F.R. § 25.149(b)(4).

<sup>9</sup> *Id.*

<sup>10</sup> Mobile Satellite Ventures Subsidiary LLC, File No. SAT-MOD-20031118-00333, *Order and Authorization*, 19 FCC Rcd 22144, 22151 ¶ 20 (2004).

Despite the potential public benefits of increased mobile broadband availability, the question of whether LightSquared's revised business plan complies with the Commission's integrated service requirements is a novel and important one. LightSquared itself contemplates that its network may be used to offer a stand-alone terrestrial-only service to the public. However, such a plan appears to be in conflict with previous Commission statements on the intended purpose of ATC authority and the operation of its ATC gating criteria.

The Commission has repeatedly stressed that its ATC rules are meant to support a predominantly satellite-based service, not the other way around. On this point, the Commission has stated that where an MSS ATC operator makes its spectrum available to other service providers, "such spectrum could only be used if its usage met the requirements to ensure it remained ancillary to MSS and were used in conjunction with MSS operations, *i.e.*, that it met all of our gating requirements. The purpose of our grant of ATC authority is to provide satellite licensees flexibility in providing satellite services that will benefit consumers, not to allow licensees to profit by selling access to their spectrum for a terrestrial-only service."<sup>11</sup> The Commission recently reiterated its intention that ATC service remain truly operationally and functionally ancillary to the MSS offering in its September, 2010 *Globalstar* order, when it suspended the ATC authority of a different MSS operator for failure to comply with the Commission's gating criteria.<sup>12</sup> The Commission explained that "a stand-alone terrestrial service would not serve the purpose of the ATC rules, which are to enhance MSS coverage and to enable

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<sup>11</sup> 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, *Report and Order and Notice of Proposed Rulemaking*, 18 FCC Rcd 1962, 1965 n.5 (2003).

<sup>12</sup> See *Globalstar Licensee LLC, Application for Modification of License to Extend Dates for Coming into Compliance with Ancillary Terrestrial Component Rules*, IBFS File No. SAT-MOD-20091214-00152, *Order*, 25 FCC Rcd 13114 (2010).

MSS operators to extend service into areas that they were previously unable to service, such as the interiors of buildings and high-traffic-density urban areas.”<sup>13</sup>

Moreover, Section 25.149(b)(4)(ii) specifies that if an MSS ATC licensee is not taking advantage of the dual-mode handset safe harbor, it must demonstrate that it “will provide an integrated service offering to the public.”<sup>14</sup> The purpose of the integrated service rule is to require that the ATC offering provided to the public, whether directly by the licensee or through a reseller, be an integrated MSS ATC service. Although LightSquared plans to provide an integrated service to its wholesale customers, it clearly contemplates that some of its customers may resell access to its L-Band MSS spectrum solely for terrestrial-only use. This would constitute the offering of a stand-alone terrestrial service to the public, and while AT&T does not take a position on the merits of LightSquared’s request, procedurally, the implementation of LightSquared’s proposal would appear to require a service rule change. As discussed below, the Commission should only consider whether this change in policy in the MSS bands is appropriate through the pending MSS rulemaking proceeding.

**B. The Commission Should Consider LightSquared’s Proposal in the Context of the Ongoing MSS Rulemaking.**

The Commission should consider the rule changes necessitated by LightSquared’s revised business plan in the context of the ongoing MSS rulemaking proceeding, which will allow the adoption of rules of general applicability based upon a complete record. In light of the short comment cycle set by the Commission and the significant competitive impact a ruling in favor of LightSquared’s filing could have on the MSS market, the Commission should not proceed with these changes in policy through the license modification application.

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<sup>13</sup> Id., 25 FCC Rcd at 13116 ¶ 5.

<sup>14</sup> 47 C.F.R. § 25.149(b)(4)(ii) (emphasis added).

The process initiated by the Commission's public notice is at best unorthodox and conflicts with the Part 25 rules. LightSquared's filing is styled as a modification of its integrated service certification, as required under Section 25.149(b)(4) of the Commission's rules.<sup>15</sup> Under Section 25.154(a)(2), comments on modification applications must be filed within thirty days after the date of public notice.<sup>16</sup> While the rule provides for Commission discretion to extend the thirty day time limit, there is no mention of severely truncating it.<sup>17</sup> Although LightSquared is correct to point out in its Opposition to CTIA's request for extension of time, that many ATC modifications are considered minor modifications and thus do not even need to be placed on public notice,<sup>18</sup> this is conditioned upon compliance with the Commission's gating criteria.<sup>19</sup> As discussed above, LightSquared's application marks a departure from the Commission's intention that MSS ATC network operators offer an integrated service to the public, and thus cannot be considered a minor modification. Indeed, it appears that the Commission itself recognized this fact, leading to its decision to place the application on public notice to begin with. In doing so, the Commission should have been bound by the clear requirements of Section 25.154, and set a thirty day comment period, notwithstanding CTIA's request only for an additional seven days.

The actual time provided for the submission of comments on LightSquared's application is far shorter than that contemplated by the Commission's rules. The Commission's public

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<sup>15</sup> 47 C.F.R. § 25.149(b)(4).

<sup>16</sup> 47 C.F.R. § 25.154(a)(2).

<sup>17</sup> *Id.*

<sup>18</sup> See Opposition of LightSquared Subsidiary LLC, IBFS File No. SAT-MOD-20101118-00239 at 1-2 (filed Nov. 24, 2010).

<sup>19</sup> See 47 C.F.R. § 25.117(f) ("An application for modification of a space station license to add an ancillary terrestrial component to an eligible satellite network will be treated as a request for a minor modification if the particulars of operations provided by the applicant comply with the criteria specified in § 25.149.") (emphasis added).

notice was released one day after the submission of LightSquared's modification application, the Friday prior to Thanksgiving.<sup>20</sup> The Commission initially required that comments be filed by the Monday after the Thanksgiving holiday, leaving only five business days for parties to prepare and file comments on the application, including the Friday after Thanksgiving, although it subsequently extended the comment cycle by three days. Even with the Commission's negligible extension, these time limits provide much less opportunity for public response to this rule change than the Commission's rules require.

The short comment cycle could materially prejudice the interests of LightSquared's direct MSS competitors and players across the wider wireless broadband industry. By contrast to the "rocket docket" treatment given to LightSquared's application, other MSS licensees who would be affected by a possible change to the ATC rules must wait for the eventual issuance and subsequent administrative process of a Further Notice of Proposed Rulemaking in the MSS rulemaking proceeding. Moreover, LightSquared specific relief could skew competition in future spectrum auctions, secondary markets for spectrum, and in the markets for wholesaling and other partnerships that could have effects far beyond the MSS sector. The expedited time limits set in the public notice are especially troubling because of the implication that grant of the application is a forgone conclusion, particularly considering LightSquared's modification application did not justify, nor even request, such expedited treatment.

Rather than proceeding with the unorthodox expedited schedule set forth in the public notice, the Commission should instead resolve these issues by expediting its already-established MSS rulemaking proceeding, where questions of relaxing the MSS ATC gating criteria have been properly raised. The *MSS NPRM/NOI* asked what actions the Commission could take to

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<sup>20</sup> See Public Notice.

increase terrestrial use of the MSS bands, or to promote increased value or investment in the MSS spectrum.<sup>21</sup> In response to this question, several parties suggested various approaches to increasing flexibility, including relaxing or modifying the integrated service requirement.<sup>22</sup>

Ruling upon LightSquared's request outside of the MSS rulemaking, and thereby granting LightSquared-specific relief, presents a "no-win" situation where the Commission must choose between causing potentially significant competitive harm to the MSS industry, or prejudging an important issue from the rulemaking on an insufficient record. If the Commission moves forward with a grant of the requested relief to LightSquared, it will provide additional flexibility only to LightSquared that could have anticompetitive effects on the abilities of other MSS operators to secure important partnerships and financing. The head start afforded to LightSquared could so tip the competitive scales in its favor as to ensure that LightSquared becomes and remains the dominant player in MSS ATC services. Alternatively, denying LightSquared's request risks prejudging the pending MSS rulemaking by providing answers to some of the key issues raised therein without the benefit of an appropriate administrative record.

The Commission can avoid these equally undesirable alternatives by considering these issues in the MSS rulemaking, where they belong. In addition to allowing for the development of a more complete record, addressing these issues instead through the MSS rulemaking proceeding will allow for transparent and deliberative decision-making, will avoid preferential treatment of similarly situated competitors, and will provide needed regulatory certainty to the industry.

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<sup>21</sup> *MSS NPRM/NOI*, 25 FCC Rcd at 9493 ¶ 31.

<sup>22</sup> *See, e.g.*, Comments of Cricket Communications, Inc., ET Docket No. 10-142 at 9-11 (filed Sept. 15, 2010); Comments of Globalstar Inc., ET Docket No. 10-142 at 16-18 (filed Sept. 15, 2010); Comments of Inmarsat, Inc., ET Docket No. 10-142 at 32-33 (filed Sept. 15, 2010).

**IV. IF THE COMMISSION DECLINES TO ADDRESS THESE ISSUES THROUGH A RULEMAKING, IT SHOULD REQUIRE LIGHTSQUARED TO SUBMIT A FORMAL WAIVER REQUEST AND SHOULD TAKE OTHER STEPS TO MITIGATE PREFERENTIAL TREATMENT TO A SINGLE LICENSEE**

If the Commission does not take up LightSquared's request in the MSS rulemaking, it should, in the alternative, require LightSquared to submit a formal waiver request and ensure that any relief is appropriately narrow so as to limit the resultant competitive harm. Despite a passing reference to the waiver standard in the conclusion of its narrative, LightSquared's filing was not filed as, and does not meet the procedural and substantive requirements for, a waiver request. Thus, even if the Commission declines to address the request in the context of the MSS rulemaking, it should, at a minimum, require LightSquared to submit a formal waiver request to determine whether LightSquared meets the legal standard for a waiver and to follow the proper procedural rules, which are designed to ensure due process.

If the Commission decides to address LightSquared's proposal in this context, it should ensure that any relief granted is sufficiently limited so as to minimize the unfair competitive advantage passing to LightSquared by virtue of receiving additional operational flexibility available to no other ATC licensee. Through the following narrowly crafted limits on the relief granted, the Commission can grant LightSquared sufficient leeway to pursue its new business plan while making sure that LightSquared's rule waiver does not end up unfairly prejudicing its competitors.

First, the *Harbinger/SkyTerra Order* included two unlawful and anticompetitive conditions restricting secondary market transactions and other access to LightSquared's network that unjustifiably targeted two wireless competitors without any supporting evidence or sufficient notice. AT&T petitioned the Commission to reconsider these anticompetitive and unlawful

restraints in March, 2010.<sup>23</sup> That petition has been pending for over seven months. Yet, to date, the Commission has taken no action on it. The Commission should grant that petition prior to the grant of any additional flexibility to LightSquared to ensure that the benefits of the relief requested by LightSquared flow to all potential wholesale partners in the market, without unfair regulatory restraints.

Second, LightSquared's request for relief appears to be predicated on the assumption that it will enter into wholesale transactions with unaffiliated providers over which it has no control. If LightSquared enters into a wholesale arrangement with an affiliated provider, LightSquared will have direct control over the products and services offered to the public. In that event, the retail services provided should be required to comply with the existing MSS ATC rules unless and until the MSS ATC rules are modified on an industry-wide basis. To ensure compliance with this requirement, LightSquared should be required to provide notice to the Commission of all wholesale arrangements it strikes, and to identify whether its wholesale partner is in any way affiliated with LightSquared.

Third, the Commission should limit the additional flexibility LightSquared receives to the L-Band MSS allocation at 1525-1559 MHz and 1626.5-1660.5 MHz and not to any other MSS spectrum to which LightSquared gains access. LightSquared, through private agreements and international coordination, has reportedly consolidated access to up to 40 MHz of L-Band MSS spectrum usable for mobile broadband services. Its parent company also holds an equity interest in at least one other MSS ATC licensee.<sup>24</sup> Any increased operational flexibility granted to

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<sup>23</sup> See Petition for Reconsideration of AT&T Inc., IB Docket No. 08-184 (filed Mar. 31, 2010).

<sup>24</sup> See Harbinger Capital Partners Master Fund I, Ltd., Quarterly Report, SEC Form 13F-HR, File No. 028-11249 (filed Aug. 16, 2010) (indicating equity holding in MSS ATC licensee Terrestar Corp.).



LightSquared by the Commission should not apply to additional MSS ATC spectrum to which the company gains access either through this affiliation or any other agreement. Any contrary decision would exacerbate the potential anticompetitive effect of the rule change by giving LightSquared an unfair advantage over its competitors in the other MSS bands. Expanding flexibility for the other MSS bands should be considered in the pending rulemaking.

Fourth, any increased flexibility granted to LightSquared should also be contingent upon the adoption of rules of general applicability in the pending MSS rulemaking. Whatever determination the Commission makes with respect to increasing terrestrial use of the MSS bands should apply uniformly to all MSS licensees, including LightSquared. If and when the Commission modifies the MSS ATC rules, LightSquared must comply with the industry-wide rules established at that time.

Fifth, any relief granted to LightSquared that is inconsistent with the rules adopted in the MSS rulemaking should be limited to the current entity. Should LightSquared be exempted by grandfathering from any new rules adopted in the MSS rulemaking, this additional flexibility should be available to LightSquared alone. It should not be available to any successor-in-interest in the event that LightSquared or its authorizations are subject to a transfer of control.

Finally, AT&T is aware of increasing concern within the wireless industry that LightSquared's terrestrial network may cause interference to GPS communications, including those essential to delivering Commission-mandated E911 solutions.<sup>25</sup> As the National Telecommunications and Information Administration ("NTIA") pointed out in its submission to

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<sup>25</sup> For example, Sprint expressed concerns in a recent 3GPP working group meeting that LightSquared's proposed ATC operations could cause harmful interference to millions of GPS users operating in the 1559-1610 MHz band due to out of band emissions and possible intermodulation. See Sprint, "Band 24 (L-Band) Impact on Legacy Devices, 3GPP TSG RAN WG4 (Radio) Meeting # 57, Agenda Item 10.2.1, R4-104844 (2010).

the record in the MSS rulemaking, facilitating the introduction of wireless broadband systems in the MSS spectrum can cause an attendant increase in interference to GPS receivers.<sup>26</sup> Given the substantial expansion of terrestrial use proposed by LightSquared, the rules in place to protect GPS operations may need to be revised to account for this increase in interference potential. Given the importance of effective E911 services and other GPS-based services, the Commission should initiate a proceeding to explore any interference concerns created by LightSquared's more extensive terrestrial operation, to ensure that any harmful interference into the GPS systems can be addressed and mitigated promptly. Such a proceeding would allow for full participation from all interested parties and the development of a robust record that will allow affected industry and government entities, and the Commission, to address any interference concerns.

Although AT&T maintains that the pending MSS rulemaking is the appropriate forum for addressing these questions, the above limitations on the relief requested will at least partially mitigate the anticompetitive consequences of proceeding with a licensee-specific rule waiver.

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<sup>26</sup> See Letter from Karl B. Nebbia, Associate Administrator, Office of Spectrum Management, National Telecommunications and Information Administration, to Julius Knapp, Chief, Office of Engineering and Technology, Federal Communications Commission, ET Docket No. 10-142 at 1 (filed July 21, 2010).

## V. CONCLUSION

As discussed above, AT&T fully supports the Commission's efforts to increase terrestrial broadband use of the MSS spectrum. Although LightSquared has taken steps that will eventually bring significant new competition and capacity to the broadband market, its current business plan offers a novel interpretation of and substantial departure from the spirit and intent of the Commission's MSS ATC gating criteria. As such, these issues should be addressed in the context of the Commission's pending MSS rulemaking proceeding.

Respectfully submitted,

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December 2, 2010

**CERTIFICATE OF SERVICE**

I hereby certify that a true copy of the foregoing Comments was deposited in the United States mail, first class postage prepaid, on this 2nd day of December, 2010, addressed to the following:

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