Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range;	)	ET Docket No. 98-206 RM-9147 RM-9245
	)	
Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2-12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates; and	)	
	)	
Applications of Broadwave USA, PDC Broadband Corporation, and Satellite Receivers, Ltd. to Provide A Fixed Service in the 12.2-12.7 GHz Band	)	

REPLY COMMENTS OF THE ASSOCIATION OF AMERICA'S PUBLIC TELEVISION STATIONS

The Association of America's Public Television Stations ("APTS") hereby submits its Reply Comments in the above-captioned proceeding.[1] In its Comments to the Commission, APTS supported local "must-carry" requirements for licensees of the newly authorized Multichannel Video Distribution and Data Service ("MVDDS") as an essential component of the obligation of such licensees to serve the public interest. As discussed in APTS' comments, both Congress and the Commission have consistently voiced a strong policy favoring access to all

[1] First Report and Order and Further Notice of Proposed Rulemaking, FCC 00-418, Et Docket No. 98-206, RM-9147, RM-9245 (rel. December 8, 2000) ("FNPRM"). APTS is a nonprofit organization whose members comprise the licensees of nearly all of the nation's 352 noncommercial educational television stations. APTS represents public television stations in legislative and policy matters before the Commission, Congress, and the Executive Branch and engages in planning and research activities on behalf of its members.

available telecommunications technologies by public television stations and public telecommunications entities, a policy that would be well-served by requiring carriage of all local public television stations by MVDDS licensees.[2] Moreover, as discussed in APTS' comments, mandatory carriage of all local public television stations on MVDDS systems is consistent with the intent and purpose of the MVDDS service.[3] Further, as APTS has discussed, in order to be an effective competitor with cable and DBS, the MVDDS service must possess the same rights and responsibilities as the industries with which it competes.[4] Thus, in order to equalize the regulatory treatment of MVDDS with cable and DBS, the Commission should require that MVDDS licensees carry all local broadcast stations, consistent with the technical requirements, restrictions and procedures that apply to local cable systems.

APTS submits its reply comments in this proceeding to emphasize that the record clearly demonstrates wide support for local must-carry obligations by MVDDS licensees. Northpoint Technologies has again reiterated that it is "eager" to assume must-carry obligations, citing its previous testimony before Congress and stating that it "will comply with full must-carry and retransmission consent in the very same manner as the cable companies do."[5] Pegasus also

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[2] 47 U.S.C. § 396(a)(7)) ("it is necessary and appropriate for the Federal Government to complement, assist and support a national policy that will most effectively make public telecommunications services available to all citizens of the United States"); 47 U.S.C. § 390 (it is in the public interest to "extend delivery of public telecommunications services to as many citizens of the United States as possible by the most efficient and economical means, including the use of broadcast and nonbroadcast technologies") (emphasis added); 47 U.S.C. § 396(a)(9) ("it is in the public interest for the Federal Government to ensure that all citizens of the United States have access to public telecommunications services through all appropriate available telecommunications distribution technologies") (emphasis added).

[3] See APTS Comments, ET Docket No. 98-206 (March 12, 2001) at 5-6.

[4] See APTS Comments at 6-9.

[5] Comments of Northpoint Technology, Ltd., and Broadwave USA, Inc., ET Docket No. 98-206 (March 12, 2001) at 32. See also Joint Broadcasters' Comments, ET Docket No. 98-206 (March 12, 2001) at 7-8 ("[A]s a potentially major competitor of cable and DBS, Northpoint has committed to shoulder local signal carriage obligations, including, for example, digital as well as analog carriage of local television stations during the transition").

supports must-carry obligations, stating that "A mandatory carriage requirement is consistent with the Congressional interest in a new service that will enable the provision of local television broadcast signals into rural areas and is permissible under the Commission's general rulemaking authority."[6] And MDS of America, Inc, also supports local carriage obligations, stating that "if the Commission believes that MVDDS systems should carry all local broadcast signals, the MDS technology easily could accommodate such a requirement."[7]

Only Satellite Receivers, Ltd., which has filed an application to provide MVDDS service in some mid-western states, opposes local carriage obligations. It has stated that there is no need for such regulations, as it will want to carry as many local broadcast stations as "commercially practicable," while at the same time stating that it has no intention of carrying all local stations in their respective DMA's.[8] It is precisely this kind of commercial motivation that makes must-carry obligations necessary as a matter of public interest. The position that Satellite Receivers, Ltd. advances demonstrates APTS' point that must-carry obligations are essential. Without local carriage obligations, MVDDS licensees may be able to discriminate among programmers, favoring those with higher commercial "return" to the detriment of other programmers, including public television stations, whose mission is to provide noncommercial educational services to their communities.

[6] Comments of Pegasus Broadband Corporation, ET Docket No. 98-206 (March 12, 2001) at 16.

[7] Comments of MDS of America, Inc., ET Docket No. 98-206 (March 12, 2001) at 15.

[8] Comments of Satellite Receivers, Ltd., ET Docket No. 98-206 (March 12, 2001) at 4-5.

Conclusion

APTS wishes to highlight that the record clearly demonstrates wide support for local must-carry obligations by MVDDS licensees. Further, the arguments of Satellite Receivers, Ltd., the only party who does not support must-carry, clearly demonstrates – by its statement that it will carry only some local stations – why must-carry regulations are necessary. Without must-carry regulations, MVDDS operators will be free to "cherry pick" local stations and to deprive subscriber access to all local stations.

Respectfully submitted,

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March 26, 2001