

Zephyr

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April 9, 2003

The Hon. Michael K. Powell
Chairman
Federal Communications Commission
Washington D.C. 205554

Re: Comments in Support of WCA Petition for Reconsideration
WT Docket No. 03-66

Dear Chairman Powell,

As the President of Zephyr Communications LLC, a new company formed to provide broadband service in the Chico, California BTA, I applaud the Commission's efforts to "promote competition, innovation and investment in wireless broadband services, and to promote education services" through the re-rationalization of the MDS and ITFS spectrum bands.

Unfortunately, I believe that the MDS/ITFS application freeze adopted in the NPRM & MO&O for this proceeding will have exactly the opposite effect. If not reversed, the freeze will be fatal to our deployment in Chico and very possibly to our company.

Zephyr was formed in September, 2002 for the specific purpose of funding and constructing a fixed wireless network in Chico, utilizing innovative technology developed by SOMA Networks, Inc. We have already acquired and exercised an option on the Chico BTA authorization and rights to incumbent MMDS and ITFS licenses in the Chico-Oroville BTA 079, and the assignment of the BTA authorization is pending before the Commission. We were in the process of finalizing the necessary applications to construct our network when the Commission announced the freeze.

You can no doubt appreciate the challenge we faced in the last quarter of 2002 trying to raise capital for this venture. Our success was due in large part to our investors' recognition of the seriously underserved demand for broadband in the Chico market. Chico has a population of 100,000 and is home to Chico State, a California State University with a current enrollment of 15,000. According to the University, only 5% of their students have broadband in Chico. As a result, Chico State is trying to determine the best means of delivering the educational benefits of high-speed access to their students. Zephyr proposes to provide the answer.

We urge the Commission to recognize the potentially devastating impact the freeze will have both on our business and the prospects for meaningful near-term broadband deployment in

Chico. Zephyr is a small company with very limited capital, and everyone working for the company is sacrificing current income, job benefits and security for the potential reward and satisfaction of a successful startup. Like other startups, we have little room for error, delay or mistakes, especially given our intent to launch service when students return to school in September, less than six months from now. If the Commission's application freeze stands, we will have no choice but to abandon our plans in Chico and either refund our investors' remaining capital or seek out PCS or WCS licenses in other markets. Since our investors signed on specifically for a Chico deployment, the latter option may not be feasible.

We stand ready, *today*, to answer the Commission's call for more competition in the broadband market. However, these are extremely difficult times for the telecommunications industry, and it simply makes no sense for the Commission to worsen the problem by stopping current MDS/ITFS deployments in their tracks. Accordingly, we respectfully request that the Commission to reconsider and reverse its decision to impose an immediate freeze on the filing of applications for new or modified MDS/ITFS facilities, in accordance with WCA's Petition for Reconsideration filed April 7, 2003.

Sincerely,

/s/Frederick H. Borden

Frederick H. Borden
President

cc: Commissioner Kathleen Q. Abernathy
Commissioner Kevin J. Martin
Commissioner Michael J. Copps
Commissioner Jonathan Adelstein
John Muleta
Bryan Tramont
Jennifer Manner
Paul Margie
Samuel Feder
Barry Ohlson
Kathleen O'Brien Ham
Catherine Seidel
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Sherrie Blakeney
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