

May 29, 2009

New DBSD Satellite Services G.P.
11700 Plaza America Drive, Suite 1010
Reston, Virginia 20190

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W., Room TW-A325
Washington, D.C. 20554

Re: **EX PARTE**
WT Docket No. 02-55; ET Docket Nos. 00-258 and 95-18

Dear Ms. Dortch:

On May 28, 2009, Suzanne Hutchings Malloy and Peter Corea, for NEW DBSD Satellite Services G.P. (“DBSD”, formerly New ICO Satellite Services, G.P. (“ICO”)) met with Angela Giancarlo, chief of staff and senior legal advisor to Commissioner Robert McDowell. DBSD reiterated comments ICO filed in connection with the March 2008 *Further Notice of Proposed Rulemaking* in the above-referenced proceedings.¹

In particular, DBSD emphasized the importance of certainty and predictability regarding the date by which MSS systems may initiate commercial service. DBSD also reiterated its concern that BAS relocation delays have disrupted and continue to disrupt planning and introduction of nationwide mobile satellite service to the public.² DBSD also discussed how the Sprint-BAS Relocation Plan adopted in 2004 as part of the larger *800 MHz* proceeding relied on multiple factors to serve the public interest, including clearing of the band in time for MSS operations.³

¹ See *Improving Public Safety Communications in the 800 MHz Band*, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 4393 (2008).

² See ICO Opposition to Supplemental Joint Request filed by Sprint Nextel Corporation (“Sprint”), the Association for Maximum Service Television, the National Association of Broadcasters, and the Society of Broadcast Engineers, WT Dkt. No. 02-55, at 9 (March 9, 2009).

³ See ICO Comments in WT Dkt. 02-55, at 6 (April 30, 2008) (“When the Commission adopted the original Sprint-BAS relocation plan in 2004, it contemplated that Sprint “will likely relocate most BAS licensees before MSS licensees begin operations under their milestone requirements.” (citing *Improving Public Safety Communications in the 800 MHz Band*, 19 FCC Rcd 14969, ¶ 270 (2004) (“*800 MHz Order*”))). See also ICO Opposition at 12 (“The Commission expressly ordered Sprint to clear the entire 1990-2025 MHz band as a condition of its 1.9 GHz spectrum rights ‘because it promotes responsible use by Nextel of the 1.9 GHz spectrum we are granting as part of our solution to the public safety interference problem, and because it provides a rapid and efficient band-clearing solution at 1.9 GHz that benefits all parties—Nextel, BAS, MSS,

Letter to Marlene H. Dortch, page 2

May 29, 2009

Respectfully submitted,

/s/Suzanne Hutchings Malloy
Suzanne Hutchings Malloy

cc: Angela Giancarlo

other prospective users of the band above 1995 MHz, and the public.” (citing 800 MHz Order ¶ 304.))