



June 18, 2008

Via ECFS

Ms. Marlene Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, DC 20554

Re: Ex Parte Presentation in: WT Docket No. 07-293, IB Docket No. 95-91, Gen.
Docket 90-357, RM No. 8610, MB Docket No. 07-57

Dear Ms. Dortch:

This letter provides notice that on June 17, 2008, Allen Salmasi and Jennifer McCarthy of NextWave Wireless Inc., along with Nick Allard of Patton Boggs, LLP, met with Renee Crittendon, Legal Advisor for Spectrum & International Issues to Commissioner Adelstein, and Shawn Donilon regarding the above captioned proceedings.

The participants discussed the need for rapid resolution of the above-referenced rulemaking proceeding in which changes are proposed to the technical rules governing both SDARS in Part 25 and WCS in Part 27 to enable coexistence of both services. The ten-year delay in adopting appropriate rules for these adjacent services is hindering WCS wireless broadband equipment development, network design, and service deployment. The inability to bring WCS spectrum to market has delayed deployment of wireless broadband services for all consumers, but particularly those in rural areas. Also discussed was the pending merger application filed by XM and Sirius and the opportunity it presents to resolve the coexistence issue with WCS.

Were the proposed XM-Sirius merger to proceed without resolution of the WCS-related rule changes, the potential exists for inadvertent negative consequences to both WCS and SDARS. The imposition of certain merger-related proposals, such as divesting spectrum or leasing capacity to other service providers, would inevitably change the network operations of the combined SDARS companies and could negatively impact the ability of WCS and SDARS to coexist. In addition, other merger-related proposals, such as the requirement to develop and market new interoperable SDARS receivers, provide an opportunity to enhance SDARS receiver design to make them more tolerant of adjacent band WCS operations (i.e. by including additional filtering).



Furthermore, the lack of resolution to the WCS and SDARS technical rule changes is jeopardizing the ability of WCS licensees to complete their construction requirements by July of 2010. Given that the substantial service deadline is just 2 years away now, the time is already short to complete WCS equipment design and network deployment, which are essential prerequisites to demonstrating substantial service.

Now is the time to reach a conclusion to this longstanding issue that has been pending before the Commission since 1997 when WCS and SDARS were initially allocated. The FCC's record is replete with technical information qualifying the nature of potential interference between the services based on extensive testing conducted by both sides. These tests demonstrate that the potential for interference from WCS to SDARS is minimal, highly probabilistic, and dependent on myriad factors aligning at the same time. Conversely, the potential for interference from high-powered SDARS repeaters to WCS base stations and mobile devices is anticipated if coordination with WCS licensees by SDARS is not required.

While XM and Sirius have the benefit of continuing operation of their terrestrial repeater network despite regulatory compliance issues and a lack of permanent rules authorizing repeater operation, WCS licensees cannot move forward with plans to deploy advanced wireless broadband services to benefit all consumers, particularly those in rural areas.

In view of the Commission's extensive experience in handling the type of adjacent channel coexistence issues that are presented by WCS and SDARS, and given that the record already contains the information the Commission needs to make a decision, there could not be a better time than now to bring this rulemaking to a conclusion and present both SDARS and WCS licensees with the tools they need to move forward and advance their service offerings in the public interest.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'J. McCarthy', written over a white background.

Jennifer M. McCarthy
Vice President, Regulatory Affairs
NextWave Wireless Inc.

Cc: Renee Crittendon
Shawn Donilon