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March 28, 1997

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William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

RECEIVED
MAR 28 1997
Federal Communications Commission
Office of Secretary

Re: *Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service ("WCS"), GN Docket No. 96-228*

Dear Mr. Caton:

Digital Satellite Broadcasting Corporation ("DSBC") submits this ex parte letter to emphasize a point that arose in our March 24, 1997 meeting with the Commission staff and representatives of the PACS Provider Forum and DigiVox Corporation (collectively, petitioners) and other DARS applicants. In that meeting, petitioners conceded that their analysis had not included the characteristics of the DSBC system.

As set forth more fully in the attached Statement of Melvin Barmat, petitioners' statements made it abundantly clear that they were unaware of the key characteristics of DSBC's system. Their most recent filing with the Commission confirms that they still have not corrected the problem. (For example, they assumed that *all* the systems will use two satellites and thus have spatial diversity; DSBC's system does not. They assumed that *all* the systems will use interleaving; DSBC's application makes no mention of interleaving.)

Accordingly, petitioners' "conclusion" that their proposed system will not cause harmful interference to any of the DARS systems cannot stand. Indeed, it would be arbitrary and capricious for the Commission to base reconsideration on petitioners' defective submission.

Respectfully submitted,



Diane S. Hinson
Counsel for Digital Satellite Broadcasting Corporation

Attachments

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Statement of Melvin Barmat

In the March 11, 1997 Petition for Expedited Reconsideration¹ (Petition) of the PACS Providers Forum (PPF) and DigiVox Corporation (DigiVox), a technical exhibit was attached that purports to analyze the potential for interference into mobile terminals operating in the satellite Digital Audio Radio Service (SDARS) due to out-of-band (OOB) emissions from Personal Access Communications Systems (PACS) operating in the WCS² bands. A meeting was held on Monday, March 24, 1997 which included the Commission's staff, and representatives of the SDARS applicants, PPF and DigiVox, in an effort to reconcile the differences between the petitioners and the SDARS applicants whether the WCS OOB limits in the Commission's February 19, 1997 WCS Report and Order could be severely degraded without causing harmful interference to the performance of SDARS receivers. During the course of the March 24 meeting, a representative of Hughes Network Systems (HNS), who was providing technical support for the petitioners, listed the fundamental parameters of the SDARS systems that had been assumed in their analysis of the PACS - caused interference to the SDARS terminals.

One of the fundamental parameters cited by the HNS representative was that all the SDARS systems employed two satellites in a spatial diversity architecture. Immediately following that statement I emphasized that one of the applicants, Digital Satellite Broadcasting Corp. (DSBC), did not employ satellite spatial diversity. The technical people at the meeting supporting the petitioners complained that they had not been given this information. They were reminded that the relevant information was in the SDARS applications in the Commission's files.

In the PPF and DigiVox Reply to Oppositions of the SDARS applicants (March 26, 1997), the petitioners attached another technical exhibit. This exhibit listed (in footnotes) the file numbers of the SDARS applicants, presumably to have the reader infer that the authors of the exhibit had reviewed the cited SDARS applications this time.

¹ In GN Docket No. 96-228 re: Wireless Communications Service (WCS).

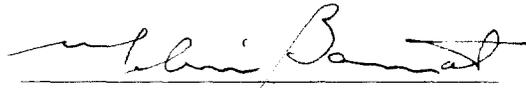
² Wireless Communications Service.

However, a careful reading of this exhibit shows that the SDARS applications were still not read. For example, central to the technical argument in this exhibit is that all the SDARS applicants plan to use forward error correction and frame interleaving. While the DSBC application does include the use of strong error correction codes, there is no mention of the use of frame interleaving.

Thus, it is clear and documented that the assumptions used in the technical analyses supporting the Petition did not take into account the characteristics of the DSBC system, as applied for. Had the petitioners and their advisors employed assumptions including the characteristics the DSBC system, the results of the analyses would have changed materially. For this reason (as well as for the reasons described in DSBC's Opposition filed March 21, 1997,) the conclusions of the analyses relied upon by the petitioners, i.e., that the PACS transmitters will not cause harmful interference to the DSBC system, is fatally flawed.

March 28, 1997

Date


Melvin Barmat

Melvin Barmat

CERTIFICATE OF SERVICE

I, Kathryn Stasko, do hereby certify that the foregoing **EX PARTE LETTER** was hand delivered on this 28th day of March, 1997 to the following:

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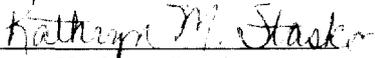
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