

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, DC 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;	)	
	)	
Amendment of the Commission's Rules	)	FCC 02-116
to Authorize Subsidiary Terrestrial Use	)	ET Docket No. 98-206
of the 12.2-12.7 GHz Band by Direct Broadcast Satellite	)	RM-9147
Licensees and Their Affiliates; and	)	RM-9245
	)	
Applications of Broadwave USA,	)	
PDC Broadband Corporation, and	)	
Satellite Receivers, Ltd. to Provide	)	
A Fixed Service in the 12.2-12.7 GHz Band	)	

To: The Commission

**OPPOSITION TO PETITION FOR RECONSIDERATION**

This Opposition is filed by Satellite Receivers, Ltd. ("Satellite Receivers") in response to the Petition for Reconsideration filed by Pegasus Broadband Corporation ("Pegasus") that requested the Commission to reconsider its decision in the above referenced proceedings to dismiss Pegasus' application to provide Multichannel Video Distribution and Data Service ("MVDDS").<sup>1</sup> Pegasus claims that the Launching Our Communities Access to Local Television Act of 2000 (the "LOCAL TV Act")<sup>2</sup> requires the Commission to reinstate and immediately grant its application.

---

<sup>1</sup> See *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*, Memorandum Opinion and Order and Second Report and Order, FCC 02-116, ET Docket No. 98-206 (released May 23, 2002) ("Second MVDDS Order").

<sup>2</sup> Pub. L. No. 106-553, App. B., Tit. X ' 1012, 114 State. 2762.

Pegasus believes the Commission is required to do so because Pegasus submitted equipment to MITRE Corporation, the Commission appointed testing entity, to assess the interference the equipment would create for DBS signals. Pegasus' reasoning is flawed. The LOCAL TV Act does not require the Commission to take any such action regarding the licensing of MVDDS.

It is important to note for purposes of disposing of Pegasus' Petition that the Commission correctly determined that the sole purpose of Section 1012 of the LOCAL TV Act was "to ensure that terrestrial services operated in the DBS band would not cause harmful interference."<sup>3</sup> The Commission completed its obligations under the LOCAL TV Act with the adoption of the Second MVDDS Order. Satellite Receivers supports the notion that the three original applications should be reinstated and granted. However, Pegasus is incorrect to assert that the LOCAL TV Act and the tests conducted by MITRE Corporation control the Commission's licensing authority.

### **Background**

Satellite Receivers was founded in 1981 as a wholesale programming distributor to the C-Band (4 GHz) consumer satellite industry. Satellite Receivers currently provides approximately 250 different contracted programming services to 55,000 consumer households across the United States generating an estimated ten to twelve million dollars in annual billings. Satellite Receivers offers major cable programming to its customers, as well as NFL Sunday Ticket.

In addition to providing programming distribution, Satellite Receivers owns and operates its own customer service center and billing system located at its headquarters in Green Bay, Wisconsin. Satellite Receivers' principle marketplace is the Midwest United States and encompasses Illinois, Indiana, Iowa, Michigan, Minnesota and Wisconsin. During its existence,

---

<sup>3</sup> Second MVDDS Order, para. 235.

Satellite Receivers has had offices in each of these states and it understands not only the demographics, but also the geography of its marketplace.

Satellite Receivers is proficient in sales, service and support of in-home consumer goods related to the satellite industry. The company has sold and installed approximately 90,000 C-Band satellite systems since 1981. Satellite Receivers' engineers have over twenty years of experience in the technical distribution of programming and data market.

Satellite Receivers filed an application and waiver requests on August 25, 2000 to provide what has now become known as MVDDS in Illinois, Indiana, Iowa, Michigan, Minnesota and Wisconsin. This application was placed on Public Notice on September 20, 2000.<sup>4</sup>

### **Discussion**

Section 1012 of the LOCAL TV Act, by its terms, does nothing more than require the Commission to ensure that any applicant proposing to terrestrially use the 12.2-12.7 GHz band do so without causing harmful interference to DBS operations. The Commission was charged with appointing an independent testing entity to conduct a technical analysis of any applicant's technology within 60 days of the enactment of the LOCAL TV Act and to allow the public to comment on the analysis for 30 days. *See* Section 1012(b). The LOCAL TV Act did not require pending applicants to propose any technology.<sup>5</sup> Nor does the LOCAL TV Act instruct the Commission how to process pending applications or require the licensing of MVDDS to be limited to applicants that participated in the independent testing.

---

<sup>4</sup> See Public Notice, DA 00-2134 (released Sept. 20, 2000).

<sup>5</sup> In fact, Satellite Receivers did not propose any technology in its application. Satellite Receivers believes that MVDDS can be provided in any number of ways with various technologies, as long as the Commission set technical standards for applicants to follow. The rules and regulations adopted in the Second MVDDS Report proved Satellite Receivers' belief to be correct.

Pegasus ' request relies on language that is not found in the LOCAL TV Act. Pegasus does not cite a provision in the LOCAL TV Act that limits the licensing of MVDDS to participants in the independent testing. In fact, Section 1012 of the LOCAL TV Act never mentions licensing at all. Pegasus ' request has no basis in fact.

### **Conclusion**

The Commission complied with the requirements of the LOCAL TV Act by appointing MITRE Corporation as the independent testing entity and allowing the public to comment on the results of the tests. After determining that MVDDS can be provided without harmfully interfering with DBS operations, the Commission enacted licensing and technical rules accordingly in the Second MVDDS Report. The Commission has no further obligations under the LOCAL TV Act. If the Commission decides that the three original applications should be reinstated, Satellite Receivers would wholeheartedly support that decision. Otherwise, Satellite Receivers must recommend denial of Pegasus ' request.

Respectfully submitted,

/s/ Nathaniel J. Hardy  
Nathaniel J. Hardy

Counsel for Satellite Receivers, Ltd.

Irwin, Campbell & Tannenwald, P.C.  
1730 Rhode Island Ave., N.W., Suite 200  
Washington, DC 20036-3101  
Tel. 202-728-0400  
Fax 202-728-0354

June 12, 2002