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**ORIGINAL
FILE**

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June 19, 1992

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: PR Docket No. 92-80
RM 7909

Dear Ms. Searcy:

On behalf of David E. Brush d/b/a Tangent TV Cable Company, there are enclosed an original and nine (9) copies of its Comments in response to the Notice of Proposed Rule Making in the above-referenced proceeding. Please deliver a personal copy of these Comments to each Commissioner.

Should there be any questions regarding this filing, kindly contact the undersigned.

Sincerely yours,



Robert F. Corazzini
Counsel for David E. Brush
d/b/a Tangent TV Cable Company

Enclosure

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JUN 19 1992

Federal Communications Commission
Office of the Secretary

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JUN 19 1992

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

Federal Communications Commission
Office of the Secretary

In the Matter of)
)
Amendment of Parts 1, 2 and) PR Docket No. 92-80
21 of the Commission's Rules) RM 7909
Governing Use of Frequencies in)
the 2.1 and 2.5 GHz Bands)

COMMENTS OF TANGENT TV CABLE COMPANY

David E. Brush d/b/a Tangent TV Cable Company hereby files its comments in the captioned proceeding in response to the Commission's Notice of Proposed Rule Making, released May 8, 1992, in the above captioned matter (the Notice), stating as follows:

INTRODUCTION

The Commission's Notice concerns the rules and policies that govern the processing of applications and licensing of stations in the Multipoint Distribution Services (MDS). On December 20, 1988, Tangent TV Cable Company filed an application for the MMDS F Group channels to serve the Corvallis, Oregon area.



TANGENT TV CABLE COMPANY

POST OFFICE BOX 201

TANGENT, OREGON 97389

PHONE (503) 928-0429

June 8, 1992

COMMENT TO FCC ON NOTICE OF PROPOSED RULEMAKING

We recently received a copy of the full text of your May 8, 1992 Notice Of Proposed Rule Making. There are a number of issues that could be discussed, but we think we could probably make better use of your time if our comments are presented within the context of our own fairly typical situation.

THE STORY OF A SINGLE APPLICATION

We filed our application to construct an MMDS Wireless Cable broadcast facility back in 1988. We are a small family company and very much desire to provide this service to the folks who live in the area nearby.

RURAL AREA

Tangent is a farming community where the primary agricultural product is lawn seed. In fact, more seed is grown and shipped from the Tangent area than any other place in the world. There are many prosperous farms, and the climate is lush.

This lush climate supports many families at a density too sparse to serve via standard cable.

We would very much like to serve this area with MMDS Wireless Cable.

NOT A FLAT SERVICE AREA

In your proposal, the assumption is made that an MMDS service area is flat, and therefore a fixed distance between transmitters will serve the purpose of protecting licensees from interference from new systems. The proposal also makes the assumption that all transmit and receive antennas will be omnidirectional.

Making this assumption might well reduce the number of eligible applications, but it does not reflect realistic conditions. As a result, the actual effect of such an assumption will be to deny service to many people altogether. For instance, in our proposed system neither transmit nor receive antennas will be omnidirectional.

MOUNTAINS TYPICALLY NOT IN CENTER OF SERVICE AREA

There will be very few exceptions to the fact that mountains do *not* occur in the center of populated areas. In fact, the opposite is more often the case; people live in valleys between mountains. This is the case in our projected service area, as well.

We cannot control where mountains are located, but we can control where the signal is delivered and at what levels. Since the engineering is practical, placing an arbitrary restriction on facilities such as mileage separation would provide no benefit to the public. Using an existing feature such as a mountain provides the greatest coverage possible in the area to be served.

ANTENNA IS NOT IN CENTER OF SERVICE AREA

In many cases, an omnidirectional antenna simply is not the best choice. We are proposing the use of a cardioid design because our tower is at the top of a mountain alongside of the valley we wish to serve. There is nothing behind the tower except trees and more mountains.

We have carefully designed our system so that we provide service to the people of the Mid-Willamette valley without any interference to other potential service areas.

ONE AND ONLY ONE APPLICATION

We have filed one and only one application for any service area. We have lived here over 40 years, and these are the people we would like to have the honor of serving. We recognize that there is a significant problem with application mills generating a huge volume of speculative applications. But we are not interested in speculation. We are serious about this and very enthused about doing it. Our application did not come from an application mill. It is quite sincere.

FILED IN 1987

Today, it has been almost 3 1/2 years since we applied for our construction permit. Since that time, we have had the opportunity to file applications in two MSAs in Oregon. We did *not* pursue those opportunities because, again, we have a specific area we would very much like to serve, and we are not in this for speculation. We are the real thing.

\$10,000 SPENT ALREADY

We have spent around \$10,000 so far on this single effort, in attorney fees and engineering. We would not have done that if we were speculating.

NO COMPETING APPLICATIONS

In all the time since we filed our application - and it went through the public notice and waiting periods - no other applicant has attempted to force a lottery or petition to deny our application. We are the only application on record for our service area.

INTERFERENCE ANALYSIS vs. PHYSICAL SEPARATION

Since our application was filed, licenses have been granted for Salem and Eugene Oregon MSAs. Each of these was a lottery and there were many applicants.

Our proposed system transmitter site does not have the 50 mile separation you propose in your notice. But we already took that into consideration when we designed our system.

NO INTERFERENCE TO OTHER STATIONS

Our system is designed to serve an area with a population around 100,000 without any interference to any other MDS, MMDS or ITFS station or receive site. We believe we have done a very good job in this engineering. This is an area that cannot otherwise be reached from any other licensed or proposed system.

SUPPORT FROM ALL ADJACENT APPLICANTS

The original Salem and Eugene Oregon applicants (with the exception of one) were speculators. Eventually, the licenses were granted, and no facilities were built. These licenses reverted to another lottery.

Every single applicant for the second lottery in Salem and in Eugene has submitted interference analysis information to the FCC showing no interference with our proposed system, even though all of them proposed using omni antennas in their applications, operated at full authorized power.

This further illustrates that

- a) The mileage separation standard is not realistic.
- b) Many people will not be allowed access to Wireless Cable if this arbitrary mileage standard is imposed
- c) Our application is valid, based on the interference analysis standard alone. This is supported by the many analyses filed by others as well.
- d) The public would suffer from the application of a mileage separation standard alone.

WE ARE NOT THE PRIMARY CABLE PROVIDER

We operate a tiny "cabled" system in our proposed service area, with about 250 houses served. The primary cable service provider in this area is TCI, with 27,700 homes on one system (their figure) and about 5000 homes in another (our guess). We don't even have 1% of the customers they have just in this area.

Based on what our customers are telling us, we could be the best competitor TCI ever had in these parts.

THE DEMAND IS THERE

In the 9 years we have been delivering cable services in the Tangent area, our reputation has spread far and wide. We receive around 10 calls a day from people both inside and outside the TCI service areas begging us for service. We have *NEVER* advertised our service to them. This is all

word-of-mouth. Our current customers are selling our service for us as a result of the way we do business.

We would like to serve these people. There are many families in the proposed area that do not have access to cable of any kind (farmers).

And there are our friends who would like to have a choice of service providers.

Unfortunately, we have no way of reaching any of these people. We would like very much to develop a Wireless Cable system. This technology is an exact fit for what this area needs.

THE FINANCING IS THERE

Again, without approaching anyone, we have already had offers from investors to help us get started. These are not speculators, either. They are people who either do not have access at all, or are already TCI customers and would like to see some competition in the area.

Since we already have a local business established and a good name, we are already very close to breakeven for the Wireless system, in terms of the minimum subscribers needed. And we haven't even built our Wireless system yet.

WE ALREADY HAVE PROGRAMMING CONTRACTS

Being an official "franchised" cable system, we already have the programming contracts needed. Our contracts already allow us access to the kind of programming people want from a cable competitor. While we are tiny, we have been doing this long enough that we know exactly what our customers are expecting, and they love us. We have an advantage of experience and the needed contracts already in place. We already have our billing system, forms, papers, and public awareness in place as well.

(We are so ready it hurts)

WE ALREADY HAVE TOWER OPTION

We have an option on our tower site. The owners have already added on the space for our equipment in anticipation

of our business. Unfortunately, it has been quite a wait for them as well, since there is no license yet.

WHERE WE WOULD BE WITHOUT A LICENSE

Without a license, we cannot proceed with our plans to expand. This company is so small the owner has to work a second job full time just to support his family. With the added revenue from MMDS customers, we could concentrate full time on giving people what they want, expect, and deserve as cable service patrons.

WHERE OVER 100,000 PEOPLE WOULD BE WITHOUT OUR LICENSE

If this application is rejected based on arbitrary rules aimed at a problem caused in fact by application mills, not only will it create a hardship for us, but none of the people in the area we propose to serve will have access to cable services from anyone other than TCI. In addition, there will be many families with no access to cable services at all.

That would be grossly unfair.

We strongly believe that other provisions in your Notice Of Proposed Rule Changes will adequately address the application mill problem, and that the interference analysis should be the primary consideration with regard to placement of transmitters.

Submitted By
Tangent T.V. Cable

A handwritten signature in cursive script that reads "David Brush".

Dave Brush, Owner