

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Amendment of Part 27 of the Commission's) WT Docket No. 07-293
Rules to Govern the Operation of)
Wireless Communications Services)
in the 2.3 GHz Band)

To: The Commission

REPLY COMMENTS OF BROADBAND SOUTH LLC

Broadband South LLC (“Broadband South”), by counsel, hereby provides brief Reply Comments to address certain Comments regarding the “substantial service” performance requirements applicable to Wireless Communications Service (“WCS”) licensees.¹

In its Comments, Broadband South recommended that the Commission permit licensees that have elected to construct on or before the July 21, 2010 extended build-out deadline² to rely on the existing standards of Section 27.14(a) when demonstrating “substantial service.”³

Horizon Wi-Com, LLC (“Horizon”) took a different approach, asserting that any new performance requirements the Commission may adopt should apply “only to those who had not built out *prior to the enhanced standards being proposed*” – *i.e.*, March 29, 2010.⁴ Adopting Horizon’s approach would effectively and impermissibly shorten the construction period the Commission approved from July 21, 2010 to March 29, 2010, meaning that any licensee, such as Broadband South, intending to meet the long-standing “substantial service” standards by the extended date would no longer be able to do so. This result would violate the express holding of

¹ See *Public Notice*, FCC 10-46, rel. March 29, 2010 (“*Public Notice*”). The *Public Notice* was published in the Federal Register on April 6, 2010. See 75 Fed. Reg. 17349 (Apr. 6, 2010). Broadband South filed Comments on April 21, 2010.

² See *Order*, 21 FCC Rcd 14134 (2007) (“*WCS Extension Order*”) (extending build-out deadline to July 21, 2010).

³ See Broadband South Comments at 6.

⁴ Comments of Horizon Wi-Com, LLC, WT Docket No. 07-293, filed Apr. 21, 2010 (“*Horizon Comments*”), at 3-4 (emphasis added).

the *WCS Extension Order* and would constitute a retroactive application of rules that would harm existing licensees that justifiably relied on existing Commission actions, rules and deadlines.

The Commission should instead adopt Broadband South's proposal, which enables licensees to complete construction under existing standards by July 21, 2010.

Second, if the Commission subjects existing licensees that meet the July 21, 2010 deadline to a second set of build-out requirements, Broadband South agrees with the WCS Coalition and others that a more complete record must be developed based on the technical and operating rules the Commission ultimately adopts.⁵ The Commission has provided no basis for its new "substantial service" rules, has not justified the stringent build-out deadlines and payload requirements it proposes and has not shown that the proposed requirements are technically achievable within the proposed timeframes. As urged by the WCS Coalition, after it amends the technical and operating rules, the Commission should issue a further notice of proposed rulemaking to invite public comment on these important issues.

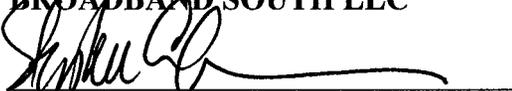
For the foregoing reasons, Broadband South respectfully requests that the Commission permit existing WCS licensees to demonstrate "substantial service" under existing rules and policies.

Respectfully submitted,

BROADBAND SOUTH LLC

April 30, 2010

By:



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⁵ See generally Comments of the WCS Coalition, WT Docket No. 07-293, filed April 21, 2010; Horizon Comments at 4-6; Joint Comments of Green Flag Wireless, LLC, *et al.*, WT Docket No. 07-293, filed April 21, 2010, at 1-2.

CERTIFICATE OF SERVICE

I, Kenn Wolin, a paralegal at the law firm of Rini Coran, PC, hereby certify that I have caused copies of the foregoing "Reply Comments of Broadband South LLC" to be sent by United States Postal Service, first class mail, postage prepaid (except as noted), this 30th day of April, 2010 to:

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