



Douglas Brandon
General Counsel & Secretary

June 5, 2009

FILED ELECTRONICALLY

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

Re: WT Docket No. 02-55, ET Docket No. 00-258, and ET Docket No. 95-18
Ex parte filing

Dear Ms. Dortch:

On June 4, 2009, I had separate telephone conversations with Paul Murray of Acting Chairman Copps' office, Angela Giancarlo of Commissioner McDowell's office, Julius Knapp and Geraldine Maise of the Office of Engineering and Technology, and Howard Griboff of the International Bureau concerning the above-referenced proceedings. In the course of reviewing the status of the proceedings, I discussed arguments TerreStar Networks Inc ("TerreStar") has made in its pleadings, including the need to permit MSS operations in the band as soon as possible.

In this regard I noted that given the unique history of this proceeding, the Commission's typical policies and process with respect to relocation and reimbursement have little applicability. In particular, from the very outset of this matter, when Nextel (now Sprint) first proposed to relocate the BAS licensees in exchange for additional and more favorable 800MHz and 2GHz spectrum, the time lines ordered by the Commission provided for MSS licensees to begin using their spectrum before any accounting/true up of relocations costs, much less reimbursement of any pro rata share due from the MSS licensees. *See Improving Public Safety Communications in the 800 MHz Band, WT Docket 02-55, ET Docket 00-258, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order, 19 FCC Rcd 14969.* While it is true that both BAS relocation and MSS operations have experienced delays, nothing has changed with respect to the public interest balance underpinning the Commission's decisions. The Commission determined that MSS licensees could commence operations before the resolution of the complicated reimbursement issues posed by this specific relocation proceeding, which involves not only the 2GHz band but the 800 MHz band as well.



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Likewise, I discussed the fact that if the Commission were to act on Sprint's request to modify the existing rules for reimbursement by MSS licensees, rules that TerreStar has relied on in planning its business, it would be even more critical for TerreStar to be able to commence operations promptly to account for these changes. I acknowledged that the complexity and sensitivity of the reimbursement issues for all of the parties involved could reasonably require further consideration by the Commission in this or related proceedings.

Moreover, even after the Commission finally resolves the rules for cost sharing reimbursement, the accounting/true up and auditing process is likely to add considerable more time to finality. I reiterated that TerreStar's ability to begin using the S Band spectrum has never been tied to Sprint's completion of its multiple relocation processes and the Commission should not somehow link these two discrete matters as it considers the effects of the delays in Sprint's relocation efforts.

I also emphasized that TerreStar is fully aware that MSS licensees are always obligated to meet any obligations placed on them by the Commission. This obligation applies to current rules or any rules the Commission issues in the future. I noted that this obligation is in no way lessened if we are providing service, rather it is even more important. Finally, I suggested that TerreStar would have no objection to specifically referencing rules or decisions promulgated later in this proceeding as a condition of TerreStar's authorization.

Please direct any questions concerning this matter to me.

Sincerely,

/s/ Douglas Brandon

cc: Paul Murray, Renee Crittendon, Angela Giancarlo, Julius Knapp, Geraldine Matisse, Howard Griboff