

**BRS Rural Advocacy Group  
Central Texas Communications, Inc.**

June 29, 2005

Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, S.W.  
Washington, D.C. 20554

Re: *Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands*  
**WT Docket No. 03-66**  
**NOTICE OF EX PARTE PRESENTATION**

Dear Ms. Dortch:

On behalf of the BRS Rural Advocacy Group (the "Group") and Central Texas Communications, Inc. ("CTC") and pursuant to Section 1.1206(b)(2) of the Commission's Rules, this is to provide notice that on June 29, 2005, Roxanne White (General Manager of Evertek, Inc., a member of the Group), Donald L. Herman, Jr. (counsel to CTC) and the undersigned (counsel to the Group) met with Paul Margie, Spectrum and International Legal Advisor to Commissioner Michael J. Copps, to discuss certain issues pending in the above-referenced proceeding. The issues discussed at the meeting are summarized on the attached outline, which was distributed by the Group and CTC at the meeting.

Ms. White explained that Evertek's system, which is typical of many rural BRS operations, provides MVPD service in areas where high-priced DBS services are the only alternative and do not provide local broadcast channels. Ms. White also explained that thousands of customers rely on the MVPD and broadband services that rural BRS operators provide.

The Group and CTC each advocated in their respective petitions for reconsideration that the Commission adopt a transition "opt-out" criterion for a narrow class of multichannel video programming distributors ("MVPDs") based in "rural areas." As discussed in the outline, the Group and CTC have combined and modified their proposals to address concerns expressed by other participants in this proceeding. To illustrate the modified proposal, the Group and CTC presented nationwide maps (attached hereto) demonstrating that the number of instances where the "opt-out" right could be exercised would be rather small.

In order to qualify under the Group/CTC proposal, a licensee would first need to have the center of its geographic service area located in a county defined as a "rural

area.” Second, the licensee would need to be an MVPD. Third, under part (b) of the proposal, the licensee would need to either provide a legitimate level of competitiveness or have a critical mass of customers or collocated analog channels. Fourth, the licensee would need to want to maintain its MVPD service after any transition. Fifth, the MVPD and the transition proponent would need to be unable to reach a negotiated agreement that would accommodate their interests (*e.g.*, changes in system configuration, financial assistance, acceptance of *de minimis* interference, etc.). Only licensees meeting the above criteria and circumstances would be eligible to “opt out.” Although it would be impossible to make such a determination now, the Group and CTC believe that their proposal ultimately would only result in a small number of licensees “opting out” of a transition. The Group and CTC also expressed the view that adoption of their proposal would not disturb the ability of nearby systems to transition.

Ms. White, Mr. Herman and the undersigned also reiterated their concerns that the Commission’s waiver process would result in uncertainty, would be costly to rural BRS operators and would delay transitions while the waiver request was under consideration. These factors would hinder the ability of rural BRS operators to plan their business operations, obtain investment and launch new services.

Please contact undersigned if there are any questions concerning this matter.

Respectfully submitted,

*/s/ Stephen E. Coran*

*/s/ Donald L. Herman, Esq.*

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cc: Paul Margie, FCC

Enclosures