

MAR 30 2007

Federal Communications Commission
Office of the Secretary

PLEASE STAMP
AND RETURN

Before the
Federal Communications Commission
Washington, D.C. 20554

RECEIVED - FCC

MAR 28 2007

Federal Communications Commission
Bureau / Office

In the Matter of)
)
 M2Z NETWORKS, INC.)
)
 Application for License and Authority to)
 Provide National Broadband Radio Service)
 In the 2155-2175 MHz Band)
)
 Petition for Forbearance Under)
 47 U.S.C. § 160(c) Concerning Application of)
 Sections 1.945(b) and (c))
 Of the Commission's Rules and Other)
 Regulatory and Statutory Provisions)
)
 and)
)
 NEXTWAVE BROADBAND INC.)
)
 Application for License and Authority to)
 Provide Nationwide Broadband Service)
 In the 2155-2175 MHz Band)
)
 and)
)
 OPEN RANGE COMMUNICATIONS, INC.)
)
 Application for License to Construct and)
 Operate Facilities for the Provision of Rural)
 Broadband Radio Services in the 2155-2175)
 MHz Band)
)
 and)
)
 COMMNET WIRELESS, LLC)
)
 Application for License and Authority to)
 Construct and Operate a System to Provide)
 Nationwide Broadband Service in the)
 2155-2175 MHz Band)
)
 and)
)

WT Docket No. 07-16

WT Docket No. 07-30

WT Docket No. _____

File No. _____

WT Docket No. _____

File No. _____

WT Docket No. _____

File No. _____

NETFREEUS, LLC	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Provide Wireless Public Broadband Service in)	
the 2155-2175 MHz Band)	
)	
and)	
)	
MCELROY ELECTRONICS	)	WT Docket No. _____
CORPORATION)	
	)	File No. _____
Application for a Nationwide 2155-2175 MHz)	
Band Authorization)	
)	
and)	
)	
TOWERSTREAM CORPORATION	)	WT Docket No. _____
)	
Application for a Nationwide 2155-2175 MHz	)	File No. _____
Band Authorization)	

To: Chief, Wireless Telecommunications Bureau

**ERRATUM TO
CONSOLIDATED MOTION OF M2Z NETWORKS, INC.
TO STRIKE AND DISMISS
PETITIONS TO DENY AND ALTERNATIVE PROPOSALS**

M2Z Networks, Inc. (“M2Z”), by its attorneys, submits this erratum to M2Z’s Consolidated Motion to Strike and Dismiss Petitions to Deny and Alternative Proposals (“Motion to Strike”) filed in the above-captioned proceedings on March 26, 2007. In the Motion to Strike, M2Z listed several parties who failed to serve M2Z with a copy of their Petitions to Deny and/or Alternative Proposals filed against M2Z’s Application for License and Authority to Provide National Broadband Radio Service in the 2155-2175 MHz Band. The following two parties were inadvertently included in the list of parties who failed to serve M2Z: (1) NextWave Broadband, Inc. (“NextWave”); and (2) NetfreeUS, LLC (“NetfreeUS”). Upon further investigation and review of the Petitions to Deny and the Alternative Proposals, we discovered

that both NextWave and NetfreeUS did in fact serve M2Z with their Petitions to Deny and/or Alternative Proposals. Accordingly, any reference to a lack of service by NextWave or NetfreeUS on pages 11 through 13 of the Motion to Strike should be disregarded.¹ In light of this error, revised and corrected exhibits to the Motion to Strike, including supporting affidavits and the chart summarizing the procedural defects in the Petitions to Deny and Alternative Proposals, are submitted with this erratum and should be substituted for the exhibits submitted with the Motion to Strike.

Respectfully submitted,

M2Z NETWORKS, INC.

By: 

W. Kenneth Ferree
Erin L. Dozier
Christopher G. Tygh
Sheppard Mullin Richter & Hampton LLP
1300 I Street, N.W., 11th Floor East
Washington, DC 20005
(202) 218-0000

Its Attorneys

March 28, 2007

¹ We further clarify that although NextWave plead standing in its Petition to Deny, it did not do so in its application, which, for reasons explained in the Motion to Strike, operates as a petition to deny. *See* Petition to Deny of NextWave Broadband Inc., WT Docket No. 07-16 (filed Mar. 2, 2007) at 2-4 (“NextWave Petition”).

LIST OF EXHIBITS

EXHIBIT A: Affidavit of Uzoma C. Onyeije in Support of Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals

EXHIBIT B: Affidavit of Erin L. Dozier in Support of Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals

EXHIBIT C: Chart Summarizing Procedural Defects in Petitions to Deny

Exhibit A

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
M2Z NETWORKS, INC.)	
)	
Application for License and Authority to	)	WT Docket No. 07-16
Provide National Broadband Radio Service)	
In the 2155-2175 MHz Band)	
)	
Petition for Forbearance Under	)	WT Docket No. 07-30
47 U.S.C. § 160(c) Concerning Application of)	
Sections 1.945(b) and (c))	
Of the Commission's Rules and Other)	
Regulatory and Statutory Provisions)	
)	
and)	
)	
NEXTWAVE BROADBAND INC.	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Provide Nationwide Broadband Service)	
In the 2155-2175 MHz Band)	
)	
and)	
)	
OPEN RANGE COMMUNICATIONS, INC.	)	WT Docket No. _____
)	
Application for License to Construct and	)	File No. _____
Operate Facilities for the Provision of Rural)	
Broadband Radio Services in the 2155-2175)	
MHz Band)	
)	
and)	
)	
COMMNET WIRELESS, LLC	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Construct and Operate a System to Provide)	
Nationwide Broadband Service in the)	
2155-2175 MHz Band)	
)	
and)	
)	

NETFREEUS, LLC	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Provide Wireless Public Broadband Service in)	
the 2155-2175 MHz Band)	
)	
and)	
)	
MCELROY ELECTRONICS	)	WT Docket No. _____
CORPORATION)	
	)	File No. _____
Application for a Nationwide 2155-2175 MHz)	
Band Authorization)	
)	
and)	
)	
TOWERSTREAM CORPORATION	)	WT Docket No. _____
)	
Application for a Nationwide 2155-2175 MHz	)	File No. _____
Band Authorization)	

To: Chief, Wireless Telecommunications Bureau

**AFFIDAVIT OF UZOMA C. ONYEIJE
IN SUPPORT OF CONSOLIDATED MOTION OF M2Z NETWORKS, INC.
TO STRIKE AND DISMISS PETITIONS TO DENY AND ALTERNATIVE PROPOSALS**

I, Uzoma C. Onyeije, do hereby declare under penalty of perjury the following:

1. I am Vice President for Regulatory Affairs of M2Z Networks, Inc. ("M2Z").
2. As of the filing date of the foregoing Consolidated Motion of M2Z to Strike and Dismiss Petitions to Deny and Alternative Proposals, neither I, nor anyone at M2Z has been formally served with a copy of the petitions to deny filed against M2Z's Application for License and Authority to Provide National Broadband Radio Service in the 2155-2175 MHz Band in the above-captioned proceeding on March 2, 2007 by the following parties: (1) CTIA – The Wireless Association; (2) EchoStar Satellite L.L.C.; (3) The Consumer Electronics Association; (4) Leap Wireless International, Inc.; (5) Commnet Wireless, LLC; and (6) McElroy Electronics Corporation; (7) TowerStream Corporation; (8) Information Technology Industry Council; and (9) The Rural Broadband Group.

Signature: Uzoma C. Onyeije
Uzoma C. Onyeije
Vice President, Regulatory Affairs
M2Z Networks, Inc.
2000 North 14th Street
Suite 600
Arlington, VA 22201

Date: 03/27/07

Subscribed and sworn to before me this 27th day of March, 2007.

Notary Public: Odalys Aponte



Odalys Aponte
Commission #DD318467
Expires: Jun 23, 2008
Bonded Thru
Atlantic Bonding Co., Inc.

My Commission expires: 6/23/2008

Residing at: 8480 International Drive
Orlando, FL 32819

Exhibit B

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
M2Z NETWORKS, INC.)	
)	
Application for License and Authority to	)	WT Docket No. 07-16
Provide National Broadband Radio Service)	
In the 2155-2175 MHz Band)	
)	
Petition for Forbearance Under	)	WT Docket No. 07-30
47 U.S.C. § 160(c) Concerning Application of)	
Sections 1.945(b) and (c))	
Of the Commission's Rules and Other)	
Regulatory and Statutory Provisions)	
)	
and)	
)	
NEXTWAVE BROADBAND INC.	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Provide Nationwide Broadband Service)	
In the 2155-2175 MHz Band)	
)	
and)	
)	
OPEN RANGE COMMUNICATIONS, INC.	)	WT Docket No. _____
)	
Application for License to Construct and	)	File No. _____
Operate Facilities for the Provision of Rural)	
Broadband Radio Services in the 2155-2175)	
MHz Band)	
)	
and)	
)	
COMMNET WIRELESS, LLC	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Construct and Operate a System to Provide)	
Nationwide Broadband Service in the)	
2155-2175 MHz Band)	
)	
and)	
)	

NETFREEUS, LLC	)	WT Docket No. _____
)	
Application for License and Authority to	)	File No. _____
Provide Wireless Public Broadband Service in)	
the 2155-2175 MHz Band)	
)	
and)	
)	
MCELROY ELECTRONICS	)	WT Docket No. _____
CORPORATION)	
	)	File No. _____
Application for a Nationwide 2155-2175 MHz)	
Band Authorization)	
)	
and)	
)	
TOWERSTREAM CORPORATION	)	WT Docket No. _____
)	
Application for a Nationwide 2155-2175 MHz	)	File No. _____
Band Authorization)	

To: Chief, Wireless Telecommunications Bureau

**AFFIDAVIT OF ERIN L. DOZIER
IN SUPPORT OF CONSOLIDATED MOTION OF M2Z NETWORKS, INC.
TO STRIKE AND DISMISS PETITIONS TO DENY AND ALTERNATIVE PROPOSALS**

I, Erin L. Dozier, do hereby declare under penalty of perjury the following:

1. I am counsel of record to M2Z Networks, Inc. ("M2Z") on matters relating to M2Z's Application for License and Authority to Provide National Broadband Radio Service in the 2155-2175 MHz Band (the "Application") and related Petition for Forbearance Under 47 U.S.C. § 160(c) Concerning Application of Sections 1.945(b) and (c) of the Commission's Rules and Other Regulatory and Statutory Provisions.
2. As of the filing date of the foregoing Consolidated Motion of M2Z to Strike and Dismiss Petitions to Deny and Alternative Proposals, neither I, nor anyone in my office, has been formally served with a copy of the petitions to deny filed against M2Z's Application for License and Authority to Provide National Broadband Radio Service in the 2155-2175 MHz Band in the above-captioned proceeding on March 2, 2007 by the following parties: (1) CTIA – The Wireless Association; (2) EchoStar Satellite L.L.C.; (3) The Consumer Electronics Association; (4) Leap Wireless International, Inc.; (5) Commnet Wireless, LLC; (6) McElroy Electronics Corporation; (7) TowerStream Corporation; (8) Information Technology Industry Council; and (9) The Rural Broadband Group.

3. At my request, CEA provided me with a courtesy copy of their Comments via electronic mail on March 5, 2007.

Signature: 
Erin L. Dozier
Sheppard Mullin Richter & Hampton LLP
1300 I Street, N.W.
11th Floor East
Washington, DC 20005

Date: 3/28/07

Subscribed and sworn to before me this 28th day of March, 2007.

Notary Public: Yvonne C. Skinner

My Commission expires: 10-14-2007

Residing at: District of Columbia

Yvonne C. Skinner
Notary Public, District of Columbia
My Commission Expires 10-14-2007

Exhibit C

Procedural Defects in Petitions to Deny

Petitioner/ Applicant	Failure to Serve M2Z	Failure to Make <i>Prima Facie</i> Showing	Failure to Include Affidavits	Failure to Plead Facts Demonstrating Standing
Leap	✓	✓	✓	✓
EchoStar	✓	✓	✓	✓
CEA	✓	✓	✓	✓
CTIA	✓	✓	✓	✓
Motorola		✓	✓	✓
T-Mobile		✓	✓	
WCA		✓	✓	
Verizon		✓	✓	
AT&T		✓		
NextWave		✓		✓
Rural Carriers	✓	✓	✓	
ITI	✓	✓	✓	✓
TowerStream	✓	✓	✓	
NetfreeUS		✓	✓	✓
Commnet	✓	✓	✓	✓
McElroy	✓	✓	✓	✓

CERTIFICATE OF SERVICE

I, Erin L. Dozier, an attorney in the law office of Sheppard Mullin Richter & Hampton, LLP, hereby certify that I have on this 28th day of March 2007 caused a copy of the foregoing Erratum to Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals to be delivered by hand delivery or first-class mail to the following:

HAND DELIVERY:

Shant S. Hovnanian
Speedus Corp., Managing Member of
NetfreeUS, LLC
9 Desbrosses Street, Suite 402
New York, NY 10013

Stephen E. Coran
Rudolfo L. Baca
Jonathan E. Allen
Rini Coran, PC
1615 L Street, NW, Suite 1325
Washington, DC 20036
Counsel to Speedus Corp. and NetfreeUS, LLC

Jennifer McCarthy
NextWave Broadband Inc.
12670 High Bluff Drive
San Diego, CA 92130

FIRST CLASS MAIL:

Linda Kinney
Bradley Gillen
EchoStar Satellite L.L.C.
1233 20th Street, N.W.
Washington, DC 20036-2396

Julie M. Kearney
Consumer Electronics Association
2500 Wilson Boulevard
Arlington, VA 22201

Louis Tomasetti
Commnet Wireless, LLC
400 Northridge Road, Suite 130
Atlanta, GA 30350

David J. Kaufman
Brown Nietert & Kaufman, Chartered
1301 Connecticut Ave., NW, Suite 450
Washington, DC 20036
Counsel to Commnet Wireless, LLC

Russell D. Lukas
Lukas, Nace, Gutierrez & Sachs, Chartered
1650 Tysons Boulevard, Suite 1500
McLean, VA 22102
Counsel to McElroy Electronic Corporation

James H. Barker
Latham & Watkins, LLP
555 11th Street, NW, Suite 1000
Washington, DC 20004
Counsel to Leap Wireless International, Inc.

Robert J. Irving, Jr.
Leap Wireless International, Inc.
10307 Pacific Center Court
San Diego, CA 92121

John T. Scott III
Verizon Wireless
1300 Eye Street, NW, Suite 400 West
Washington, DC 20005

Nancy J. Victory
Wiley Rein LLP
1776 K Street, NW
Washington, DC 20006
Counsel to Verizon Wireless

Thomas Sugrue
Kathleen O'Brien Ham
Sara Leibman
T-Mobile USA, Inc.
401 9th Street, NW, Suite 550
Washington, DC 20004

Paul K. Mancini
Gary L. Phillips
Michael P. Goggin
David C. Jatlow
AT&T Inc.
1120 20th Street, NW
Washington, DC 20036

Gregory W. Whiteaker
Donald L. Herman, Jr.
Bennet & Bennet, PLLC
10 G Street NE
Suite 710
Washington, DC 20002
*Counsel to TowerStream Corporation and The
Rural Broadband Group*

Michael F. Altschul
Christopher Guttman-McCabe
Paul W. Garnett
Brian M. Josef
CTIA – The Wireless Association
1400 16th Street, N.W., Suite 600
Washington, DC 20036

Joe D. Edge
Drinker, Biddle & Reath, LLP
1500 K Street, NW
Suite 1100
Washington, DC 20005
Counsel to Open Range Communications, Inc.

Steve B. Sharkey
Motorola, Inc.
1455 Pennsylvania Ave., NW, Suite 900
Washington, DC 20004

Andrew Kreig
The Wireless Communications Association
International, Inc.
1333 H Street, NW, Suite 700 West
Washington, DC 20005

George E. Kilguss
TowerStream Corporation
Tech 2 Plaza
55 Hammarlund Way
Middletown, RI 02842

Brian Peters
Director, Government Relations
Information Technology Industry Council
1250 Eye Street, NW
Suite 200
Washington, DC 20005

Stephen C. Liddel
Open Range Communications, Inc.
6465 South Greenwood Plaza Blvd.
Centennial, CO 80111

In addition, courtesy copies of the foregoing Erratum to Consolidated Motion of M2Z Networks, Inc. to Strike and Dismiss Petitions to Deny and Alternative Proposals were delivered by hand upon the following:

Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B201
Washington, D.C. 20554

Daniel Gonzalez, Chief of Staff
Office of Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B201
Washington, D.C. 20554

Erika Olsen, Acting Legal Advisor
Office of Chairman Kevin J. Martin
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B201
Washington, D.C. 20554

Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B115
Washington, D.C. 20554

John Branscome, Acting Legal Advisor
Office of Commissioner Michael J. Copps
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B115
Washington, D.C. 20554

Commissioner Jonathan S. Adelstein
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B302
Washington, D.C. 20554

Barry Ohlson, Legal Advisor
Office of Commissioner Jonathan Adelstein
Federal Communications Commission
445 12th Street, S.W., Rm. 8-B302
Washington, D.C. 20554

Commissioner Deborah Taylor Tate
Federal Communications Commission
445 12th Street, S.W., Rm. 8-A204
Washington, D.C. 20554

Aaron Goldberger, Legal Advisor
Office of Commissioner Deborah Taylor Tate
Federal Communications Commission
445 12th Street, S.W., Rm. 8-A204
Washington, D.C. 20554

Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, S.W., Rm. 8-C302
Washington, D.C. 20554

Angela Giancarlo, Legal Advisor
Office of Commissioner Robert M. McDowell
Federal Communications Commission
445 12th Street, S.W., Rm. 8-C302
Washington, D.C. 20554

Samuel Feder, General Counsel
Office of General Counsel
Federal Communications Commission
445 12th Street, S.W., Rm. 8-C750
Washington, D.C. 20554

Catherine Bohigian, Chief
Office of Strategic Policy and Planning
Analysis
Federal Communications Commission
445 12th Street, S.W., Rm. 7-C347
Washington, D.C. 20554

Fred Campbell, Bureau Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554

Cathy Massey
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554

Peter Daronco
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554

David Hu
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554

Joel Taubenblatt
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554

Walter Strack
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554

Jennifer Tomchin
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W., Rm. 3-C250
Washington, D.C. 20554



Erin L. Dozier