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November 14, 2012

EX PARTE PRESENTATION

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

Re: Ex Parte Presentation in WT Docket No. 12-70, *Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands*; ET Docket No. 10-142, *Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz*; and WT Docket No. 04-356, *Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands*

Dear Ms. Dortch:

Pursuant to Section 1.1206 of the Commission's rules, 47 C.F.R. § 1.1206, DISH Network Corporation ("DISH") submits this letter summarizing meetings on Friday, November 9, 2012 and Wednesday November 14, 2012, as follows:

- A meeting on November 9 with Ruth Milkman, Chief, Wireless Telecommunications Bureau; Julius Knapp, Chief, Office of Engineering and Technology (by telephone); Tom Peters, Chief Engineer, Wireless Telecommunications Bureau; Blaise Scinto, Chief, Broadband Division, Wireless Telecommunications Bureau; Jeremy Marcus, Assistant Chief, Broadband Division, Wireless Telecommunications Bureau; Chris Helzer, Broadband Division, Wireless Telecommunications Bureau; Janet Young, Broadband Division, Wireless Telecommunications Bureau; Brian Regan, Wireless Telecommunications Bureau; and Michael Ha, Office of Engineering and Technology. Present on behalf of DISH were Jeffrey Blum, Senior Vice President and Deputy General Counsel; Mariam Sorond, Vice President, Technology Development; David Zufall, Vice President, Wireless Development; Hadass Kogan, Associate Corporate Counsel; and John Flynn, outside counsel.
- A telephone call on November 9 between Zachary Katz, Chief of Staff for Chairman Julius Genachowski and Jeffrey Blum, Senior Vice President and Deputy General Counsel for DISH.

- A telephone call on November 14 between Zachary Katz, Chief of Staff for Chairman Julius Genachowski and Jeffrey Blum, Senior Vice President and Deputy General Counsel for DISH.

During the meetings, DISH urged the Commission to complete the above-referenced rulemaking consistent with the out-of-band emissions (“OOBE”) limit of $43+10\log(P)$ dB at 2000 MHz that was proposed in the *AWS-4 NPRM*.¹ DISH explained that any modification to this OOBE limit would significantly endanger DISH’s entry into the wireless market by needlessly introducing serious regulatory and technical obstacles into DISH’s planned deployment. DISH stands ready to inject much needed investment and competition into the wireless economy, and the Commission should reject proposals that would hobble or delay its entry.

Specifically, any changes to DISH’s OOBE limits will likely reopen the 3rd Generation Partnership Project (“3GPP”) standard-setting process for the AWS-4 band. In June 2011, 3GPP approved Band 23 (2000-2020 MHz and 2180-2200 MHz), which is a critical foundation for DISH’s wireless plans. And yesterday, on November 13, 2012, 3GPP RAN4 delivered approval of emission limits for Band 23, finally overcoming multiple objections from Sprint Nextel Corporation over the course of a year. With this approval, DISH is poised to enter the wireless market as quickly as possible provided the Commission adopts commercially reasonable AWS-4 rules. Band 23 assumed an OOBE limitation of $43+10\log(P)$ dB at 2000 MHz, and altering this OOBE limit likely means 3GPP would revisit the standard. If that happens, DISH’s entire wireless venture would be in jeopardy.

Furthermore, maintaining OOBE limits at the widely adopted value of $43+10\log(P)$ dB at 2000 MHz will **not preclude** the Commission’s ability to set flexible service rules in a future H Block proceeding. Consistent with its November 8, 2012 submission,² DISH explained that in addition to endangering the Band 23 standard, imposing a more stringent limit of $70+10\log(P)$ at 2000 MHz dB will impose unnecessary harms on DISH’s planned deployment because:

- an OOBE limit of $70+10\log(P)$ dB at 2000 MHz is an unnecessary level that radically departs from Commission precedent;
- interference to an H Block mobile device from an AWS-4 mobile device is a highly unlikely event that could be solved through private coordination agreements or public industry forums; and

¹ Service Rules for Advanced Wireless Services in the 2000-2020 MHz and 2180-2200 MHz Bands, WT Docket No. 12-70, Fixed and Mobile Services in the Mobile Satellite Service Bands at 1525-1559 MHz and 1626.5-1660.5 MHz, 1610-1626.5 MHz and 2483.5-2500 MHz, and 2000-2020 MHz and 2180-2200 MHz, ET Docket No. 10-142, Service Rules for Advanced Wireless Services in the 1915-1920 MHz, 1995-2000 MHz, 2020-2025 MHz and 2175-2180 MHz Bands, WT Docket No. 04-356, *Notice of Proposed Rulemaking and Notice of Inquiry*, FCC 12-32, ¶ 33 (rel. Mar. 21, 2012) (“*AWS-4 NPRM*”).

² Letter from Jeffrey H. Blum, DISH Network Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission, WT Dkt. Nos. 12-70, 04-356, ET Dkt. No. 10-142, at 2-3 (Nov. 8, 2012).

- any low probability mobile to mobile interference from AWS-4 to H Block would be even less likely given that H Block probably would be used as a carrier aggregation LTE band to other spectrum.

DISH is committed to working with the Commission to establish H Block service rules, and DISH explained that if the H Block is used for high power in the future, then, among other things, DISH would be unable to use at least 25 percent of its uplink in the absence of an agreement with the prospective future H Block licensee. But, adopting more stringent OOB limits in the current proceeding is unnecessary to protect the H Block, unprecedented when compared to other mobile broadband spectrum bands, would preclude more efficient, market-based solutions for resolving the possibility of mutual interference, and would introduce substantial delay and risk in the 3GPP standards setting process.

Respectfully submitted,

/s/ Jeffrey H Blum

Jeffrey H. Blum

cc: Zachary Katz
Ruth Milkman
Julius Knapp
Tom Peters
Blaise Scinto
Jeremy Marcus
Chris Helzer
Janet Young
Brian Regan
Michael Ha