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June 27, 2001

VIA HAND DELIVERY

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EX PARTE

Ms. Magalie Roman Salas
Secretary

JUN 27 2001

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

**Re: Ex Parte Communication in ET Docket No. 98-206/~~RM-9147~~; RM-9245;
Applications of Broadwave USA et al., PDC Broadband Corporation, and
Satellite Receivers, Ltd., to provide a fixed service in the 12.2-12.7 GHz Band;
Requests of Broadwave USA et al. (DA 99-494), PDC Broadband
Corporation (DA 00-1841), and Satellite Receivers, Ltd. (DA 00-2134) for
Waiver of Part 101 Rules.**

Dear Ms. Salas.

On June 27, 2001, Sophia Collier and Antoinette Cook Bush of Northpoint Technology, Ltd. ("Northpoint), and J.C. Rozendaal of this firm met with the following officials in the Commission's Wireless Telecommunications Bureau: Jennifer Burton, Nese Guendelsberger, Ramona Melson, Michael Pollak, Jamison Prime, Kelly Quinn, John Schauble, and Margaret Wiener.

The purpose of this meeting was to discuss the pending applications of Northpoint's Broadwave USA affiliates for licenses to provide terrestrial service in the 12 GHz band. Northpoint urged the Commission to act quickly in reaching a decision regarding its applications, in order that it can begin providing service that will bring real competition to the markets for MVPD and broadband Internet access. Northpoint observed that it is the only applicant proven capable, in an independent technical demonstration by the MITRE Corporation, of sharing the 12 GHz band ubiquitously with satellite users. Accordingly, it is the only applicant qualified for a license. Northpoint argued that auctions would be an inappropriate means of distributing licenses for terrestrial service in the 12 GHz band, given the absence of mutually exclusive competing applications. Northpoint also observed that it has never opposed the licensing of other applicants who may in the future come forward with new technology capable of sharing the band with all existing and planned users, including Northpoint.

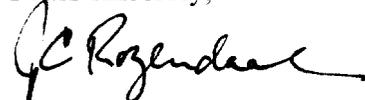
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Ms. Magalie Roman Salas
June 27, 2001
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The attached handout was distributed at the meeting.

Eighteen copies of this letter are enclosed – two for inclusion in each of the above-referenced files. Please contact me if you have any questions.

Yours sincerely,



J.C. Rozendaal

*Counsel for Northpoint
Technology, Ltd.*

attachments

cc: Jennifer Burton
Nese Guendelsberger
Ramona Melson
Michael Pollak
Jamison Prime
Kelly Quinn
John Schauble
Margaret Wiener

Became Public Law No. 106-553
December 21, 2000

106TH CONGRESS }
2d Session } HOUSE OF REPRESENTATIVES { REPORT
106-1005

MAKING APPROPRIATIONS FOR THE GOVERNMENT OF THE DISTRICT OF
COLUMBIA AND OTHER ACTIVITIES CHARGEABLE IN WHOLE OR IN
PART AGAINST REVENUES OF SAID DISTRICT FOR THE FISCAL YEAR
ENDING SEPTEMBER 30, 2001, AND FOR OTHER PURPOSES

OCTOBER 26 (legislative day, OCTOBER 25), 2000.—Ordered to be printed

Mr. ISTOOK, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 4942]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4942) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2001, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

Section 1. (a) The provisions of the following bills of the 106th Congress are hereby enacted into law:

(1) H.R. 5547, as introduced on October 25, 2000.

(2) H.R. 5548, as introduced on October 25, 2000.

(b) In publishing this Act in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall include after the date of approval at the end appendixes setting forth the texts of the bills referred to in subsection (a) of this section.

Communications Act of 1934 (47 U.S.C. 151 et seq.) has the meaning given that term in the Communications Act of 1934.

SEC. 1011. AUTHORIZATIONS OF APPROPRIATIONS.

(a) **COST OF LOAN GUARANTEES.**—For the cost of the loans guaranteed under this Act, including the cost of modifying the loans, as defined in section 502 of the Congressional Budget Act of 1974 (2 U.S.C. 661(a)), there are authorized to be appropriated for fiscal years 2001 through 2006, such amounts as may be necessary.

(b) **COST OF ADMINISTRATION.**—There is hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act, other than to cover costs under subsection (a).

(c) **AVAILABILITY.**—Any amounts appropriated pursuant to the authorizations of appropriations in subsections (a) and (b) shall remain available until expended.

SEC. 1012. PREVENTION OF INTERFERENCE TO DIRECT BROADCAST SATELLITE SERVICES.

(a) **TESTING FOR HARMFUL INTERFERENCE.**—The Federal Communications Commission shall provide for an independent technical demonstration of any terrestrial service technology proposed by any entity that has filed an application to provide terrestrial service in the direct broadcast satellite frequency band to determine whether the terrestrial service technology proposed to be provided by that entity will cause harmful interference to any direct broadcast satellite service.

(b) **TECHNICAL DEMONSTRATION.**—In order to satisfy the requirement of subsection (a) for any pending application, the Commission shall select an engineering firm or other qualified entity independent of any interested party based on a recommendation made by the Institute of Electrical and Electronics Engineers (IEEE), or a similar independent professional organization, to perform the technical demonstration or analysis. The demonstration shall be concluded within 60 days after the date of enactment of this Act and shall be subject to public notice and comment for not more than 30 days thereafter.

(c) **DEFINITIONS.**—As used in this section:

(1) **DIRECT BROADCAST SATELLITE FREQUENCY BAND.**—The term “direct broadcast satellite frequency band” means the band of frequencies at 12.2 to 12.7 gigahertz.

(2) **DIRECT BROADCAST SATELLITE SERVICE.**—The term “direct broadcast satellite service” means any direct broadcast satellite system operating in the direct broadcast satellite frequency band.

TITLE XI—ENCOURAGING IMMIGRANT FAMILY REUNIFICATION

SEC. 1101. SHORT TITLE.

This title may be cited as—

- (1) the “Legal Immigration Family Equity Act”; or
- (2) the “LIFE Act”.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

The conference agreement includes a total of \$230,000,000 for the salaries and expenses of the Federal Communications Commission (FCC), instead of \$207,909,000 as provided in the House bill, and \$237,188,000 as proposed in the Senate-reported amendment. Of the amounts provided, \$200,146,000 is to be derived from offsetting fee collections, as provided in both the House bill and the Senate-reported amendment, resulting in a net direct appropriation of \$29,854,000, instead of \$7,763,000 included in the House bill, and \$37,042,000 included in the Senate-reported amendment. Receipts in excess of \$200,146,000 shall remain available until expended but shall not be available for obligation until October 1, 2001.

The conference agreement directs the Commission to submit, no later than December 15, 2000, a financial plan proposing a distribution of all the funds in this account, subject to the reprogramming requirements under section 605 of this Act.

From within the funds provided, the FCC is urged to support public safety, emergency preparedness and telecommunications functions of the 2002 Olympic Winter Games.

The Senate report included language on public broadcasting stations' access to spectrum. The House included no similar language. The FCC is examining this issue, which is also pending in the Court of Appeals. The conference agreement reflects the belief that this issue can be resolved through the administrative or judicial process, so no legislative action is required at this time. The Chairman of the FCC should report to the House and Senate Committees on Appropriations on any action the Commission takes on this issue by April 1, 2001.

The FCC shall take all actions necessary to complete the processing of applications for licenses or other authorizations for facilities that would provide services covered by the Satellite Home Viewers Improvement Act (Public Law 106-113, 113 Stat. 1501), specifically to deliver multi-channel video services including all local broadcast television station signals and broadband services in unserved and underserved local television markets by November 29, 2000, as required by Public Law 106-113, 113 Stat. 1501.

The Senate report language with respect to a broadcast industry code of conduct for the content of programming is incorporated by reference.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

The conference agreement includes \$15,500,000 for the salaries and expenses of the Federal Maritime Commission, instead of \$14,097,000 as proposed in the House bill and \$16,222,000 as proposed in the Senate-reported amendment.

CERTIFICATE OF SERVICE

I, Karen R. Richardson, hereby certify that on this 27th day of June, 2001, copies of the foregoing were served by hand delivery* or first class United States mail, postage prepaid, on the following:

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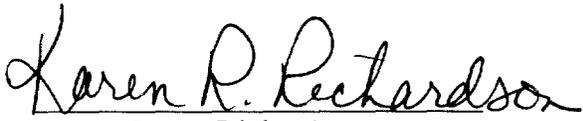
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