

applications were filed at the Commission after adoption of the *MSS Second Report and Order*.

- Modify our final (Phase II) BAS channel plan to provide for seven channels of 12 megahertz each, and a 500 kilohertz data return link (DRL) band at both ends of the seven channels.

- Permit BAS licensees to operate indefinitely on their existing 17-megahertz wide channels in the 2025–2110 MHz band on a secondary basis, if they so choose.

- Clarify that an assignment or transfer of control does not disqualify a BAS incumbent from relocation eligibility.

For FS microwave relocation by MSS/ATC licensees in the 2180–2200 MHz band, we:

- Clarify that TIA TSB 10–F, or its successor, is an appropriate interference standard that may be used for determining interference from MSS ATC stations to incumbent FS operations in the 2 GHz band.

- Clarify that FS incumbents relocated through the negotiation process are eligible for reimbursement for relocation to leased facilities or alternative media, but decline to extend reimbursement eligibility to FS incumbents that voluntarily self-relocate.

- Decline to establish separate “rolling” negotiation periods for each FS incumbent as they are approached by MSS licensees for relocation negotiation.

- Amend the rules to specify that the time period for calculating the mandatory FS negotiation periods and the ten-year sunset period commence upon publication of the *Report and Order* in the **Federal Register**.

- Clarify that an assignment or transfer of control does not disqualify a FS incumbent from relocation eligibility.

- Decline to require MSS licensees to relocate FS incumbents from which the MSS operation would only receive, but not cause, interference prior to the ten-year sunset date.

2. The Third Report and Order and Third Memorandum Opinion and Order also address BAS and FS relocation issues as they pertain to 2 GHz MSS licensees as part of an overall effort to promote the rapid introduction of MSS into the 2 GHz bands. As such, we combine a Report and Order addressing the relevant comments that discuss BAS and Fixed Service relocation issues in two proceedings, ET Docket 00–258 and IB Docket No. 01–185, with a Memorandum Opinion and Order addressing petitions that seek reconsideration or clarification of

relocation decisions made in the MSS Second Report and Order. The issues we consider generally relate to relocation timing, reimbursement eligibility, negotiation commencement, and technical/interference matters. Our decisions are designed to account for the actions the Commission has taken in the subsequent proceedings, described above, regarding the reallocation of a portion of the MSS band and the introduction of ATC services by MSS licensees.

3. As an initial matter, we are not altering the fundamental workings of the relocation process that was adopted in the *MSS Second Report and Order*. For example, throughout the AWS proceeding, commenters representing incumbent licensees’ interests have urged us to maintain the general relocation principles of the Emerging Technologies proceeding even if we expand the nature and scope of services in the band. We agree.

4. In order to provide for MSS entry into the band in accordance with construction milestones, MSS licensees generally will have to relocate BAS and FS incumbents. We note that, due to the reallocation of the 1990–2000 MHz and 2020–2025 MHz bands in the AWS proceeding, non-MSS licensees that may begin service later will benefit from the band clearing paid for by MSS licensees. For this reason, we will provide an equitable mechanism by which MSS licensees can recover some of the relocation costs incurred from other licensees who will benefit from the band clearing in the 1990–2000 MHz and 2020–2025 MHz segments of the 1990–2025 MHz band. Thus, licensees benefiting from MSS licensees’ efforts to clear incumbent BAS from the 1990–2025 MHz band will be expected to share the costs of this relocation.

5. However, because the nature and scope of new Fixed and Mobile service licensees that will operate in the 1990–2000 MHz and 2020–2025 MHz bands has not yet been determined, we do not set forth herein a comprehensive set of procedures that new Fixed and Mobile service providers (including AWS entrants) in these bands must follow to relocate incumbent BAS licensees and/or to reimburse MSS licensees that will have incurred relocation costs. We will instead consider such matters in a separate, future proceeding. This is because the decisions we make with respect to these bands may affect the manner by which we apply the general cost-sharing principles embodied in the Emerging Technologies procedures. For example, it is not clear how we would apply our traditional cost-sharing principles were we to use portion of the

bands to provide relocation spectrum for Nextel’s operations in the 800 MHz band or for MDS licensees in the 2150–2160/62 MHz band, to relocate federal government operations, or to provide interference separation between new AWS licensees and existing users in adjacent spectrum bands. We expect, however, that licensees that ultimately benefit from spectrum cleared by MSS shall bear the cost of reimbursing MSS licensees for the accrual of that benefit.

6. Some petitioners also note the complexity that introducing different services with potentially different geographic licensing schemes will have on cost-sharing in the band. For example, PCIA has suggested, inter alia, that we authorize a third-party clearinghouse to administer relocation matters. We likewise defer consideration of this issue because we have not yet adopted service rules for the Fixed and Mobile allocation in the band and, therefore, do not know the characteristics of new licensees that will share the 2 GHz band with the existing MSS licensees. We will be able to make more meaningful decisions with respect to these and other cost-sharing procedures at a future time.

7. Finally, since the actions taken herein include the relocation of existing services and the addition of new services within the subject frequency bands, there may be some impact on international coordination arrangements currently in effect. Therefore, operation in the border areas may be constrained pending the completion of consultations with foreign administrations, as necessary, and until existing agreements are revised and new agreements are developed, as appropriate.

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8. We believe that the core interests that the Commission considered when it crafted the *MSS Second Report and Order* remain valid. The band will still host MSS licensees, and the unique, integrated nature of BAS has not changed. What has changed is that, in light of the decisions the Commission made in the AWS proceeding, we can expect additional new licensees to occupy the 1990–2025 MHz band.

9. Of the 15 megahertz of spectrum that we have reallocated from MSS in the 1990–2025 MHz band to support new Fixed and Mobile services, two thirds occupies the lower end (1990–2000 MHz) of the band and one third is situated at the upper end (2020–2025 MHz). The twenty megahertz of spectrum that remains for the four MSS licensees is situated in the 2000–2020 MHz portion of the band. Phase I of the transition was crafted so that BAS