

have the option of using the 6975–7025 MHz band on a shared basis with ICO Global Communications (Holdings) Ltd.'s ("ICO's") NGSO MSS system in the 1990–2025/2165–2200 MHz bands ("2 GHz MSS" system), along with Globalstar's grandfathered use of the 7025–7055 MHz band from its two currently-operational gateways. Under these circumstances, we affirm our statement in the *R&O*, 67 FR 17288, April 10, 2002, that "325 megahertz of primary spectrum, along with 50 megahertz of primary spectrum limited to grandfathered systems, will accommodate the existing need for feeder downlink spectrum."

2. Thus, we deny Globalstar's reconsideration petition to allocate the 7025–7075 MHz band to FSS downlink operations and its request for use of the 7025–7075 MHz band for any purpose other than gateway use by Globalstar's two existing earth stations, particularly given the availability of spectrum allocated for gateway use below 7025 MHz. We further find no need to permit ICO's 2 GHz MSS system to use the 7025–7075 MHz band for any purpose other than gateway use by its one existing earth station.

#### *SBE Petition for Reconsideration*

3. In the *R&O*, we concluded that NGSO MSS gateway earth stations could share part of the 7 GHz band with TV BAS operations because such earth stations would be limited in number and because coordination between those co-primary operations should ensure successful spectrum sharing. The *R&O* noted that parts 74 and 78 of the Commission's rules, which govern TV BAS, do not have coordination procedures for sharing with satellite operations, but concluded that parts 25 and 101 coordination procedures would serve to protect such earth stations from fixed BAS operations as an interim measure until uniform coordination procedures could be adopted in a separate proceeding. The *R&O* further noted that, while existing coordination procedures are inadequate to address NGSO MSS gateway earth station sharing with mobile TV pickup ("TVPU") BAS operations, sharing is nonetheless possible because gateway earth station and TVPU use of the 7 GHz band are both limited, and because TVPU stations can use two BAS channels that are not overlapped by the new NGSO MSS allocation. Therefore, the *R&O* placed *ad hoc* coordination requirements on NGSO MSS gateway earth stations with both fixed and mobile TV BAS operations, until completion of a Commission proceeding

to establish coordination rules specific to TV BAS/gateway sharing.

4. In seeking reconsideration, SBE requests that the Commission: (1) Require use of the part 101 frequency coordination protocol by a 7 GHz TV BAS fixed station with an NGSO MSS gateway earth station only if that TV BAS station is located within 145 kilometers ("km") of the earth station; (2) require 7 GHz TV BAS stations to protect only the portion of the 7 GHz feeder downlink band that is being used by an NGSO MSS provider at the time of frequency coordination; and (3) establish the release date of the *R&O* (February 7, 2002) as the benchmark date to grandfather 7 GHz TVPU stations; *i.e.*, provide that TVPU stations authorized by February 7, 2002 would not be required to protect the three incumbent NGSO MSS gateway earth stations. SBE also challenges the *R&O*'s Final Regulatory Flexibility Certification ("Certification").

5. *Coordination Distance.* The record indicates that different coordination distances are required to protect each existing NGSO MSS gateway earth station from harmful interference caused by 7 GHz TV BAS fixed stations. Further, we agree with ICO's assertion that the necessary coordination distance between TV BAS stations and earth stations depends on a number of parameters particular to each earth station. According to ICO, these include rain climatic zone, the gain of the earth station antenna toward the horizon, and the maximum permissible interference that the earth station will tolerate for a given percentage of the time. To specify in this proceeding the same coordination distance for existing and future earth stations without examining the particulars of each earth station would be arbitrary and could lead to instances of inadequate interference protection or unnecessarily large coordination distances. Indeed, we intend to explore further issues relating to the appropriate coordination distances and procedures for TV BAS stations and NGSO MSS gateway earth stations in a forthcoming *Notice of Proposed Rule Making* in ET Docket No. 98–206. Accordingly, only as an interim measure pending a final decision in our forthcoming proceeding, we are specifying for 7 GHz TV BAS fixed stations coordination with the three existing NGSO MSS gateway earth stations, but do so using the maximum coordination distances found to be required by the Comsearch studies presented in the record of this proceeding; *i.e.*, we specify a maximum coordination distance of 145 km from Globalstar's Clifton, TX earth station, a

maximum coordination distance of 519 km from Globalstar's Finca Pascual, PR earth station, and a maximum coordination distance of 319 km from ICO's Brewster, WA earth station.

6. *Frequencies Protected.* We find that fixed TV BAS and mobile TV BAS (TVPU) require distinct considerations. As pointed out by ICO, the Commission recently addressed the issue of protecting earth stations from potential harmful interference caused by fixed TV BAS use by deciding that such protection should be based on the earth station spectrum assignment, rather than the spectrum actually used by earth stations. In IB Docket No. 00–203, the Fixed Wireless Communications Coalition ("FWCC") argued that the Commission was according FSS earth stations preferential access to several bands, including 6425–7125 MHz, that are shared with terrestrial fixed services. Specifically, FWCC argued that interference protection to FSS earth stations should be based upon FSS spectrum use, just as interference protection to fixed services is based upon fixed spectrum use. However, the Commission denied FWCC's petition, finding that fixed and satellite services have significantly different requirements for access to the spectrum in order to meet their business needs, and further finding that there was insufficient evidence that terrestrial fixed users have been harmed by frequency sharing with the FSS. We find no need to revisit that recent decision, as we see no evidence that circumstances have changed since that time. Accordingly, regarding fixed TV BAS use, we deny SBE's request that coordination and protection of NGSO MSS gateway earth stations be based upon current spectrum use.

7. With regard to protecting the entire NGSO MSS gateway earth station spectrum assignment from potential harmful interference caused by mobile TV BAS use, rather than the spectrum actually used by the earth stations, we find it necessary that mobile TV BAS users protect the entire NGSO MSS gateway earth station spectrum assignment as an interim measure, pending the outcome of the forthcoming Notice of Proposed Rule Making referenced in paragraph 5, herein. We note that certain characteristics of mobile TV BAS may permit some flexibility in coordination and interference protection. Specifically, we note that mobile TV BAS is often used to cover "breaking news" on a short-term, temporary basis. While a NGSO MSS gateway earth station licensee may resist giving up a portion of its authorized spectrum for a new