

Before the  
Federal Communications Commission  
Washington, DC 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 47 U.S.C. § ) WT Docket No. 07-30  
160(c) Concerning Application of Sections )  
1.945(b) and (c) of the Commission's Rules )  
and Other Regulatory and Statutory Provisions )

To: The Wireless Telecommunications Bureau

**RESPONSE OF AT&T INC. TO  
REQUEST FOR CONFIDENTIAL TREATMENT**

AT&T Inc., on behalf of AT&T Mobility LLC and its wholly-owned and controlled wireless affiliates ("AT&T"), hereby submits this response concerning the Request for Confidential Treatment submitted in the above-captioned dockets by M2Z Networks, Inc. ("M2Z") on June 4, 2007.<sup>1</sup>

In its request, M2Z seeks confidential treatment for a letter submitted on June 4, 2007 (the "June 4<sup>th</sup> Letter") supplementing its application for an exclusive, 20 MHz license to construct a nationwide broadband network. As described by M2Z, the letter provides information relevant to its financial qualifications and ability to construct and operate its proposed nationwide network, as well as action on its application.<sup>2</sup> Although these issues were

---

<sup>1</sup> M2Z, Request for Confidential Treatment, WT Docket Nos. 07-16 & 07-30 (filed June 4, 2007) ("Confidentiality Request").

<sup>2</sup> See Confidentiality Request at 1-2 ("The [ ] Letter contains confidential and privileged information relating to M2Z's financial qualifications that is relevant to the FCC's review of the above-captioned matters. . . . The Letter supplements information provided in the Application

squarely raised by AT&T in its petition to deny the application,<sup>3</sup> M2Z did not serve AT&T with a copy of the June 4<sup>th</sup> Letter, as required by the FCC's rules.<sup>4</sup> M2Z has acknowledged the importance of the service requirement in this proceeding, stating that submissions which are not properly served should be dismissed and struck from the record — even if they ultimately appear in ECFS — for reasons of due process and orderly decisionmaking.<sup>5</sup>

As a petitioner, AT&T has a fundamental right to review and comment on the Letter, which is relevant to action on the application as well as allegations in AT&T's petition.<sup>6</sup> Accordingly, it has filed under separate cover a Freedom of Information Act ("FOIA") request seeking limited access, subject to a protective order, to the June 4<sup>th</sup> Letter. A copy of the FOIA request is attached and is hereby incorporated by reference. The request also seeks access to a

---

(footnote continued)

and other filings by M2Z in these proceedings which demonstrate M2Z's financial fitness to be a Commission licensee and its financial ability to construct and deploy [its nationwide broadband network] within a specified timeframe.").

<sup>3</sup> See AT&T, Petition to Deny, WT Docket No. 07-16, at 6-7 & n.19 (Mar. 2, 2007) ("AT&T Pet.") ("While M2Z references access to approximately \$400 million, it does not support this claim or address whether there are any conditions that may limit use of those funds, nor does it show that the \$400 million is sufficient to complete a nationwide network and operate on that scale.") (footnotes omitted); see also AT&T, Consolidated Reply to Opposition to Petitions to Deny and Reply Comments Regarding Forbearance Petition, WT Docket Nos. 07-16 & 07-30, at 11-12 (Apr. 3, 2007) ("AT&T Rep.").

<sup>4</sup> See 47 C.F.R. § 1.927(i) ("If a petition to deny or other informal objection has been filed, a copy of any amendment (or other filing) must be served on the petitioner."); see also *id.* § 1.744(a).

<sup>5</sup> See Consolidated Motion of M2Z to Strike and Dismiss Petitions to Deny and Alternative Proposals, WT Docket Nos. 07-16 & 07-30, at 9-13 & n.46 (Mar. 26, 2007).

<sup>6</sup> See *Examination of Current Policy Concerning the Treatment of Confidential Information Submitted to the Commission*, 13 F.C.C.R. 24816, 24837 (1998) ("Confidential Treatment Order") ("[P]etitioners to deny generally must be afforded access to all information submitted by licensees that bear upon their applications."), quoted in *Mobile Communications Holdings, Inc.*, 18 F.C.C.R. 133, 134-35 (IB/SD 2003) ("MCHI"); *Open Network Architecture Tariffs of Bell Operating Companies*, 10 F.C.C.R. 1619, 1621 (1995) ("The Administrative Procedure Act and the Due Process Clause of the Constitution generally entitle parties in administrative proceedings to have access to the documents necessary for effective participation in those proceedings."), quoted in *MCHI*, 18 F.C.C.R. at 135 n.10.

prior related filing submitted on March 26, 2007 (the “March 26<sup>th</sup> Filing”), which was also not served on AT&T.<sup>7</sup> As in prior such cases, the parties should be afforded an additional thirty days to comment on the June 4<sup>th</sup> Letter and March 26<sup>th</sup> Filing, once made available to the parties for review under a suitable protective order.<sup>8</sup>

Respectfully submitted,

**AT&T INC.**

By: /s/ David C. Jatlow

David C. Jatlow  
Michael P. Goggin  
Gary L. Phillips  
Paul K. Mancini  
1120 20th Street, NW  
Washington, DC 20036  
(202) 457-2054

*Its Attorneys*

June 20, 2007

---

<sup>7</sup> See Consolidated Opposition of M2Z to Petitions to Deny, WT Docket Nos. 07-16 & 07-30, at 113 n.365 (filed Mar. 26, 2007) (“M2Z Opp.”) (referencing the March 26<sup>th</sup> Filing). According to M2Z, the March 26<sup>th</sup> Filing provided “proof” that “M2Z has assurances to receive funding at an amount significantly in excess of \$400 million.” M2Z Opp. at 113 n.365. AT&T has previously called upon M2Z to make such information available to all parties to the proceeding, subject to a protective order, if necessary. See AT&T Pet. at 6-7 n.19, cited in AT&T Rep. at 12 n.42. That request remains pending.

<sup>8</sup> See, e.g., *MCHI*, 18 F.C.C.R. at 135; see also *Confidential Treatment Order*, 13 F.C.C.R. at 24839.

## CERTIFICATE OF SERVICE

I, Sarah Dahlia Gutschow, hereby certify that on this 20<sup>th</sup> day of June 2007, copies of the foregoing Response of AT&T Inc. to Request for Confidential Treatment were served by first-class mail on the following:

Uzoma C. Onyeije  
M2Z Networks, Inc.  
2000 North 14<sup>th</sup> Street  
Suite 600  
Arlington, VA 22201

Milo Medin  
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, NW  
11<sup>th</sup> Floor East  
Washington, DC 20005  
*Counsel to M2Z Networks, Inc.*

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

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

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*

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

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

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

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

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

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

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

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 9<sup>th</sup> Street, NW, Suite 550  
Washington, DC 20004

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*

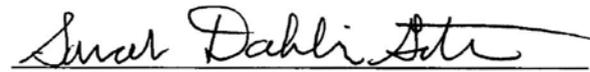
Michael F. Altschul  
Christopher Guttman-McCabe  
Paul W. Garnett  
Brian M. Josef  
CTIA – The Wireless Association  
1400 16<sup>th</sup> Street, NW, Suite 600  
Washington, DC 20036

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

Brian Peters  
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

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

A handwritten signature in cursive script, reading "Sarah Dahlia Gutschow", written in black ink. The signature is positioned above a horizontal line.

Sarah Dahlia Gutschow