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

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| In the Matter of | ) | |
| Rulemaking to Amend Parts 1, 2, 21 and 25 of the Commission's Rules to Redesignate the 27.5-29.5 GHz Frequency Band, to Reallocate the 29.5-30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services | ) | CC Docket No. 92-297 |
| and | ) | |
| Suite 12 Group Petition for Pioneer's Preference | ) | PP-22 |

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**REPLY COMMENTS OF**
**ENTERTAINMENT MADE CONVENIENT ("Emc$^3$") INTERNATIONAL, INC.**

Entertainment Made Convenient ("Emc$^3$") International, Inc. hereby submits its Reply to the comments filed in response to the Commission's *Third NPRM* in the above captioned proceeding.[1/] Emc$^3$ submits that the Commission's goal for LMDS should *not* be to create a cable TV-like service as some of the commenters suggest, but, rather, to encourage the initiation of new and innovative video and telephony services. To do this, the Commission must award multiple LMDS licenses in each market and not allocate the entire 1000 MHz of spectrum to a single (monopoly) LMDS provider. Allocating the entire 1000 MHz of spectrum to a single LMDS provider would not promote efficient use of scarce spectrum resources.

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[1/] *Rulemaking to Amend Parts, 1, 2, 21, and 25 of the Commission's Rules to Redesignate the 27.5 - 29.5 GHz Frequency Band, to Reallocate the 29.5 - 30.0 GHz Frequency Band, to Establish Rules and Policies for Local Multipoint Distribution Service and for Fixed Satellite Services and Suite 12 Group Petition for Pioneer's Preference*, FCC 95-287 (released July 28, 1995) *(Third NPRM)*.

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> Digital technology for implementation of LMDS is available in this country today for industry use in LMDS systems. Any other form of modulation would cause a gross waste of valuable spectrum and would be inconsistent with the Commission's desire to insure efficient use of this scarce resource.[2]

Some commenters claim that 1000 MHz of spectrum is required to provide a commercially viable communication service.[3] CellularVision, for example, would use 1000 MHz of spectrum to provide 49 channels of analog video programming to subscribers.[4] The Commission should not support such an inefficient use of the spectrum by allocating 1000 MHz of spectrum to a single (monopoly) LMDS provider. Instead, the Commission should establish a regulatory framework for LMDS that promotes efficient use of the spectrum. As explained in Emc$^3$'s comments, this regulatory framework should, at a minimum, provide for the licensing of multiple LMDS providers within a geographic area. By licensing multiple LMDS providers within a geographic area, the Commission would promote the development of a competitive LMDS market.[5]

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[2] NASA's Comments at 15.

[3] Similarly, cellular service providers initially claimed that a single provider must have access to the entire cellular spectrum to provide wireless telephony service to consumers, and, more recently, personal communications service ("PCS") providers claimed that 40 MHz or more spectrum was necessary to provide a competitive wireless service. The Commission, however, did not "fall" for these monopolistic arguments, but, instead, established independently competitive cellular and PCS markets each with multiple service providers.

[4] Emc$^3$ submits that the success of LMDS as a viable competitive video service will not hinge upon the number of video programming services that can be simultaneously broadcast to subscribers, but, rather, like any other competitive service offering, on the ability to offer consumers the type of services they want at competitive prices.

[5] "With two LMDS licenses in each market, the competitive forces of the marketplace will ensure that the goals which the Commission envisions for LMDS will be realized in the swiftest and most efficient manner." GTE Comments at 3.

Advances in digital technology have greatly expanded the capability of LMDS to support multiple service providers. In fact, as little as 150 MHz of spectrum could be used to provide a commercially viable communications service. "Given this increased capacity with digital technology, a competitively viable LMDS system providing as many as 105 video channels in 150 MHz of spectrum certainly is feasible."[6] CellularVision, in fact, appears to recognize that digital technology will enable LMDS providers to offer a competitive service with less than 1000 MHz of spectrum.[7] CellularVision fails to recognize, however, that digital technology is being implemented today by all types of communications systems, including video dialtone systems (*e.g.*, Bell Atlantic's Dover Township, New Jersey video dialtone system), Direct Broadcast Satellite ("DBS") operators (*e.g.*, Hughes DirecTv DBS system), and MMDS systems.[8]

Emc$^3$ urges the Commission to encourage the development of a competitive LMDS market by awarding multiple licenses within geographic area. As explained in Emc$^3$'s comments, the

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[6] NASA Comments at 15.

[7] Cellularvision Comments at 15-16.

[8] *Request for Declaratory Ruling on the Use of Digital Modulation by Multipoint Distribution Service and Instructional Television Fixed Service Stations*, DA 95-1854 (filed July 13, 1995).

Commission also should impose restrictions on incumbent local service providers holding LMDS licenses.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October, 1995, copies of Reply Comments of Entertainment Made Convenient (EMC™) International, Inc. were served by first-class mail, postage prepaid, on all parties on the attached service list.

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