

Pantelis Michalopoulos
202.429.6494
pmichalo@steptoelaw.com



July 9, 2002

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

HAND DELIVERY

Marlene H. Dortch
Secretary
Federal Communications Commission
Office of the Secretary
445 12th Street, SW
Washington, DC 20054

Re: *ET Docket No. 98-206, RM-9147, RM-0245; Opposition of DIRECTV, Inc. to Petition for Reconsideration of Pegasus Broadband Corporation*

Dear Ms. Dortch:

On May 23, 2002, the Commission released its *Second Report and Order* in the above-referenced notice-and-comment rulemaking proceeding, which appeared in the Federal Register on June 26, 2002. As a general matter, because this order was released in a rulemaking proceeding, petitions for reconsideration are due 30 days from the order's publication in the Federal Register, *i.e.*, on July 26, 2002. See 47 C.F.R. §§ 1.429(d); 1.4(b)(1). After that date, the Commission will publish notice of the filing of the petitions for reconsideration in the Federal Register, and oppositions will be due 15 days after such publication. See 47 C.F.R. § 1.429(e), (f).

Pegasus Broadband Corporation ("Pegasus") has filed a petition for reconsideration of the *Second Report and Order* in advance of July 26, 2002, because the Commission took specific action therein dismissing pending Pegasus licensing applications to provide Multichannel Video Data and Distribution Service ("MVDDS"). See *Second Report and Order* at ¶¶ 214, 270. Because this action could be construed as an adjudicatory licensing decision contained in a rulemaking document, the Commission's computation of time rules could be read to suggest that reconsideration of this aspect of the *Second Report and Order* should be sought 30 days from the date of release of the *Second Report and Order* (May 23, 2002), rather than the date of Federal Register publication. See 47 C.F.R. §§ 1.4(b)(1) note, 1.4(b)(2). While it is not entirely clear

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from the Commission's rules, oppositions to the Pegasus petition thus may be due earlier than 15 days from the Federal Register notice that petitions for reconsideration have been filed.¹

EchoStar Satellite Corporation ("EchoStar") opposes the Pegasus Petition for Reconsideration, and agrees, in part for the reasons stated by the Commission in the *Second Report and Order*, that the pending Pegasus applications were properly dismissed. Because EchoStar anticipates that it will file a consolidated response to all of the petitions for reconsideration of the *Second Report and Order* ultimately placed on public notice by the Commission in the Federal Register, EchoStar expects to elaborate on its opposition to the Pegasus petition in that filing, as well.

To the extent that there is any ambiguity as to the proper date for filing its opposition to the Pegasus petition, EchoStar respectfully requests leave to do so within 15 days of notice of *all* of the petitions for reconsideration of the *Second Report and Order* being published in the Federal Register, as contemplated by Rule 1.429. Such a consolidated filing is more efficient and will conserve Commission resources. In addition, we understand that Pegasus has no objection to this request.

Thank you for your consideration.

Respectfully submitted,

Pantelis Michalopoulos / AEL

Pantelis Michalopoulos
Counsel for EchoStar Satellite Corporation

cc: Bruce D. Jacobs, Esq.
Tony Lin, Esq.

¹ If reconsideration of the Commission's action dismissing Pegasus's license applications is appropriately sought under Section 1.106 of the Commission's rules, and public notice is deemed to be date of release of the *Second Report and Order*, then an opposition would be due today, July 9, 2002 (adding 3 days because the Pegasus petition was served by mail). *See* 47 C.F.R. §§ 1.3(b) note, 1.106(f). The same is true if reconsideration of the Commission's action dismissing Pegasus's license applications is appropriately sought under Section 1.429 of the Commission's rules, and public notice is deemed to be date of release of the *Second Report and Order*. *See* 47 C.F.R. §§ 1.4(b) note, 1.429(f).

CERTIFICATE OF SERVICE

I, Alice E. Loughran, hereby certify that on this 9th day of July 2002, copies of the foregoing were served by hand delivery (indicated by *) or by U.S. mail, upon the following:

Marlene H. Dortch*
Secretary
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Chairman Michael K. Powell*
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Commissioner Kathleen Q. Abernathy*
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Commissioner Michael J. Copps*
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Commissioner Kevin J. Martin*
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Peter A. Tenhula*
Senior Legal Advisor
Office of Chairman Michael K. Powell
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Bruce Franca*
Chief Engineer
Office of Engineering & Technology
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Bryan Tramont, Sr.*
Legal Advisor
Office of Commissioner Kathleen Q. Abernathy
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Paul Margie*
Spectrum and International Legal Advisor
Office of Commissioner Michael J. Copps
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Susanna Zwerling*
Media and Consumer Protection
Legal Advisor
Office of Commissioner Michael J. Copps
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Sam Feder*
Senior Legal Advisor
Office of Commissioner Kevin J. Martin
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Monica Shah Desai*
Legal Advisor
Office of Commissioner Kevin J. Martin
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

Thomas J. Sugrue*
Bureau Chief
Wireless Communications Bureau
Federal Communications Commission
445 Twelfth Street, S.W.
Washington, DC 20554

James H. Barker, III
Latham & Watkins
555 Eleventh Street, N.W.
Suite 1000
Washington, DC 20004
Counsel for DIRECTV, Inc.

Michael K. Kellogg
Kellogg, Huber, Hansen,
Todd & Evans, P.L.L.C.
Sumner Square
1615 M Street, N.W.
Suite 400
Washington, DC 20036
*Counsel for Northpoint Technology, Ltd.
and Broadwave USA, Inc.*

Antoinette Cook Bush
Northpoint Technology, Ltd.
400 North Capitol Street, N.W.
Suite 368
Washington, DC 20001

Bruce D. Jacobs
Tony Lin
Shaw Pittman
2300 N Street, N.W.
Washington, DC 20037
Counsel for Pegasus Broadband Corporation

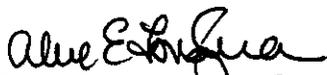
Margaret L. Tobey
Morrison & Foerster
2000 Pennsylvania Avenue, N.W.
Suite 5500
Washington, DC 20006
*Counsel for the Satellite Broadcasting and
Communications Association*

Nathaniel J. Hardy
Irwin, Campbell & Tannenwald, P.C.
1730 Rhode Island Ave., N.W.
Suite 200
Washington, DC 20036-3101
Counsel for Satellite Receivers, Inc.

James W. Olson
Gregory F. Intoccia
Howrey Simon Arnold & White LLP
1299 Pennsylvania Ave., N.W.
Washington, DC 20004
Counsel for MDS America, Incorporated

Marvin Rosenberg
Holland & Knight LLP
2099 Pennsylvania Avenue, N.W.
Suite 100
Washington, DC 20006
Counsel for Hubbard Broadcasting, Inc.

Nancy K. Spooner
Swidler Berlin Shereff Friedman, LLP
The Washington Harbor
3000 K Street N.W., Suite 300
Washington, D.C. 20007-5116



Alice E. Loughran