

# MINORITY MEDIA AND TELECOMMUNICATIONS COUNCIL

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December 12, 2008

Hon. Deborah Taylor Tate  
Federal Communications Commission  
445 12<sup>th</sup> Street S.W.  
Washington, D.C. 20554

Dear Ms. Dortch:

RE: WT Docket 07-195 (AWS-3/M2Z Networks, Inc.)

Thank you for speaking with me today regarding the AWS-3 proceeding. I wanted to respond to the question you raised regarding M2Z's schedule for rollout to rural areas, particularly the low income majority-minority rural communities and settlements in the Southeast, Southwest, and Indian Country that are of special concern to MMTC.

Your question raises a subject very dear to our hearts. There was long and unfortunate history in wireline and wireless (even including municipal wireless) in which service providers cream skimmed by rolling out to wealthy and high density urban areas while disregarding low income and rural areas. We have opposed this practice for years, and please know that we'll watch closely to be sure that AWS-3 winners will not practice such "electronic redlining."

Fortunately, the experience in wireline over the past ten years gives us hope that these service disparities can be avoided voluntarily or with the lightest regulatory touch. Over the past ten years, AT&T and Verizon systematically identified and largely eliminated racial and income disparities among neighborhoods in service rollout, installation and repair. The companies did that on their own initiative under the watchful eyes of organizations like the NAACP, which grades the major telecom companies on an annual report card that covers service rollout.

In light of this experience, and especially given M2Z's business plan, the track records of its principals and the rural initiatives M2Z has already undertaken (including its rural North Carolina incentive marketing and its participation in the MMTC Rural Broadband Task Force) we're very confident that M2Z will keep its promise to provide rural service as rapidly as is commercially feasible.

To ensure that the free service provided over the AWS-3 spectrum is available to urban and rural areas alike, the Commission must develop rules that encourage collaboration between the

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nationwide licensee and potential rural partners and must also ensure that there are adequate positive and negative incentives for achieving or failing to achieve buildout in rural areas. A proposal for addressing these concerns was previously filed by Broadband Wireless Partners (“BWP”). Specifically, BWP proposed the following incentives and disincentives (penalties) for failure to achieve milestones:

BWP proposes that the licensee have 6 years to reach 40% of the population and 12 years to reach 90% of the population and 15 years to reach 95% of the population. If the first benchmark is missed, the licensee would then be obligated to build out to 95% of the population by the 12 year mark. If the second benchmark were missed (regardless of whether the first benchmark was achieved) the licensee would lose the entire license. If both of the first two benchmarks are reached, the carrier would receive a “carrot” (perhaps some form of support similar to the suggested broadband universal service grant program under consideration by the Commission in the context of WC Docket No. 05-337 and CC Docket No. 96-45 in which the Commission is reviewing the USF program) to reach 95% of the population (and beyond). Specifically, BWP also recommends that AWS-3 build out, however, should not be based on a “keep what you use” enforcement paradigm that is reportedly under consideration by the Commission. The inclusion of any such provisions will create a perverse incentive for urban-only deployments by the licensee (where the licensee’s penalty for not meeting its build out obligation would only be the return of unbuilt areas which are likely to be rural areas).<sup>1</sup>

MMTC believes that these types of structural incentives in the licensing process should not just be applied to AWS-3 but to all wireless spectrum that is currently in the hands of commercial actors or that will be auctioned in the future. We hope the Commission will provide all the means and incentives for wireless licensees to make full use of their spectrum for the benefit of consumers, whether they are rural, urban, low income or otherwise.

Sincerely,

*David Honig*

David Honig  
Executive Director

cc: Hon. Jonathan Adelstein  
Scott Bergmann and Renee Crittendon, Esqs.  
WT Docket No. 07-195 ECFS Docket (electronically filed)

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<sup>1</sup> Letter of Stephen G. Kraskin, Counsel for BWP, WT Docket 07-195 & 04-356 (filed June 5, 2008).