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September 7, 2011

VIA ECFS

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

Re: *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 (WT Docket No. 10-112) EX PARTE PRESENTATION*

Dear Ms. Dortch:

Enclosed for inclusion in the record of this proceeding is a letter also filed today in WT Docket Number 07-293, *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band*.

Sirius XM Radio Inc. submits the attached letter in this docket as well, due to the substantial overlap in policy concerns underlying the issues that are the subject of pending reconsideration petitions in both proceedings. Specifically, one of the key issues in this proceeding involves the appropriateness of granting a WCS license renewal when the licensee has not provided substantial service in its licensed band. In such a case, the policy considerations that the Commission applies in evaluating requests to extend construction deadlines are also applicable. The enclosed letter details the application of those considerations with reference to the WCS band and explains why WCS licensees who have not implemented their systems should not be provided additional time to do so.

Respectfully submitted,

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Attachment: Ex Parte Letter in Docket 07-293



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Re: *Amendment of Part 27 of the Commission's Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band* (WT Docket No. 07-293)
EX PARTE PRESENTATION

Dear Ms. Dortch:

Sirius XM Radio Inc. (“Sirius XM”) responds to the May 31, 2011 ex parte presentation of the WCS Coalition,¹ in which the Coalition attempts to justify a third extension of the WCS buildout requirements—to a 2020 end date that is 23 years after the 1997 WCS auctions. Given the WCS industry’s failure to invest in and productively use its spectrum, Sirius XM opposes the requested extension as wholly unjustified and detrimental to the public interest. Another extension would further delay development of WCS facilities, delay necessary coordination with Sirius XM, and, most importantly, delay the provision of services to the public using the WCS band as envisioned in the National Broadband Plan. Granting this relief also would be contrary to Commission precedent, would undermine the importance of strictly enforcing the Commission’s construction deadlines, and would contravene the rationale for modifying the WCS rules in the 2010 Order.

I. INTRODUCTION AND SUMMARY

In its 2010 Order, the Commission substantially enhanced the value of WCS licensees’ spectrum by eliminating the long-standing policy preventing use of the spectrum for mobile broadband service while providing WCS licensees an additional six years (a total of nineteen years after the WCS auction) to satisfy their final deployment deadline.² The Commission

¹ WCS Coalition *Ex Parte Presentation* dated May 31, 2011, WT Docket No. 07-293 (“May 31, 2011 WCS Letter”).

² Amendment of Part 27 of the Commission’s Rules to Govern the Operation of Wireless Communications Services in the 2.3 GHz Band, Establishment of Rules and Policies for the Digital Audio Radio Satellite Service in the 2310-2360 MHz Frequency Band, *Report and Order and Second Report and Order*, 25 FCC Rcd 11710, 11711 ¶ 1 (2010) (“2010 Order”). To comply with the 2010 Order, WCS licensees must provide reliable signal coverage to 40% of the

granted this extension at the same time it afforded WCS licensees the precise regulatory flexibility that they requested—the ability to provide mobile wireless broadband services using WCS spectrum. The Commission carefully tailored the extension to ensure the WCS industry actually, and at long last, would deploy service in this underutilized band. The Commission explained it revised the WCS construction deadlines to “serve the public interest by ensuring that underutilized spectrum will be used intensively in the near future.”³

In so doing, the Commission provided WCS licensees with the option to satisfy the extended deadlines either by (i) deploying mobile broadband or point-to-multipoint service to a certain percentage of the population within a license area, or (ii) constructing a modest number of point-to-point fixed service links in each license area. AT&T Inc. subsequently asked for more time to satisfy the extended deadlines and the WCS Coalition’s filings join and elaborate upon AT&T’s plea for an additional extension.⁴

Rather than embracing the benefits afforded by the 2010 Order and actually deploying facilities, the WCS Coalition instead takes the curious position of blaming the Commission’s largess for the WCS industry’s own failure to construct.⁵ Seeking yet another extension—three years for the interim construction deadline and four years for the final construction deadline, to July 21, 2017 and July 21, 2020, respectively—the Coalition now argues:

- (i) the WiMAX technology on which the Commission *twice* relied in granting additional deployment time, and which the WCS Coalition said would be used for mobile broadband service in the WCS band, became technologically passé after the May 2010 Order; and
- (ii) the lead time needed to develop 4G mobile broadband standards and commercial WCS band equipment is insufficient for licensees to meet even their recently extended deployment deadlines.

population in their license areas by March 1, 2014 and to 75% of the population by September 1, 2016, or construct and operate 15 point-to-point links/ million persons/license area by March 1, 2014 and 30 point-to-point links/million persons/license area by September 1, 2016.

³ 2010 Order at 11790 ¶ 195.

⁴ Petition for Partial Reconsideration of AT&T Inc., WT Docket No. 07-293, at 6-11 (filed Sept. 1, 2010) (“AT&T Petition”); Petition of the WCS Coalition for Partial Reconsideration, WT Docket No. 07-293, at 1-2 (filed Sept. 1, 2010) (“WCS Petition”); *see also* May 31, 2011 WCS Letter.

⁵ May 31, 2011 WCS Letter, Attachment: Kurt Schaubach, Standard Setting and Equipment Development Process for the U.S. 2.3 GHz Band, May 31, 2011, at 1 (“Schaubach Paper”) (“Now that the FCC has adopted new rules for the 2.3 GHz Wireless Communications Service (‘WCS’) band that are intended to enable the development of mobile broadband services, standards-based mobile broadband equipment that comports with the FCC’s new rules must be developed before WCS licensees can deploy broadband services that meet the new WCS performance requirements.”).

There is no conceivable basis for granting WCS licensees a third extension of time to develop their spectrum and deploy their systems. In the 2010 Order, the Commission expressly considered the WCS Coalition’s arguments about the time they would need to take advantage of the new rules using LTE-based equipment and even provided WCS licensees one year more than the Commission originally proposed in its March 2010 Public Notice.⁶

The context of their request bears emphasis: the WCS band remains largely unused⁷ 14 years after it was auctioned at bargain-basement prices.⁸ Despite the WCS industry’s repeated promises, deployment in their band has been largely deferred as major spectrum holders have either focused their deployment in other frequency bands, or have looked for other ways to monetize their spectrum holdings. The 15 months that have passed since the 2010 Order have been no different than the preceding 13 years—the WCS licensees continue to sit on their hands as they request and expect to receive repeated extensions of time to build out their spectrum, hoping the market develops in such a way that they can eventually reap a windfall by selling their licenses while having minimized both their investment and network deployment. In fact, WCS licensees have been actively marketing their spectrum resources for years, with the two largest WCS licensees – NextWave and AT&T – currently pursuing a joint spectrum sale.⁹ It

⁶ 2010 Order at 11791 ¶ 199, 11793 ¶ 206; *see* Federal Communications Commission Requests Comment on Revision of Performance Requirements for 2.3 GHz Wireless Communications Service, *Public Notice*, WT Docket No. 07-293, FCC 10-46 (Rel. March 29, 2010) (proposing performance milestones within 30 and 60 months).

⁷ Actual deployments are the exception rather than the rule. For example, Stratos Offshore Services Company has deployed and is operating 200 fixed point-to-point transmitters within the Gulf of Mexico. *See* 2010 Order at 11795 ¶ 212.

⁸ *See* WCS Auction Closes, *Public Notice*, DA 97-886 (Rel. Apr. 28, 1997) (indicating that the WCS licensees paid a grand total of \$13.6 million for their spectrum); Timothy C. Salmon, *Spectrum Auctions by the United States Federal Communications Commission*, at 14 (Dec. 6, 2002) available at <http://mailer.fsu.edu/~tsalmon/FCCchapter.pdf> (“[M]any licenses in the WCS auction sold for \$1 and one of the San Francisco licenses sold for \$6.”).

⁹ *See*, 2.3 GHz WCS C and D Block Spectrum Licenses: Overview of Offer to Sell Nationwide 2.3 GHz Footprint, at 1, available at http://www.khlaw.com/Files/10308_C%20%20D%20Block%20Teaser.pdf (“Offer to Sell”) (“AT&T and NextWave are pursuing a joint sale of their 2.3 GHz Wireless Communications Service (‘WCS’) C and D block spectrum licenses.”). *See also* NextWave Wireless Inc. Form 10-Q, at 10 (filed Aug. 12, 2011) (“We continue to market for sale our wireless spectrum holdings and have retained Moelis & Company to explore the sale of our wireless holdings in the United States and Canada.”); W. David Gardner, NextWave Puts Wireless Spectrum Up for Sale, *InformationWeek*, April 24, 2008, available at <http://www.informationweek.com/news/mobility/business/207401940> (“NextWave Spectrum for Sale”) (NextWave announced that it asked Deutsche Bank and UBS to explore the possibility of selling its extensive spectrum holdings, including its WCS assets); NextWave Retains Deutsche Bank and UBS to Explore the Sale of Its Wireless Spectrum Holdings in the U.S., *Business Wire*, April 23, 2008, available at <http://phx.corporate-ir.net/phoenix.zhtml?c=215860&p=irol-newsArticle&ID=1134249&highlight> (“[W]e no longer view our spectrum holdings as critical to

appears as though WCS licensees are seeking extensions of time not to build out their networks, but rather to increase the market value of their assets.¹⁰

Sirius XM stands ready to engage in coordination discussions with any WCS licensee that seeks to design and deploy its network in a manner that will minimize harmful interference into the satellite radio service. Sirius XM has offered its services to WCS licensees to review their planned deployments in advance of construction to help ensure this result.¹¹ So far, the WCS licensees have shown scant interest in this invitation. In fact, although the WCS rules require licensees to share information with Sirius XM regarding the location and operation of base stations,¹² to date Sirius XM has received only the most minimal site information from

reaching our product sales objectives, and we believe that now is the perfect time for us to sell these valuable assets . . .”).

¹⁰ This behavior is consistent with the pattern of financial irresponsibility, lack of respect for the Commission's Rules, and minimal commitment to deployment that at least one WCS licensee has consistently demonstrated. *See* NextWave Spectrum for Sale (recounting the history whereby NextWave bid more than \$4 billion for licenses, filed for bankruptcy protection when it could not pay for the spectrum, and ultimately maintained licenses after years of litigation culminating in a Supreme Court ruling); John Dunbar, Another Try for a Piece of the Airwaves, *The Washington Post*, Aug. 24, 2006, available at <http://www.washingtonpost.com/wp-dyn/content/article/2006/08/23/AR2006082301741.html> (same); William J. Perlstein & Kenneth A. Bamberger, At the Intersection of Regulation and Bankruptcy: FCC v. NextWave, *Highbeam Business*, Nov. 1, 2003, available at <http://business.highbeam.com/127/article-1G1-112797806/intersection-regulation-and-bankruptcy-fcc-v-nextwave> (same); Mark W. Munson, Comment: A Legacy of Lost Opportunity: Designated Entities and the Federal Communication Commission's Broadband PCS Spectrum Auction, 7 Mich. Telecomm. Tech. L. Rev. 217 (2001), available at http://www.mttl.org/volseven/Munson_art.html (describing the PCS auctions and events leading up to the Supreme Court decision). More recently, NextWave appears to be heading for yet another bankruptcy. *See* NextWave Wireless Announces NASDAQ Panel Decision to Delist Common Stock, *Business Wire*, July 21, 2010, available at http://www.businesswire.com/portal/site/home/permalink/?ndmViewId=news_view&newsId=20100721006932&newsLang=en (announcing that NextWave Wireless Inc.'s securities would be delisted from The NASDAQ Stock Market); Stacey Higginbotham, NextWave Heads Towards Bankruptcy Despite a Spectrum Goldmine, *Gigaom*, July 18, 2011, available at http://gigaom.com/broadband/nextwave-heads-toward-bankruptcy-despite-a-spectrum-goldmine/?utm_source=social&utm_medium=twitter&utm_campaign=gigaom (“NextWave . . . could not renegotiate the terms of its debt with lenders, which means its next stop may be the bankruptcy courts.”).

¹¹ *See, e.g.*, Comments of Sirius XM Radio Inc., WT Docket No. 07-293, at 3 & App. (filed May 13, 2010) (describing Sirius XM's proposal for initiating coordination discussions “before the network planning process has progressed to a point where changes would be time consuming and costly”).

¹² 47 C.F.R. § 27.72.

WCS licensees—including from licensees that have notified the FCC of their limited deployment.¹³

Following the 2010 Order, when it appeared that WCS licensees might engage meaningfully with Sirius XM in coordination discussions and proceed with network buildout in a rational and deliberative manner, Sirius XM did not object to the WCS industry's requests for additional time.¹⁴ But after witnessing 15 months of WCS foot-dragging, it has become obvious that the WCS licensees' motivation in seeking another extension is simply to monetize their spectrum holdings, leading to further extension requests. And WCS licensees will have little incentive to address coordination issues with Sirius XM and provide needed broadband services if they know they will obtain perpetual extensions of their construction deadlines.

Sirius XM is well-qualified to comment on the topics raised in the May 31, 2011 WCS Letter. Sirius XM acquired its spectrum rights at the same time as the WCS industry and since 1997 invested more than \$10 billion to design and launch satellites, build a terrestrial wireless network, and create a new industry. Sirius XM now has over 21 million subscribers and over 35 million listeners. In order to develop a new service and integrate its products into approximately 40 million automobiles, Sirius XM had to work with equipment and automobile manufacturers to develop products that are consistent with industry standards. Through its own experience with new technology and standards bodies, Sirius XM is confident that the WCS industry can commence deployment expeditiously if it is motivated to do so. However, based on the history recounted herein, and Sirius XM's lengthy and frustrating history of interactions with the WCS industry, the WCS licensees do not appear to be so motivated.

II. WCS LICENSEES SHOULD NOT BE PERMITTED TO WAREHOUSE SPECTRUM FOR DECADES WHILE AWAITING THE DEVELOPMENT OF NEW LTE STANDARDS

The current buildout deadlines already provide WCS licensees with nineteen years from the date of the WCS auction to deploy their systems. The Commission typically requires a wireless licensee seeking a buildout extension to show that the circumstances justifying its request are beyond its control.¹⁵ The purpose of this policy is so a licensee may not drag its feet,

¹³ See, e.g., NextWave Wireless Inc. *Ex Parte Presentation* dated August 3, 2011, WT Docket No. 07-293, at 2 ("NextWave Ex Parte"). The WCS Coalition recently demonstrated its desire to avoid this obligation entirely, by alleging that Section 27.72 does not comport with the Paperwork Reduction Act of 1995. See *Comments Regarding Paperwork Reduction Act Compliance* dated August 5, 2011, WT Docket No. 07-293. Notification and coordination are essential preconditions to deploying mobile broadband in the WCS band while protecting satellite radio's customers, and the WCS Coalition's argument regarding the Paperwork Reduction Act is yet another delay tactic.

¹⁴ Sirius XM Radio Inc. *Opposition to Petitions for Reconsideration of the WCS Coalition and AT&T Inc.*, WT Docket No. 07-293, at 20-21 (filed Oct. 18, 2010).

¹⁵ See 47 C.F.R. § 1.946(e)(1) ("An extension request may be granted if the licensee shows that failure to meet the construction or coverage deadline is due to involuntary loss of site or other causes beyond its control.").

using problems of its own making as the basis for regulatory relief. That, however, is precisely what is happening here.

Having sought regulatory flexibility to permit mobile wireless broadband in the WCS bands based on WiMAX technology, the WCS Coalition has now changed its tune yet again. The WCS industry points to the rise of LTE as the reason the industry purportedly cannot meet even the extended construction deadlines in the Commission's 2010 Order, ignoring the fact that the Coalition said a year ago that LTE equipment could be developed on the same general timeline as WiMAX equipment.¹⁶ However, (i) the choice of technology by WCS licensees is entirely within their own discretion, and (ii) the rise of LTE was well-known to the wireless industry (and the Commission) during the deliberations preceding the 2010 Order, and was fully considered in that decision.

This dismissive approach toward the latest construction deadline follows a long history of similar delay by WCS licensees. Even though the Commission deemed its original substantial service buildout requirement for this band “the most liberal construction requirement ... adopted to date,”¹⁷ the WCS industry largely failed to comply with the associated 2007 deadline. Rather, the licensees sought and obtained even greater flexibility by procuring a three-year extension until 2010.¹⁸ Ignoring the fact that the Commission afforded them more flexibility than perhaps any other wireless licensees, the WCS industry then largely failed to satisfy this extended deadline, instead advocating for the ability to deploy mobile wireless broadband in WCS spectrum. When the Commission granted this requested flexibility, it came with an even further delay—the ability to defer most WCS deployment until 2014, and final deployment until 2016.

As discussed below, the Commission should reject the WCS Coalition's latest extension plea because: (a) the existing WCS deadlines are reasonable, (b) the WCS industry's own desire to switch to LTE provides no basis for granting an additional extension, (c) the standards-setting process to which the WCS Coalition refers is a red herring, (d) the Coalition's own “evidence” suggests that the industry would not meet the new deadlines that it proposes even if relief were granted, and (e) the requested extension would frustrate the goals of the National Broadband Plan and Commission policy and cast doubt on the rationale underlying the 2010 Order.

A. The existing WCS deadlines are reasoned and reasonable.

The Commission characterized the 2014/2016 deadlines it established in the 2010 Order as “ambitious, yet reasonable,”¹⁹ finding they were “achievable without unduly burdening licensees” and that they struck “an appropriate balance between our goal of enabling the

¹⁶ WCS Coalition *Ex Parte Presentation* dated May 11, 2010, WT Docket No. 07-293, at 1 and attached “Timeline to 2.3 GHz Equipment Availability,” at 1 (“May 11, 2010 WCS Letter”).

¹⁷ Amendment of the Commission's Rules to Establish Part 27, the Wireless Communications Service (“WCS”), *Report and Order*, 12 FCC Rcd 10785, 10843 ¶ 112 (1997).

¹⁸ Consolidated Request of the WCS Coalition for Limited Waiver of Construction Deadline for 132 WCS Licenses, *Order*, 21 FCC Rcd 14134, 14139 ¶ 9 (2006) (“2006 Order”).

¹⁹ 2010 Order at 11791 ¶ 197.

provision of timely, appreciable service to the public with accommodating the needs of licensees to secure financing and equipment.”²⁰ As such, those deadlines were appropriate and should not be extended further.

WCS licensees had more than sufficient notice of the deadlines the Commission was considering in the 2010 Order.²¹ In fact, the WCS industry’s comments about the time they needed to develop and deploy new equipment in the band that could meet the new requirements prompted the Commission to extend its proposed timeline by adding an additional year to the interim and final deadlines.²²

The state of LTE technology at the time was well-known to the wireless industry, including the leading members of the WCS Coalition, prior to the 2010 Order. The WCS Coalition made a presentation just days before the 2010 Order’s adoption representing that LTE standards could be modified, LTE-based WCS equipment could be made commercially available, and mobile device chipsets could be developed, all within twelve-to-eighteen months after that decision.²³ The Commission relied on this information in reaching its decision.²⁴ The Commission also explicitly rejected the WCS Coalition’s claims that licensees would need at least five years to serve 35% of a license area’s population and 7.5 years to serve 70% of its population, and at least five years to construct and operate 15 point-to-point links per million persons in a license area and 7.5 years to reach the 30-link benchmark.²⁵ The Commission gave full consideration to the WCS industry’s request, even giving licensees an additional year beyond what the Commission originally proposed, concluding that the 2014/2016 deadlines provided “adequate time for licensees to obtain financing, and reasonably accommodate equipment manufacturing and deployment cycles.”²⁶ Nothing in the intervening fifteen months justifies revising this conclusion.

B. The WCS licensees’ own desire to deploy LTE provides no basis for again extending the WCS construction deadlines.

The WCS industry’s proffered justification for seeking more time—the “need” to use LTE technology—arises from circumstances of the industry’s own making. The Commission’s rules are technology-neutral and nothing prevents the industry from using LTE-based equipment. Having pushed the WiMAX excuse until it ran out of steam, the WCS industry is now forced to use LTE as its excuse, even though (i) it was apparent well before the 2010 Order that LTE

²⁰ 2010 Order at 11793 ¶ 205.

²¹ See Federal Communications Commission Requests Comment on Revision of Performance Requirements for 2.3 GHz Wireless Communications Service, *Public Notice*, WT Docket No. 07-293, FCC 10-46 (Rel. March 29, 2010).

²² 2010 Order at 11791 ¶ 199, 11793 ¶ 206.

²³ May 11, 2010 WCS Letter.

²⁴ 2010 Order at 11791 ¶ 199, 11793 ¶ 206.

²⁵ 2010 Order at 11793 ¶ 201, 206.

²⁶ 2010 Order at 11791 ¶ 199.

would be the protocol of choice for the major carriers, and (ii) the 2010 Order took into account the twelve-to-eighteen months from May 2010 that the WCS Coalition itself said it needed to modify the relevant technical standard and make LTE-based equipment commercially available.

If WCS licensees were truly motivated to develop their spectrum—with LTE, WiMAX, or any other technology—they would have done so long before now. Fortunately, the Commission need not credit these arguments about “technological delay,” because the Commission discourages reliance on technological change to justify extensions of time in circumstances such as this.²⁷ WCS licensees may not rely on their own business decisions and problems of their own making to delay deployment yet again.

1. WCS licensees long advocated WiMAX, and their efforts to pursue LTE instead have been lackluster at best.

When seeking to extend their original 2007 construction deadline, WCS licensees argued “that an extension would allow them to deploy newly developed WiMAX technology in the 2.3 GHz band in the next few years.”²⁸ When subsequently urging relaxation of their technical rules and an additional extension of time in 2010, “WCS proposals [were] based in large part on the desired use of the WiMAX.”²⁹ Now that the WCS licensees have obtained *two* extensions of time based on their business decision to pursue WiMAX technology, they propose moving forward with a different technology—LTE—which they now claim will take *even more time to deploy* than WiMAX.

The rise of LTE, of course, is nothing new. It was clear by early in 2010 that the wireless industry was moving toward LTE rather than WiMAX, since the two largest wireless carriers had embraced this technology for their existing networks.³⁰ In addition, the WCS Coalition’s insistence on rules that accommodated LTE protocols confirmed that WiMAX was not the only solution under consideration and strongly suggested that WCS interests knew LTE inevitably

²⁷ See *infra*. notes 43-44, 52-53 and accompanying text.

²⁸ 2010 Order at 11718 ¶ 15; see also 2006 Order at 14140-41 ¶ 12 (pointing to the pending availability of WiMAX technology); Consolidated Request for Limited Extension of Deadline for Establishing WCS Compliance with Section 27.14 Substantial Service Requirement, WT Docket No. 06-102, at 10-11 & n.22 (filed March 22, 2006) (noting that “most WCS licensees that are exploring the use of WiMax-compliant equipment at 2.3 GHz believe that equipment compliant with the IEEE 802.16e portable standard is most likely to drive successful deployments”) (“WCS Consolidated Request”).

²⁹ 2010 Order at 11725 ¶ 36 n.92; see also 2010 Order at 11728 ¶ 39 (“WCS licensees have expressed a desire to deploy mobile units using WiMAX technology.”).

³⁰ At that time, Verizon was about to launch a wide-scale 4G networks based on LTE, with AT&T (the largest holder of WCS licenses) soon to follow. See David Goldman, AT&T, Verizon and Sprint 4G: Not So Fast, *CNNMoney.com*, Feb. 23, 2010, available at http://money.cnn.com/2010/02/23/technology/4g_networks/index.htm. AT&T began trials of LTE in 2010 and plans to launch LTE commercially in other wireless bands this year. See <http://www.wireless.att.com/learn/why/technology/4g-lte.jsp>.

would be the industry's preferred technology.³¹ Yet the WCS licensees waited until *after* the May 2010 Order to argue that they needed extra time to develop LTE standards for the WCS band. In fact, as discussed above, the WCS Coalition told the Commission just nine days before the 2010 Order that LTE-based equipment could be developed on the same general twelve-to-eighteen month schedule as WiMAX-based equipment.³²

Despite their words, WCS licensees' actions consistently demonstrate no urgency in their efforts to develop the use of LTE technology in the WCS band. Well before the 2010 Order, in January 2010, Sirius XM suggested testing LTE systems to characterize the interference environment, once it became apparent that LTE was the likely technological platform for mobile wireless.³³ WCS licensees refused to participate in such testing, citing concerns about potential delays in adopting new FCC rules and delays in implementing urgently needed mobile broadband systems in the WCS spectrum.³⁴ Yet even though the WCS Coalition admits that "LTE claim[ed] its final vendor victim"³⁵ by July 2010, WCS interests still waited another year before approaching vendors for an impact analysis and discussing the issue with standards bodies.³⁶

This is hardly the response expected of licensees diligently seeking to comply with construction deadlines and hardly a response justifying a further extension. If the state of LTE technology were the real basis for seeking more time, the WCS industry would have raised LTE timing concerns prior to the Commission's Order in May 2010, and would not have sat on its hands for so long.

³¹ WCS Coalition *Ex Parte Presentation* dated May 12, 2010, WT Docket No. 07-293, at 2 (arguing that the duty cycle limit should be at least 43.333% of each frame to better accommodate the use of TD-LTE technology); WCS Coalition *Ex Parte Presentation* dated March 31, 2010, WT Docket No. 07-293, at 3 ("Imposing specific duty cycle requirements as proposed by the FCC staff has the additional unintended consequence of limiting the ability for certain wireless broadband technologies to be used in the WCS bands.").

³² See May 11, 2010 WCS Letter.

³³ See Sirius XM *Ex Parte Presentation* dated January 22, 2010, WT Docket No. 07-293, Attached Presentation at 7 (citing the "[n]eed to consider restrictions applicable to non-WiMAX systems").

³⁴ Cf. WCS Coalition *Ex Parte Presentation* dated March 15, 2010, WT Docket No. 07-293, at 2 (pointing to aspects of the Commission's proposed rules that were "WiMAX 802.16e-specific," but nevertheless continuing to cite to WiMAX-specific test reports).

³⁵ May 31, 2011 WCS Letter at 3 n.3.

³⁶ See May 31, 2011 WCS Letter at 1-2 (indicating that the WCS Coalition retained Kurt Schaubach to prepare an assessment of the LTE standards-setting hurdles after a discussion with FCC staff on May 10, 2011); see also NextWave *Ex Parte* at 2 (stating that NextWave joined an initiative to promote TD-LTE for deployment in the 2.3 GHz band in "early 2011").

2. The Commission's rules are technology neutral, and viable deployment options are available.

The rules adopted in the 2010 Order impose no barrier to the use of any technology to deploy service in the WCS band. By making those rules technologically neutral, the Commission gave WCS licensees the flexibility to meet the changing landscape from WiMAX to LTE; WCS licensees could follow Clearwire's lead in doing so if they were so motivated. Clearwire has been using WiMAX in the 2.5 GHz band and is reportedly evolving to LTE technology.³⁷ The Commission even acknowledged Clearwire's "trailblazing efforts" at 2.5 GHz, expecting that those efforts would facilitate "expeditious deployment" in the WCS band.³⁸ In their offer to sell their WCS spectrum, AT&T and NextWave even advertise that "4G equipment for the 2.3 GHz band is available today with a global ecosystem developing for both LTE and WiMAX."³⁹

WCS licensees could easily deploy much needed point-to-point microwave links in the next three to six years under the existing deadlines, also furthering the goals of the National Broadband Plan. In this respect, the more liberal deployment requirements applying to point-to-point fixed service links provide even greater flexibility to deploy a wireless network—regardless of the technology used. Notably, NextWave Wireless Inc. touts the fixed backhaul links that it has built to provide Internet connectivity as evidence of what has been possible to date.⁴⁰ AT&T also utilized point-to-point services for its substantial service showings in 2010, providing yet more evidence that equipment is commercially available to enable viable system buildouts.⁴¹ The National Broadband Plan specifically acknowledges the critical need for point-to-point backhaul,⁴² and recent funding for backhaul facilities by the Broadband Technology Opportunity Program (BTOP) highlights the importance to the nation of this capability. Thus,

³⁷ Schaubach Paper at 3 n.3.

³⁸ 2010 Order at 11792 ¶ 201.

³⁹ Offer to Sell, at 1.

⁴⁰ See NextWave Ex Parte at 2.

⁴¹ See, e.g., AWACS, Inc. Required Notification, Exhibit 1: Showing Regarding Substantial Service, File No. 0004191852, Call Sign KNLB203 (filed March 30, 2010); AWACS, Inc. Required Notification, Exhibit 1: Showing Regarding Substantial Service, File No. 0004253529, Call Sign KNLB211 (filed May 19, 2010).

⁴² See Connecting America: The National Broadband Plan, at 93-94, available at <http://www.broadband.gov/plan/> ("National Broadband Plan"); see also Amendment of Part 101 of the Commission's Rules to Facilitate the Use of Microwave for Wireless Backhaul and Other Uses and to Provide Additional Flexibility to Broadcast Auxiliary Service and Operational Fixed Microwave Licensees, *Report and Order, Further Notice of Proposed Rulemaking, and Memorandum Opinion and Order*, FCC 11-120 ¶ 1 (2011) (microwave backhaul facilities are an "essential component of many broadband networks," and "[a] leading example of the role of wireless technology in connecting the nation to broadband is the impact and potential of point-to-point microwave systems").

deploying point-to-point links is a viable WCS buildout strategy and doing so would provide valuable public interest benefits.

3. Licensees cannot expect buildout extensions every time a promising new technology is developed.

The evolution of wireless technology confirms that new, better wireless technologies are created and developed every few years.⁴³ As a policy matter, the Commission cannot satisfy licensees' desire to defer construction every time there is a hint that something "newer and better" will be available in the future. The Commission has so indicated time and time again.

For example, the Commission warned Leap Wireless against continuing to use "next-generation-of-equipment" rationales to extend construction deadlines, indicating it would be unlikely to favorably consider any future extension requests made on that basis.⁴⁴ Similarly, the Commission has warned satellite licensees against continued reliance on experimentation, technological developments, and changed plans as justification for seeking to extend milestone requirements.⁴⁵ The reason for this policy is clear: were the Commission to grant construction extensions every time a newer, better technology appeared on the horizon, construction deadlines would be plagued with uncertainty and ultimately would become ineffective.

Further extensions would lead licensees with WCS and other types of authorizations to expect leniency, leading them to conclude that they need not meet established construction deadlines. The Commission has already recognized this problem in other wireless bands.⁴⁶ If routine extensions were the norm, licensees would have little incentive to build out their

⁴³ See J.P. Rissen, Mapping the Wireless Technology Migration Path: The Evolution to 4G Systems, *Enriching Communications*, available at http://www.alcatel-lucent.com/enrich/v2i12008/article_c4a4.html (describing the evolution from various forms of 2G digital wireless cellular technology available in the early 1990s to 3G cellular systems in the late 1990s to 4G technology today).

⁴⁴ Leap Wireless International, Inc. Request for Waiver and Extension of Broadband PCS Construction Requirements, *Memorandum Opinion and Order*, 16 FCC Rcd 19573, 19576-77 ¶ 10 (2001).

⁴⁵ Advanced Communications Corporation, Application for Extension of Time to Construct, Launch and Operate a Direct Broadcast Satellite System, *Memorandum Opinion and Order*, 10 FCC Rcd 13337, 13340 ¶ 11 (1995); see also Spectrum Five LLC Petition for Declaratory Ruling to Extend or Waive Construction Milestones, *Memorandum Opinion and Order*, DA 11-1252 ¶ 13 (2011) ("[T]he Commission has rejected generalized assertions about the need for new technology as a basis for milestone extensions.").

⁴⁶ See Applications of Hispanic Information and Telecommunications Network, Inc. for Extension of Time to Construct Educational Broadband Service (EBS) Station WLX681, Portland, Oregon, *Memorandum Opinion and Order*, 20 FCC Rcd 8666, 8668 ¶ 5 (2005) (reinstating extension application denied at the bureau level, noting that "licensees have come to rely on the exceptional leniency exercised by staff in processing such applications and associated waivers").

spectrum aggressively, delaying the provision of much-needed wireless services.⁴⁷ Moreover, investors would be wary of committing funds to wireless projects if they knew licensees would not need to build out facilities on a firm FCC-imposed schedule. This lack of certainty could also impact auction bidders' ability to attract investors, reducing the much-needed government revenues that are generated from spectrum auctions.

Having obtained previous extensions based on the promise of new technology,⁴⁸ the WCS licensees now attempt to justify the need for yet more time with the assurance of newer and better technology they can deploy in the future. In an effort to deflect attention from construction decisions within their licensees' own discretion, the WCS Coalition resorts to "makeweight" arguments about the delays associated with setting up working groups within an LTE standards body.⁴⁹ The WCS Coalition's suggestion that certain technical issues must get resolved in the LTE standards-setting process is a red herring. But even if it were not, the procedural issues the WCS Coalition raises about standards-setting could be promptly overcome by an industry composed of licensees that really wanted to develop the band themselves.

Unlike other licensees that have received extensions of their construction deadlines, the WCS licensees have demonstrated no commitment to deploying their spectrum rather than warehousing it.⁵⁰ Even where a licensee has taken significant and tangible steps toward deploying its licensed system, the Commission still requires concrete evidence that a licensee can achieve the proposed deadlines and imposes granular, interim milestones along the way.⁵¹ Yet no such evidence of past or future diligence appears in the record here.

⁴⁷ 2006 Order at 14141 ¶ 14 ("We believe that a lack of certainty regarding the construction deadline could act as a disincentive for WCS licensees to expeditiously develop technological solutions for the band and construct systems.").

⁴⁸ 2006 Order at 14139 ¶ 9; 2010 Order at 11791 ¶ 197, 11793 ¶ 206.

⁴⁹ Schaubach Paper at 6-9.

⁵⁰ FCI 900, Inc. Expedited Request for 3-Year Extension of 900 MHz Band Construction Requirements, *Memorandum Opinion and Order*, 16 FCC Rcd 11072, 11079-81 ¶¶ 12, 14 (2001); *see also* SPEEDUSNY.COM Request for Finding of Substantial Service for Local Multipoint Distribution Service (LMDS) Station WLT379, New York, New York, Contingent Request for Waiver of Section 101.1011 of the Commission's Rules or, in the Alternative, Extension of Time to Demonstrate Substantial Service for Local Multipoint Distribution Service (LMDS) Station WLT379, New York, New York, *Memorandum Opinion and Order and Order on Reconsideration*, 22 FCC Rcd 13974, 13985 ¶ 18 (2007) (granting an extension where the licensee demonstrated "that it had diligently tried various means of using the station to provide service").

⁵¹ ICO Satellite Services G.P. Application for Modification of 2 GHz LOI Authorization, Petition for Declaratory Ruling or Waiver, *Memorandum Opinion and Order*, DA 05-1504 ¶¶ 25-27, 38 (2004) (conditioning grant of extension request on a number of intermediate milestones).

Furthermore, the WCS Coalition cannot blame the FCC or this rulemaking process for the delay in the standards process.⁵² WCS licensees created their own regulatory uncertainty by petitioning to liberalize the WCS rules in the first place. The Commission should not countenance licensees' efforts to rely on the regulatory changes that they seek as the basis for more time to construct. Otherwise, licensees would pursue rule changes to achieve their ideal regulatory environment prior to deployment while receiving repeated extensions while their requests remain pending.⁵³ Licensees simply cannot rely on pending Commission action as an eternal excuse to delay widespread deployment.⁵⁴

The buildout requirements the Commission adopted in 2010 are consistent with the more rigorous standards and policing that the Commission has applied to other wireless bands.⁵⁵ However, the history of the WCS band makes clear that merely opening up spectrum for wireless broadband is insufficient to ensure deployment, where incentives exist to warehouse that

⁵² Schaubach Paper at 5 (“Furthermore, if the changes requested by the WCS Coalition in its petition for reconsideration of the new WCS rules are not adopted, modification of the LTE standard to encompass other unique U.S. WCS requirements, such as duty cycle and power spectral density limitations, will also be necessary.”).

⁵³ Cf. 2006 Order at 14141 ¶ 14 (“We believe that a lack of certainty regarding the construction deadline could act as a disincentive for WCS licensees to expeditiously develop technological solutions for the band and construct systems. This would undermine one of the purposes of the construction requirement—to prevent spectrum warehousing.”); PanAmSat Licensee Corp. Application for Authorization to Construct, Launch, and Operate a Ka-Band Communications Satellite System in the Fixed-Satellite Service at Orbital Locations 58° W.L. and 125° W.L., Applications for Modification of License and for Extension of Milestone Schedule, *Memorandum Opinion and Order*, 15 FCC Rcd 18720, 18723 ¶ 10 (2000) (“The filing of a license modification application does not justify an extension of a milestone schedule because the decision to seek a modification of one’s license is a business decision wholly within the discretion and control of the licensee. Otherwise, a licensee could routinely extend its milestone deadlines by filing repeated modification requests for its system.”). See also 47 C.F.R. § 1.946(e)(1) (“An extension request may be granted if the licensee shows that failure to meet the construction or coverage deadline is due to involuntary loss of site or other causes beyond its control.”).

⁵⁴ See, e.g., Motient Communications Inc. Request for a Waiver and Extension of the 800 MHz Construction Requirements, *Order*, 19 FCC Rcd 13086 (2004) (Admonishing a licensee for refraining from construction for two years “allegedly because of the uncertain possibility that, at some undetermined point in the future, the Commission might require that it relocate and incur attendant costs,” and indicating that “[a]s a policy matter, it would undermine the enforceability of Commission regulations if licensees were relieved from complying with current Commission rules on the basis that these rules might change in the future or might otherwise be affected by a rule making proceeding”).

⁵⁵ See, e.g., Service Rules for the 698-746, 747-762 and 777-792 MHz Bands, *Second Report and Order*, 22 FCC Rcd 15289, 15348 ¶ 153 (2007) (replacing “substantial service” requirements with “significantly more stringent performance requirements” including interim and end-of-term benchmarks).

spectrum. In denying relief from similar regulations last year, the Commission disregarded the types of arguments that the WCS Coalition now advocates about the benefits of broadband deployment, explaining that “new entrants and the innovative services they promise are of little value if the proposed services are not predictably and promptly offered.”⁵⁶ The Commission recently said in another context that the potential benefit of providing improved broadband service did not override licensees’ need to comply with its service rules⁵⁷ and the Commission consciously took a similar approach when it revised the WCS performance milestones in the 2010 Order. To advance the Commission’s goal of utilizing the WCS band “intensively in the near future,” the Commission should maintain the “bright-line certainty” of a “use it or lose it” requirement in holding the WCS licensees to their current deployment deadlines.⁵⁸

It has been five years since the Commission granted its initial WCS extension, admonishing WCS licensees at that time “to take advantage of this relief and *aggressively develop equipment and service options* for the 2.3 GHz band.”⁵⁹ Particularly after the Commission’s 2010 Order provided “much needed certainty” for WCS licensees,⁶⁰ the Commission should not tolerate a further extension request; rather, once and for all, it should hold WCS licensees to their more-than-reasonable construction deadlines.

C. The technical issues the WCS Coalition identifies do not require resolution by a standards body.

The WCS Coalition raises a classic red herring in arguing that the yet-to-be-formulated work plans of an LTE standards body are a prerequisite to resolving technical issues that affect LTE equipment design.⁶¹ Through its rules and orders, the Commission has already established all technical requirements needed for WCS operation in the United States and nothing further is needed from a standards body before WCS licensees can commence operations.

As an initial matter, standards bodies establish the minimum requirements to be met, but network providers are free to set more stringent requirements with equipment manufacturers to achieve their own network design goals. Thus, to the extent the Commission’s WCS technical rules are more stringent than existing LTE standards, WCS licensees can still comply with those requirements without the need for a standards body to give its blessing.

Moreover, the Commission’s requirements with respect to out-of-band emissions (“OOBE”) are nothing extraordinary. Those requirements are consistent with the limits the WCS

⁵⁶ See ATCONTACT Communications, LLC Petition for Reconsideration, Motion for Stay, *Order*, 25 FCC Rcd 7567 ¶ 36 (2010).

⁵⁷ See Globalstar Licensee LLC Application for Modification of License to Extend Dates for Coming into Compliance with Ancillary Terrestrial Component Rules, *Order*, 25 FCC Rcd 13114, 13129-30 ¶ 41 (2010).

⁵⁸ 2010 Order at 11790 ¶ 195, 11791 ¶ 198.

⁵⁹ 2006 Order at 14141 ¶ 13 (emphasis added).

⁶⁰ 2010 Order at 11790 ¶ 195.

⁶¹ See *generally* May 31, 2011 WCS Letter.

Coalition itself confirmed could be met in the Ashburn, Virginia demonstrations that the Commission discussed at length in the 2010 Order.⁶² The FCC's rules do not require any additional filtering beyond the filtering that those tests previously demonstrated was achievable.

The WCS Coalition's assertions about adjacent channel interference into wireless broadband service are pure, unsubstantiated speculation. WCS licensees have not documented a single instance of adjacent channel interference from satellite radio repeater operations in over ten years of such repeater operations. In fact, satellite radio has far less protection from adjacent channel WCS interference than WCS has from satellite radio; the much more sensitive, lower-powered satellite signals that Sirius XM radios receive at the earth's surface have been afforded only a 2.5 MHz guard band to protect them from WCS interference, while WCS enjoys a minimum of 4 MHz of natural guard band from SDARS repeaters due to the placement of those repeaters in the middle of the satellite radio spectrum. WCS C and D block mobile operations enjoy a 6.5 MHz guard band, and A and B block mobile operations enjoy guard bands of 9 MHz and 14 MHz.

Nor is there any basis for the WCS Coalition to argue that the FCC's duty cycle and power density regulations will "impede commercialization of LTE in the WCS band" and require a "new or modified 3GPP LTE standard" because those requirements allegedly "run counter to the fundamental design of the underlying LTE technology."⁶³ LTE already provides multiple operating modes that meet the Commission's duty cycle specifications and offer excellent uplink bandwidth as high as 2.6 Mb/sec to satisfy application needs.⁶⁴ The power density limit on mobile transmissions (50 mW/MHz) can also be accommodated without any change to the standards. Rather, software changes entirely under the control of the base station provide a solution. Satisfying the power limit rule therefore requires only commitment on the part of the licensee—not the work of any standards body.

D. The evidence presented does not support the proposed timeline.

The WCS Coalition's argument for additional time proves too much. In fact, the WCS industry's own filings show it is unlikely to meet the new deadlines that it proposes and that the industry will need to return *yet a fourth time* unless the Commission calls a halt now to further WCS construction extensions.

The consultant's paper provided with the Coalition's May 31, 2011 Letter details the expected timelines for developing LTE standards for the WCS band and then for making equipment commercially available, finding it could take up to 4.5 years to develop suitable LTE WCS mobile broadband equipment and even "more time will be required" if design changes are

⁶² 2010 Order at 11751-52 ¶¶ 93-96.

⁶³ Schaubach Paper at 4-5.

⁶⁴ See Sirius XM Ex Parte Presentation dated August 12, 2011, WT Docket No. 07-293, IB Docket No. 95-91, at 3, A1-A2 (describing several different existing LTE operational modes that would comply with the Commission's adopted duty cycle limitations).

necessary.⁶⁵ Accepting, for the sake of argument, the WCS Coalition’s claim that the development process cannot start until this proceeding is resolved (assume late this year), that means suitable equipment may not be available until the middle of 2016. Factoring in the time that it takes to deploy equipment once it is available,⁶⁶ AT&T suggests that it would be unable to reach 40% coverage until the end of 2020. The schedule the WCS Coalition now proposes—40% coverage by 2017, and 75% coverage by 2020—therefore appears unachievable and granting this extension will inevitably lead to further extensions.

E. The requested extension is contrary to the National Broadband Plan.

The WCS Coalition argues that granting an extension would fulfill the goals of the National Broadband Plan to “accelerate efforts to ensure that the WCS spectrum is used productively for the benefit of all Americans.”⁶⁷ The WCS Coalition’s argument, however, turns the Commission’s logic upside down. The Commission determined that establishing the 2014/2016 WCS construction deadlines in the 2010 Order were consistent with the mandate of the National Broadband Plan and Section 309(j) of the Communications Act of 1934, as amended,⁶⁸ because doing so would “ensure prompt delivery of service to rural areas, prevent stockpiling or warehousing of spectrum by licensees or permittees, and promote investment in and rapid deployment of new technologies and services.”⁶⁹ The Commission expressly designed those buildout requirements “[t]o ensure that the promise of mobile broadband is realized” and “that WCS licensees use the spectrum intensively in the public interest.”⁷⁰

The actual deployment of WCS spectrum could help achieve those goals, but an unending string of extensions with neither substantial investment by the licensees nor their firm commitment to construct certainly does not. Unfulfilled promises and unjustified expectations provide no basis for further extensions, particularly when WCS licensees could today deploy much-needed point-to-point backhaul networks that are a focus of National Broadband Plan.⁷¹

⁶⁵ Schaubach Paper at 1-2.

⁶⁶ AT&T argues that it needs 3.5 years after equipment becomes available to achieve 40% coverage. AT&T Petition at 9. Smaller providers may be expected to claim that they need even more time.

⁶⁷ National Broadband Plan, Recommendation 5.8.1, at 85-86.

⁶⁸ 47 U.S.C. § 309(j).

⁶⁹ 47 U.S.C. § 309(j)(4)(B); *see* 2010 Order at 11790 ¶ 195 & n.479; *see also* Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996, as Amended by the Broadband Data Improvement Act, *Seventh Broadband Progress Report and Order on Reconsideration*, GN Docket No. 10-159, FCC 11-78 ¶ 1 (2011) (concluding that broadband is not being deployed in a reasonable and timely fashion to all Americans).

⁷⁰ 2010 Order at 11711 ¶ 1, 11713 ¶ 3.

⁷¹ *See id.* at 93-94.

Further delaying the deployment of the wireless broadband services would directly contravene the goals of the National Broadband Plan, which found an “overarching national policy imperative” to provide all Americans with access to broadband services.⁷² Moreover, the need for prompt deployment of mobile broadband services in WCS spectrum was an express underpinning of the 2010 Order, including the decision that the benefits of prompt wireless broadband deployment were worth the increased risk of interference to satellite radio.⁷³ Allowing the significant delay advocated by the WCS Coalition would call into question the reasoning underlying the 2010 Order, including the critical and risky decision to allow WCS licensees to provide mobile services despite the adjacency of the satellite radio band. In contrast, maintaining the bright-line certainty of the performance milestones established in the 2010 Order would not only uphold the rationale of that Order, but also would reaffirm the Commission’s commitment to encouraging broadband deployment in a timely fashion to all Americans.

It would hardly benefit the American public to allow WCS licensees to cherry-pick the license areas that they build, under the “keep what you use” approach the WCS Coalition proposes that would place at risk of loss only those parts of a license area that a licensee chooses not to build out.⁷⁴ Permitting licensees to maintain their authorizations in the limited areas where they build would incentivize licensees to deploy only in the most populated areas, leaving less-densely populated areas underserved. This approach would continue to leave rural areas behind in the deployment of the broadband infrastructure that the National Broadband Plan found to be critical⁷⁵ and also would create “Swiss cheese” holes in service areas that would devalue future use of the WCS spectrum for other purposes (and thus reduce potential revenues from any reauctioning of WCS spectrum in those areas).

Thus, granting the extension the WCS Coalition seeks would undermine the goals of the National Broadband Plan and undercut the Commission’s own rationale behind the 2010 Order.

III. CONCLUSION

The record provides no basis for granting WCS licensees a third extension of time to deploy their networks—a total of 23 years since the WCS auction. The WCS Coalition’s representations to the Commission *before the 2010 Order was adopted* that LTE equipment could be developed on the same general timeline as WiMAX equipment proves the absurdity of its attempt to blame the rise of LTE for the industry’s asserted “inability” to meet its current construction deadlines. In any event, (i) the choice of technology by WCS licensees is a matter within their discretion, (ii) the existing WCS rules are technology neutral and thus accommodate the use of LTE protocols, and (iii) there is no excuse for the WCS industry’s having sat on its

⁷² National Broadband Plan, Recommendation 8.15, at 151.

⁷³ 2010 Order at 11723-24, ¶¶ 28-29 (the rules the Commission adopted were “crafted to limit the potential for harmful interference to satellite radio users in the SDARS band and foster the provision of mobile services by WCS providers,” but those rules would “not result in an environment where interference will never occur under any circumstances”).

⁷⁴ See WCS Petition at 4-6 (arguing for a “keep what you use” policy).

⁷⁵ National Broadband Plan, at 20-22.

hands for the past 15 months and having failed to drive the development of LTE equipment for operation in WCS spectrum.

The Commission's existing WCS construction deadlines advance the National Broadband Plan's goals and should not be modified. WCS licensees should not be rewarded for failing to develop their spectrum while they wait for further extensions of time, in the hope that they can increase the value and marketability of their spectrum. Instead, they should be held to the extended 2014/2016 deadlines that the Commission adopted just last year.

In the meantime, Sirius XM stands ready to engage in coordination discussions with WCS licensees, so that they can deploy their networks in a manner that minimizes the risk of harmful interference into the SDARS service.

Respectfully submitted,



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