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October 17, 2011

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

***Re: Docket No. 11-1555- New DBSD Satellite Service G.P., Debtor-in- Possession,
and TerreStar Licensee Inc., Debtor-in-Possession, Request for Rule Waivers and
Modified Ancillary Terrestrial Component Authority***

Dear Ms. Dortch:

This Comment is submitted on behalf of Aldo I. Perez, a shareholder of the Debtor-in-Possession, *TerreStar Corporation*. The equity interests of Mr. Perez, as well as those of other common stockholders, were eliminated as a result of the *TerreStar Corporation* bankruptcy proceeding. This Comment is submitted in response to the Public Notice promulgated by the Commission, dated September 15, 2011, establishing a Pleading Cycle in response to the Request for Rule Waivers of *New DBSD Satellite Service, G.P.* and *TerreStar Licensee, Inc.*

The Commission should deny the Petition submitted by *New DBSD Satellite Services, G. P.*, Debtor-in-Possession and *TerreStar Licensee, Inc.*, Debtor-in-Possession (collectively, "*Petitioners*") for waivers of certain sections of the Rules of the Federal Communications Commission. Specifically, the Petitioners seek the waiver of:

- a) The requirement set forth in Section 25.149(b)(4) that ATC operators provide ATC as a component of an integrated service offering including Mobile-Satellite Services (MSS);
- b) The requirement set forth in Section 25.149(b)(2)(ii) that ATC operators maintain a spare MSS satellite on the ground; and
- c) Certain regulatory requirements allowing extension across the entire 2 GHz MSS allocation.



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Good cause must be demonstrated by a petitioner in order for the Commission to grant a waiver. 47 C.F.R. § 1.3. *See also, AT & T Corp. v. F.C.C.*, 448 F.3d 426 (C.A.D.C.,2006) For “good cause,” the Commission may waive “[a]ny provision of the rules.” A waiver is permissible “where particular facts would make strict compliance inconsistent with the public interest.” *Northeast Cellular Tel. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C.Cir.1990). Unfortunately, however the Petitioners have failed to demonstrate that the Commission’s granting of the Petition would be in the public’s interest.

Integration Requirement Waiver

First, the Petitioners request that the Commission allow them “to provide dual-mode terminals to customers who want them and single-mode terrestrial terminals to customers who do not want the satellite function.” Application at p. 4. The request for a waiver of the Integration Requirement was ostensibly asserted by the Petitioners for the benefit of the public as a purported cost-reduction effort. However, a foreseeable consequence of this waiver, if granted, could well be opposite as the Petitioners could impose a substantially greater cost for the dual-mode terminal as the majority of customers would likely require this device. The potential increased cost to the public as a result of the requested waiver would not accord with the Commission’s long-standing and judicially approved practice of giving controlling weight to the general goal of achieving the best practicable service to the public. *F.C.C. v. National Citizens Committee for Broadcasting*, 436 U.S. 775, 98 S.Ct. 2096 (U.S.Dist.Col.,1978), citing Communications Act of 1934, §§ 2(a), 4(i), 303(r) as amended 47 U.S.C.A. §§ 152(a), 154(i), 303(4); U.S.C.A.Const. Amend. 1.

Spare Satellite Waiver

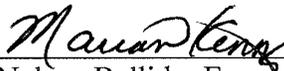
The basis of Rule 25.149(b)(2)(ii)’s requirement that an ATC operator maintain a spare satellite is clear. It is to “assure system reliability” and “provide redundant or replacement capacity in the event of a malfunction of on-line equipment.” *Showtime Networks Inc. v. F.C.C.*, 932 F.2d 1, 8 (C.A.D.C.,1991), citing *In the Matter of RCA American Communications, Inc.*, 62 Rad. Reg. 2d (P & F) 1527 (1987). The Petitioners have failed to sufficiently indicate the manner in which the public would be protected in the event of a malfunction.

Expansion

The Petitioners’ application for a waiver of certain technical requirements that would permit expansion across the entire 2 GHz MSS allocation could perhaps have consequences deleterious to the public’s well-being and safety. The Petitioners have failed to establish that they will bear the responsibility for replacing or modifying affected equipment or take all steps to eliminate interference. The public should not be expected nor allowed to bear the responsibility for such costs, while the Petitioners reap large financial rewards.

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In view of the significant and potentially injurious consequences to the public, in consideration of the potential economic burden to the public and in view of the Petitioners' failure to adequately establish good cause, the Commission should, pursuant to its own rules, deny the Petition.



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