

October 5, 2005

Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 Twelfth Street, SW
Washington, DC 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*

Service Rules for Advanced Wireless Services in the 1.7 GHz and 2.1 GHz Bands - WT Docket No. 02-353

NOTICE OF ORAL EX PARTE COMMUNICATION

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, I am writing to advise the Commission that yesterday Tom Knippen, Vice President and General Manager of W.A.T.C.H. TV Company ("W.A.T.C.H. TV), and the undersigned met separately with Fred Campbell, acting Legal Advisor to Chairman Martin, John Branscome, acting Legal Advisor to Commissioner Abernathy, and Barry Ohlson, Senior Legal Advisor to Commissioner Adelstein.

The purpose of the meetings was to discuss both (i) W.A.T.C.H. TV's petition for reconsideration of the *Report and Order* in WT Docket No. 03-66, in which it has requested that the Commission allow those that were utilizing more than seven Broadband Radio Service ("BRS") and Educational Broadband Service ("EBS") channels for the transmission of digitized video programming as of October 7, 2002 to automatically opt-out of the transition to the new bandplan contemplated by Section 27.1230 *et seq.* of the Rules, and (ii) W.A.T.C.H. TV's April 29, 2005 request for a waiver of those Rules. During the course of the discussion, Mr. Knippen recounted how, while other BRS/EBS businesses have failed, W.A.T.C.H. TV has successfully developed, at substantial cost, a growing digital video and high-speed Internet service that provides a variety of valuable services, often to rural subscribers that have no other viable alternatives available to them. He noted that W.A.T.C.H. TV's digital video system is the

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economic engine that has permitted W.A.T.C.H. TV to expand its broadband offerings into new rural areas where subscribers lack alternative means of Internet access and that a denial of the requested relief would leave many of its subscribers without access to a multichannel video service that carries the local television signals and/or to high-speed Internet access. He stressed that the regulatory uncertainty created by the Commission's failure to grant either the petition or the waiver is adversely impacting W.A.T.C.H. TV's ability to make further investments that will be bring consumers access to new services they desire. In addition, W.A.T.C.H. TV expressed concern to Messrs. Campbell and Ohlson that the Commission's recent proposals for relocating BRS channels 1 and 2, which are extensively used in W.A.T.C.H. TV's system, fail to adequately protect W.A.T.C.H. TV's interest in the channels.

Should you have any questions regarding this matter, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

Counsel for W.A.T.C.H. TV Company