

**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	)	

To: Chief, Wireless Telecommunications Bureau

**OPPOSITION OF M2Z NETWORKS, INC. TO NEXTWAVE MOTION FOR  
EXTENSION OF TIME AND AT&T COMMENTS**

On March 30, 2007, M2Z Networks, Inc. (“M2Z”) submitted an opposition to the Motion for Extension of Time of CTIA – The Wireless Association (“CTIA”).<sup>1</sup> As noted in M2Z’s opposition to the CTIA Motion, CTIA failed to provide an adequate justification for a grant of its extension request.<sup>2</sup> The Bureau agreed, and has denied the request.<sup>3</sup> Two additional pleadings seeking additional time have now been submitted -- by NextWave Broadband, Inc.

---

<sup>1</sup> See CTIA – The Wireless Association, Motion for Extension of Time, WT Docket No. 07-16 (submitted Mar. 29, 2007) (stating that the intervening holiday and its attendance at the CTIA Annual Convention in Orlando, Florida, make a timely submission by April 3, 2007 “difficult at best.” *Id.* at 2-3.) (“CTIA Motion”).

<sup>2</sup> See Opposition of M2Z Networks, Inc., to CTIA Motion for Extension of Time (filed Mar. 30, 2007).

<sup>3</sup> See M2Z Networks, Inc., Application for License and Authority to Provide National Broadband Radio Service in the 2155-2175 MHz Band, WT Docket No. 07-16; Petition of M2Z Networks, Inc. for Forbearance Under 47 U.S.C. § 160(c) Concerning Application of Sections 1.945(a) and (c) of the Commission’s Rules and Other Regulatory and Statutory Provisions, WT Docket No. 07-30, *Order* (rel. Mar. 30, 2007) (“we do not find the circumstances in this case warrant granting an extension”).

(“NextWave”)<sup>4</sup> and AT&T, Inc.<sup>5</sup> Because AT&T merely comments upon an extension request that has already been acted upon by the Bureau, the comments are moot. In any event, NextWave’s Motion and AT&T’s Comments both suffer from the same flaws as CTIA’s Motion and therefore should be denied for the same reasons.

In essence, these two parties seek an extension because M2Z has authoritatively addressed all the issues on the record.<sup>6</sup> However, the fact that M2Z has been thorough in its response is not a justification for an extension of time. As M2Z pointed out in its opposition to the CTIA Motion, all parties to this proceeding have been afforded timely and fair notice regarding the pleading deadlines that apply in this proceeding.<sup>7</sup> M2Z filed its Opposition<sup>8</sup> in accordance with those deadlines.<sup>9</sup> NextWave and AT&T spend considerable time arguing that

---

<sup>4</sup> See Letter from Jennifer M. McCarthy, NextWave Broadband, Inc. to Marlene H. Dortch, FCC Secretary, referencing WT Docket No. 07-16 (dated Mar. 30, 2007) (requesting a 27-day extension of time) (“NextWave Motion”).

<sup>5</sup> See Comments of AT&T, Inc., in Support of Motion for Extension of Time of CTIA – The Wireless Association, WT Docket Nos. 07-16 and 07-30 (dated Mar. 30, 2007) (“AT&T Comments”).

<sup>6</sup> See NextWave Motion at 1 (“More than one business week is required to reply to the voluminous M2Z Opposition.”); AT&T Comments on Extension Motion at 2 (“these pleadings are voluminous.”)

<sup>7</sup> *Wireless Telecommunication Bureau Sets Pleading Cycle for Application by M2Z Networks, Inc. to be Licensed in the 2155-2175 MHz Band*, Public Notice, WT Docket No. 07-16, DA 07-987 (Wireless Telecom. Bur. rel. Mar. 9, 2007) (the “March Public Notice”) (announcing that petitions to deny must be filed on or before March 16, 2007, oppositions to the petitions to deny must be filed on or before March 26, 2007, and replies to such oppositions are due on April 3, 2007). Petitioners also had considerable notice of the M2Z Application, generally. See *Pleading Cycle Established for Comments on Petition of M2Z Networks, Inc. for Forbearance Under 47 U.S.C. § 160(c) to Permit Acceptance and Grant of Its Application for a License to Provide Radio Service in the 2155-2175 MHz Band*, Public Notice, WT Docket No. 07-30, DA 07-736, (Wireless Telecom. Bur. rel. Feb. 16, 2007). *Wireless Telecommunication Bureau Announces that M2Z Networks, Inc.’s Application for License and Authority to Provide a National Broadband Radio Service in the 2155-2175 MHz Band is Accepted for Filing*, Public Notice, WT Docket No. 07-16, DA 07-492 (Wireless Telecom. Bur. rel. Jan. 31, 2007) (the “January Public Notice”).

<sup>8</sup> See Consolidated Opposition of M2Z Networks, Inc. to Petitions to Deny, WT Docket Nos. 07-16 & 07-30 (filed March 26, 2007) (the “Opposition”).

<sup>9</sup> January Public Notice at 2 (the January Public Notice established the procedural rules for this docket announcing that, “[p]etitions, comments or additional applications may be filed using the Commission’s Electronic Comment Filing System (ECFS) or by filing paper copies.” *Id.* at 2 (emphasis added)).

M2Z had additional time without even acknowledging that additional parties filed petitions to deny after the March 2<sup>nd</sup> date.<sup>10</sup> Only after M2Z filed its Opposition did CTIA, NextWave and AT&T voice any objection to the established pleading cycle. What they fail to assert is any reasonable grounds for extension and, instead, express concern over the size of M2Z's filing. If the pleading cycle itself were of such great concern, these parties would have filed their requests much earlier. Instead, they use post hoc rationalizations that should not be entertained.

Worse yet, NextWave attempts to supplement its Motion with several false claims. First, NextWave incorrectly asserts that it had not yet been served by any means as of March 30, 2007. However, United States Postal Service records rebut this false claim and, instead, demonstrate that NextWave was served one day before it filed its Motion.<sup>11</sup> Second, ignoring its actual service, NextWave falsely claims that M2Z did not submit its comments to the Secretary's office. Even a cursory review of ECFS proves this claim as incorrect. The ECFS system records the "document date" of M2Z's Opposition as March 26, 2007. Moreover, the Opposition itself has a receipt stamp of March 26, 2007.<sup>12</sup>

---

<sup>10</sup> See Consolidated Petition to Deny and Comments of TowerStream Corporation, WT Docket No. 07-16 (submitted Mar. 15, 2007) ("TowerStream Petition to Deny"); Consolidated Petition to Deny and Comments of the Rural Broadband Group, WT Docket No. 07-16 (submitted Mar. 16, 2007) ("Rural Broadband Group Petition to Deny"); Comments of the Information Technology Industry Council, WT Docket No. 07-16 (submitted Mar. 16, 2007) ("ITI Comments").

<sup>11</sup> M2Z has attached hereto a certified mail receipt indicating service to NextWave Broadband, Inc., along with the USPS tracking information indicating that the parcel was delivered on March 29, 2007. See Attachment A. M2Z's opposition to the CTIA Motion contains additional data regarding service to all of the Petitioners. See Opposition of M2Z Networks, Inc., to CTIA Motion for Extension of Time (filed Mar. 30, 2007) at Attachment A.

<sup>12</sup> See Electronic Comment Filing System records in WT Docket No. 07-16. M2Z directed its Opposition to the Secretary via messenger at the address specified in the January Public Notice, 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002.

With an impending statutory deadline of May 5, 2007 under Section 7(b) of the Communications Act<sup>13</sup> for the Commission to rule on M2Z's application, no delay should be permitted here. In no event would the unreasonable delay proposed by NextWave be appropriate, as it is well beyond what would be permitted under the Commission's rules and would give the Commission a mere 10 days following the close of the pleading cycle to act on M2Z's Application.<sup>14</sup> NextWave's suggested reply date would make it exceedingly difficult for the Commission to make a public interest determination within one year of M2Z's filing, as required by law.<sup>15</sup>

In view of the ample Commission notice that was provided to all of the Petitioners, M2Z's compliance with proper filing and service procedures, M2Z's comprehensive treatment of the issues raised by the Petitioners, and the statutory mandates that require swift Commission action in response to M2Z's Application, the Commission should deny any comment or Motion seeking additional time to file replies to M2Z's Opposition.

---

<sup>13</sup> 47 U.S.C. § 157(b) (provides that the Commission "shall determine whether any new technology or service proposed in a petition or application is in the public interest within one year after such petition or application is filed." *Id*); *see also* Opposition at Section I.B. (discussing that Section 7 of the Act and Section 706 of the 1996 Telecommunications Act require timely Commission action on the Application and Petition for Forbearance).

<sup>14</sup> We note that the Bureau set out a pleading cycle on M2Z's forbearance petition which also closed on April 3, 2007. This date, which was consistent for the close of both proceedings, would give the Commission ample time to review the record in WT Dockets 07-16 and 07-30 in order to provide an informed decision by the statutory deadline of May 5, 2007.

<sup>15</sup> 47 U.S.C. §157(b).

Respectfully submitted,

**M2Z NETWORKS, INC.**

By: \_\_\_\_\_/s/\_\_\_\_\_

Milo Medin  
Chairman  
M2Z Networks, Inc.  
2800 Sand Hill Road  
Suite 150  
Menlo Park, CA 94025

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

Uzoma C. Onyeije  
Vice President, Regulatory Affairs  
M2Z Networks, Inc.  
2000 North 14th Street  
Suite 600  
Arlington, VA 22201  
(703) 894-5000

April 2, 2007

**Attachment A**

**Records of Service to NextWave of M2Z's**

**Consolidated Opposition to Petitions to Deny**



Home | Help

Track & Confirm

# Track & Confirm

## Search Results

Label/Receipt Number: **7004 1350 0003 2410 1609**  
Status: **Delivered**

Your item was delivered at 10:31 AM on March 29, 2007 in SAN DIEGO, CA 92130.

[Additional Details >](#)

[Return to USPS.com Home >](#)

### Track & Confirm

Enter Label/Receipt Number.

## Notification Options

### Track & Confirm by email

Get current event information or updates for your item sent to you or others by email. [Go >](#)



POSTAL INSPECTORS  
Preserving the Trust

[site map](#)

[contact us](#)

[government services](#)

[jobs](#)

[National & Premier Accounts](#)

Copyright © 1999-2004 USPS. All Rights Reserved. Terms of Use Privacy Policy

7004 1350 0003 2410 1609

**U.S. Postal Service™**  
**CERTIFIED MAIL™ RECEIPT**  
*(Domestic Mail Only; No Insurance Coverage Provided)*

For delivery information, visit our website at [www.usps.com](http://www.usps.com)

**OFFICIAL RECEIPT**

Postage	\$	\$10.90
Certified Fee		\$2.40
Return Receipt Fee (Endorsement Required)		\$1.25
Restricted Delivery Fee (Endorsement Required)		\$0.00
<b>Total Postage &amp; Fees</b>	<b>\$</b>	<b>\$15.15</b>

03/26/2007

Sent To: Jennifer McCaughy NextWave  
Street, Apt. No. or PO Box No.: 12670 High Bluff Drive  
City, State, ZIP+4: San Diego, CA 92130

PS Form 3800, June 2002 See Reverse for Instructions

(Next Wave)

## 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 2nd day of April 2007 caused a copy of the foregoing Supplement to M2Z Networks, Inc. Opposition to CTIA Motion for Extension of Time to be delivered by first-class mail to the following:

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

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*

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*

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

Carly T. Didden  
Patton Boggs LLP  
2550 M Street, NW  
Washington, DC 20037  
*Counsel to NextWave Broadband Inc.*

John C. McElroy  
McElroy Electronics Corporation  
27-33 Fredonian Street  
Shirley, MA 01464

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

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

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

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

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

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

Brian Peters  
Information Technology Industry Council  
1250 Eye Street, NW  
Suite 200  
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*

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

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

Charles A. Acquard  
NASUCA  
8380 Colesville Road, Suite 101  
Silver Spring, MD 20910

Andrew Jay Schwartzman  
Media Access Project  
Suite 1000  
1625 K Street, NW  
Washington, DC 20006

David Honig  
Minority Media and Telecommunications  
Council  
3636 16th Street, N.W., Suite B-366  
Washington, D.C. 20010

Libby Beaty  
NATOA  
1800 Diagonal Road, Suite 495  
Alexandria, VA 22314

Gigi B. Sohn  
Public Knowledge  
1700 Connecticut Ave NW  
Washington, DC 20009

---

/s/

Erin L. Dozier

