



August 3, 2011

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, WT Docket No. 10-112

Dear Ms. Dortch:

This letter provides notice that on August 2, 2011, Jennifer Richter of Patton Boggs LLP and Jennifer McCarthy of NextWave Wireless Inc. spoke telephonically with Linda Chang and Paul Moon of the Wireless Telecommunications Bureau (“the Bureau”) regarding the above captioned proceedings.

As NextWave discussed, several key issues regarding the technical and licensing rules for the Wireless Communications Service (“WCS”) must be addressed before standards work and equipment design and commercial production can be undertaken for the WCS band in the United States. Deployment of mobile broadband services in the WCS band, as envisioned by the Commission in the National Broadband Plan, cannot begin until at least the following events occur: (A) technical rules for the WCS band are finalized; (B) WCS licensing rules and license renewals are finalized; (C) standards work to accommodate the unique U.S. requirements for the band are completed; and (D) vendors are incented to manufacture commercial mobile equipment for the WCS band.

With respect to the WCS technical and licensing rules, the parties discussed the need for the Commission to resolve three critical issues affecting the use of the WCS band for mobile broadband services, namely:

- 1) Modification of the technical rules adopted in the *WCS Report and Order*<sup>1</sup> per the WCS Coalition’s pending Petition for Reconsideration to enable deployment of newly developed 4G technologies, such as LTE;<sup>2</sup>
- 2) Establishment of sufficient time for WCS licensees to meet the new performance requirements as outlined in the WCS Coalition’s Petition;<sup>3</sup> and

---

<sup>1</sup> Amendment of Part 27 of the Commission’s Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band, *Report and Order and Second Report and Order*, 25 FCC Rcd 11710 (2010) [“WCS Report and Order”].

<sup>2</sup> See Petition of the WCS Coalition for Partial Reconsideration, WT Docket No. 07-293, at 7 (filed Sept. 1, 2010) [“WCS Coalition Petition”];



3) Implementation of the plan set forth in the *Wireless Rule Harmonization NPRM and Order* to address the renewal of 2.3 GHz band WCS licenses.<sup>4</sup>

Without resolution of *all* three of these issues, continued regulatory uncertainty, combined with unique and challenging technical requirements for the U.S. 2.3 GHz market, make it impossible for licensees, as well as potential lessees or assignees, to move forward with mobile deployments in the band.

For example, NextWave explained in its WCS substantial service filings submitted in July of 2010 that it is currently offering fixed WiMAX-based backhaul Internet connectivity to Wi-Fi 802.11(g) access points using its WCS licenses. The NextWave service is being used by businesses for Internet connectivity throughout their office facilities as well as by retail establishments, such as coffee shops, restaurants, health and beauty service providers, to provide free Internet connectivity to their customers, employees and residents. Due to the lack of mobile broadband equipment that meets the U.S. 2.3 GHz WCS technical requirements, the NextWave service is limited currently and for the foreseeable future to fixed backhaul links. Without timely conclusion of all four of the required activities listed in the second paragraph above, the WCS band will continue to be used by licensees for fixed deployments, primarily Wi-Fi hotspot backhaul. This is not what the Commission envisioned for the WCS band in the National Broadband Plan.

To encourage the development of mobile broadband equipment for the U.S. WCS band, NextWave, together with the other members of the WCS Coalition, has issued a Request for Proposal (RFP) to several major vendors of 4G LTE equipment. This RFP seeks input on the LTE standards revisions and equipment modifications that will be necessary to commercialize equipment compliant with the rules adopted by the FCC for the WCS band. This analysis is crucial to assess the scope of the changes needed to the rapidly evolving LTE standard as well as to existing 2.3 GHz equipment designs. The WCS Coalition expects that the responses it receives to the RFP will also be instrumental in developing a common proposal for meeting the technical challenges raised by the unique 2.3 GHz requirements in the United States. Such a common proposal should facilitate the standards process that depends on consensus among entities with competing priorities and interests.

In addition to laying the foundation for the standards and equipment work that is necessary to bring mobile services to the WCS band, NextWave has joined the Global TD-LTE Initiative (GTI) organization, formed in early 2011 to develop cooperation among global operators to promote TD-LTE for deployment in 2.3 GHz and other bands. NextWave is an active member of the GTI, submitting technical contributions regarding the unique requirements of the U.S. 2.3 GHz WCS spectrum. With the support of other international operators seeking to deploy LTE in the 2.3 GHz band, NextWave believes the international vendor community

---

<sup>3</sup> Id.

<sup>4</sup> Amendment of Parts 1, 22, 24, 27, 74, 80, 90, 95, and 101 To Establish Uniform License Renewal, Discontinuance of Operation, and Geographic Partitioning and Spectrum Disaggregation Rules and Policies for Certain Wireless Radio Services, *Notice of Proposed Rulemaking and Order*, 25 FCC Rcd 6996 (2010) [the “*Wireless Rule Harmonization NPRM and Order*”].



will more readily respond to requests from the U.S. WCS licensees for the necessary standards and equipment changes for the band.

Despite NextWave's efforts to engage the global mobile broadband community and encourage the development of standards and equipment that will meet the challenges posed by our domestic WCS technical rules, there appears today to be little interest on the part of the standards-setting community to turn their attention from other pressing LTE-related development activities (including developing TD-LTE in China and India) given the continued uncertainty regarding the WCS technical and service rules and the status of the WCS license renewals. It is imperative that these critical issues are resolved as quickly as possible to give the standards setting bodies impetus to begin work.

In summary, and in answer to questions posed by the Bureau, NextWave has been operating in the WCS band for over a year offering fixed backhaul services to Wi-Fi hotspots. NextWave is anxious for the band to be used for mobile broadband services, as envisioned by the National Broadband Plan. To that end, NextWave has been working with the Commission to finalize the technical and licensing rules and has been active with the standards-setting and vendor communities, bringing attention to the potential of, and requirements for, the U.S. WCS band. In order for significant work to be done to advance the WCS band for next-generation mobile broadband services in the United States, however, the Commission's regulatory processes must be concluded, the standards-setting activities undertaken, and equipment commercialization embarked upon. At that point, it will be possible for the WCS band to reach its full potential.

Respectfully submitted,

*/Jennifer M. McCarthy/*

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

Cc: Linda Chang  
Paul Moon