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February 28, 2000

VIA HAND DELIVERY

Ms. Magalie Roman Salas
Secretary
Federal Communications Commission
The Portals, 445 12th Street, S.W.
Counter TW-A325
Washington, D.C. 20554

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Re: Ex Parte Submission of Northpoint Technology, Ltd.
ET Docket No. 98-206, RM-9147, RM-9245

Dear Ms. Salas:

Pursuant to 47 CFR § 1.1206 of the Commission's rules, Northpoint Technology, Ltd. and BroadwaveUSA, Inc. hereby submits six copies of the attached "Northpoint Response to SBCA Letter" for filing in the above-referenced proceedings.

If you have any questions concerning this matter, kindly contact the undersigned.

Respectfully submitted,



Antoinette Cook Bush
Counsel for Northpoint Technology, Ltd.

Attachment

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List A B C D E

Northpoint Response to SBCA Letter

A recent letter from the Satellite Broadcasting and Communications Association (“SBCA”) contained a number of misrepresentations about Northpoint’s positions and technology. This fact sheet provides Northpoint’s response to SBCA’s claims.

No Harmful Interference During Washington Testing

The SBCA letter claims that Northpoint’s own testing in Washington, D.C. demonstrated harmful interference to DBS services. This is completely in error.

Northpoint operated in Washington, D.C. for two months, virtually all day, every day and did not find a single instance of harmful interference. As reported in a Memorandum Opinion and Order by the Federal Communications Commission, the FCC received no reports of harmful interference to any consumer as a result of this testing.¹ The DBS industry itself claimed to have found harmful interference at a site set up by DirecTV and EchoStar near the Ericsson Memorial in West Potomac Park. This claim was fully investigated by field engineers from the Commission’s Compliance and Audit Bureau. The FCC field report of this incident concluded with the unequivocal statement: “We did not observe any harmful interference as defined in 2.1 [47 CFR Sec. 2.1] during this testing.”²

Northpoint Will Not Cause Interference into Mexico and Canada

SBCA claims that interference from Northpoint’s planned Detroit operations “could” cause interference into Canada and that operations in southern areas “could” cause problems in Mexico. This is an inaccurate statement.

The issue of trans-border coordination between terrestrial services was solved a long time ago and is the subject of a substantial body of technical requirements and laws. Northpoint will follow these same rules and use the same methods that other terrestrial services, such as over the air television stations, radio broadcasters, cellular and microwave operators, have used successfully for many years to prevent cross border conflicts.

No Further Testing is Needed - Lack of Harmful Interference Has Already Been Confirmed by Third Parties including Lucent Technologies and the FCC Itself

SBCA calls for third party testing of the Northpoint system, stating that Northpoint “refused to cooperate with the DBS operators” in previous testing. This is a self-serving statement and completely contrary to the facts.

¹ See, *Memorandum and Order, In the Matter of Diversified Communications Engineering, Inc., Experimental Radio Station WA2XMY, Modification of License Austin, TX and King Ranch, TX, Special Temporary Authority, Washington, D.C.*, FCC 00-30, File Nos. 6001-EX-MR-1998 and 0094-EX-ST-1999 (February 4, 2000) at page 4.

² Federal Communications Commission, Compliance and Information Bureau, Final Report, George R. Dillon (October 6, 1999).

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In the most recent test conducted in Washington, D.C., Lucent Technologies issued a concurring report supporting Northpoint's findings of no harmful interference. The Lucent Report examined what Lucent determined was worst-case interference from Northpoint into DBS. The Lucent Report concluded that any interference was "negligible in all weather conditions."³ The FCC report referenced above also confirmed that there was "no harmful interference." Moreover, Northpoint's system has been rigorously tested over a three-year period in rural and urban locations in Texas. At all times, Northpoint has cooperated with the DBS operators in the conduct of these tests.

Northpoint Has Fully Cooperated With DBS on Northpoint Testing

Northpoint has afforded the DBS industry full access to their testing for over two years. DirecTV and USSB (now owned by DirecTV) offered their own test plan for Northpoint's Austin test, which Northpoint fully incorporated into the actual test plan. Northpoint further refined the plan through an in-person meeting with DirecTV in Austin and weekly conference calls with senior DirecTV engineers. DirecTV personnel attended Northpoint's actual testing in Austin and traveled as Northpoint's guest in the Northpoint test van. All requests made by DirecTV's personnel during the Austin testing were carried out in the presence of DirecTV. Echostar was invited to Austin for similar access, but declined to participate.

Later, in Washington, D.C. the FCC conducted over six hours of in person discussions between Northpoint and DBS operators on the Northpoint test plan. Northpoint made a written offer to both DirecTV and Echostar to operate the Northpoint transmitter and at the times and in the manner requested by the DBS operators. Both DBS operators declined Northpoint's offer.

Northpoint Supports Agreements for Sharing Spectrum Among All Services Seeking to Use the Ku-Band

SBCA claims that the introduction of Northpoint will somehow undermine recent agreements between proposed Non-Geostationary Satellite Operators ("NGSO") and DBS operators in the 11.7 – 12.7 band as well as an agreement between an NGSO, Skybridge, and the Fixed Wireless Coalition. This is wrong.

Northpoint has *never* opposed either agreement and, in fact, supports both agreements. Since spectrum matters can be highly contentious, Northpoint views it a highly positive step that certain parties have reached agreements on sharing spectrum. While the agreement between the NGSO and DBS is an inter-satellite sharing agreement without bearing on Northpoint's terrestrial services, Northpoint nonetheless supports this agreement. Skybridge's agreement with the Fixed Wireless Coalition concerns the 10.7 –

³ Lucent Technologies, Bell Labs Advance Technology Center of Excellence, Wireless and Multimedia System Development Group, Report *On Northpoint Field Trial in Washington DC, Sept – Oct 1999*, Habib Riazi (October 22, 1999).

Northpoint Response to SBCA Letter

11.7 band where Northpoint does not seek to operate but Northpoint also supports this agreement as well.

Northpoint Supports the Introduction of NGSO and Calls on NGSO to Make a Spectrum Sharing Proposal with Northpoint

SBCA rejects Northpoint's five good faith spectrum sharing proposals yet it offers none of its own. If SBCA members find Northpoint's proposals unworkable, it is incumbent on them to offer their own solution. The agreements reached between satellite operators and low band fixed services demonstrate that satellite operators can find ways to share spectrum. Northpoint awaits their suggestions and proposals.

Northpoint Calls For SBCA to Host Discussions with Satellite Operators and Northpoint

Spectrum sharing negotiations are never easy but always in the public interest. Northpoint calls on the SBCA to act as an honest broker to resolve the current misunderstanding between satellite operators and Northpoint. As the United States seeks to gain the full use of its scarce radio spectrum, all parties must work together to maximum this resource in the public interest.