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April 8, 2003

RECEIVED

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VIA HAND DELIVERY

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

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

Re: Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, WT Docket No. 03-66. Petition for Reconsideration (filed Apr. 7, 2003).

Dear Madam Secretary:

Nucentrix Broadband Networks, Inc. ("Nucentrix"), by and through its attorneys, hereby submits this letter in support of the Petition for Reconsideration filed by the Wireless Communications Association International, Inc. ("WCA") on April 7, 2003 in the above-referenced matter.

WCA seeks reconsideration of the Commission's decision to impose a freeze on all applications for new or modified ITFS (and apparently MDS) facilities. As WCA urges, any freeze on ITFS and MDS applications should be limited to applications for new ITFS stations located outside existing protected service areas ("PSAs").<sup>1</sup> Restricting the ability of existing licensees to modify existing stations, or to add new stations within existing service areas (either PSAs or BTAs), would impose unquestionable direct and indirect harms on consumers. Among other effects, such a freeze on applications by existing licensees would: 1) prevent operators from filling coverage gaps or upgrading network capacity; 2) deny operators the opportunity to roll out systems for which the engineering and financing is already complete, and for which the applications are the last step, and 3) add more uncertainty into the capital markets, thereby jeopardizing both new investment and currently contemplated transactions.

Nucentrix agrees that there may be some benefit in refusing to accept applications for new ITFS spectrum outside of existing PSAs, in order to avoid further

<sup>1</sup> While the exact scope of the freeze is unclear, because of conflicting language in the *Memorandum Opinion and Order*, Nucentrix must assume that, as currently drafted, the freeze would apply broadly.

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Marlene H. Doitch, Secretary

April 9, 2003

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complicating the regulatory situation in light of the Commission's recently released *Notice of Proposed Rulemaking*. However, Nucentrix does not see any benefit to be gained by preventing operators with *existing* service areas (both PSAs and BTAs) from continuing to improve service to their customers. Rather than speeding the deployment of advanced services to all Americans, this type of freeze will inevitably slow the growth of broadband services, especially in rural and underserved areas such as those primarily served by Nucentrix.

Nucentrix urges the FCC to reconsider this decision as expeditiously as possible, and asks that the agency clarify that the freeze does not apply to current licensees seeking to add or modify stations within their existing service areas.

Please do not hesitate to contact the undersigned if you have any questions regarding this matter.

Sincerely,



Peter D. Shields