

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In re Application of )  
 )  
**SIRIUS SATELLITE RADIO INC.** ) File No. SAT-STA-20060623-00067  
 )  
For Special Temporary Authority to Add )  
Sixteen Terrestrial Repeaters )

To: Acting Chief, International Bureau

**REPLY TO OPPOSITION OF  
SIRIUS SATELLITE RADIO INC. TO  
PETITION TO DISMISS OR DENY OF  
BELLSOUTH MOBILE DATA, INC. AND  
BELLSOUTH WIRELESS CABLE, INC.**

BellSouth Mobile Data, Inc. (“BSMD”) and BellSouth Wireless Cable, Inc. (“BSWC”), wholly-owned subsidiaries of BellSouth Corporation (collectively, “BellSouth”), pursuant to Section 25.154(d) of the Commission’s Rules, hereby reply to the opposition filed by Sirius Satellite Radio Inc. (“Sirius”) on October 2, 2006 (“Opposition”) in response to the petitions to deny Sirius’ request for Special Temporary Authority (“STA Request”)<sup>1</sup> seeking to add sixteen more high-power terrestrial repeaters to its satellite digital audio radio service (“SDARS”).<sup>2</sup>

***Discussion***

Statements made by Sirius in its Opposition confirm that the STA Request does not satisfy Commission standards and thus cannot be granted. Sirius reaches back to

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<sup>1</sup> In addition to the Petition to Dismiss or Deny filed by BellSouth (“BellSouth Petition”), petitions to deny also were filed by NextWave Broadband Inc. (“NextWave Petition”) and the WCS Coalition (“WCS Coalition Petition”).

<sup>2</sup> See Request for Special Temporary Authority filed June 23, 2006 by Sirius Satellite Radio Inc. (“STA Request”).

language in the 2001 grant of its initial STA request<sup>3</sup> to argue that justification for terrestrial repeaters was already “asked and answered” at that time and, apparently, need not be independently shown in the subject STA Request.<sup>4</sup> Tellingly, Sirius makes no effort to provide specific facts or engineering analyses for any of its proposed new repeaters that would confirm the presence of obstructions, the adverse effect of such obstructions on SDARS service, or the remedial impact the repeaters would have. This approach contravenes the Commission’s previous holding that Sirius’ STA requests “must contain . . . all facts sufficient to justify the temporary authority sought and the public interest therein.”<sup>5</sup>

The Commission should not permit Sirius to install new high-power repeaters where, as here, it has not satisfied its burden to make an independent showing that there are “extraordinary circumstances” for each proposed repeater. Sirius failed to satisfy this standard in its STA Request, and its Opposition only confirms its misplaced reliance on a previously-granted STA that has no bearing on any claimed need for the proposed new repeaters.<sup>6</sup>

In addition, Sirius dismisses evidence that the high-power repeaters would cause interference to WCS operations, alleging that harmful interference is “hypothetical”

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<sup>3</sup> *Sirius Satellite Radio Inc.*, Order and Authorization, 16 FCC Rcd 16773, *modified on recon*, 16 FCC Rcd 18481 (2001) (“2001 STA Order”).

<sup>4</sup> Opposition at 5.

<sup>5</sup> *Sirius Satellite Radio Inc.*, Order and Authorization, 19 FCC Rcd 18140, 18143 (2004). *See also* WCS Coalition Petition at 8; NextWave Petition at 3.

<sup>6</sup> Sirius accuses BellSouth of being “inconsistent[.]” when it stated that “perhaps . . . satisfied the standards of Section 15.120(b)(1) [*sic*].” Opposition at 5, n.16 *citing* BellSouth Petition at 3. What BellSouth actually stated was that “[w]hile it is perhaps true that Sirius satisfied the standards of Section 25.120(b)(1) *in the past*, that has no bearing on whether the Commission should now authorize new high-power repeaters without any evidence that each proposed repeater is designed to overcome an obstruction.” BellSouth Petition at 3 (emphasis added)

because the petitioners “built next to nothing” – an allegation that is wholly unfounded.<sup>7</sup> Using its licensed WCS spectrum, BellSouth “was the first major telecom provider to commercially launch wireless broadband using pre-WIMAX technology.”<sup>8</sup> To date, BellSouth has commercially deployed WCS service in ten markets in the southeast United States. These systems are located in rural markets such as Albany, Georgia, Paducah, Kentucky and Greenville, Mississippi that are largely underserved by wired broadband solutions, and markets along the Gulf Coast such as New Orleans, Louisiana and Biloxi, Mississippi that were quickly launched following Hurricane Katrina to provide essential communications services. BellSouth also has announced that it “plans to expand the service to additional cities throughout 2006.”<sup>9</sup>

BellSouth’s ability to expand service may be severely compromised by grant of the STA Request. Before it can commercially launch new facilities, BellSouth must be assured that it will be able to provide a high-quality, reliable service. Because of the harmful interference that WCS facilities would experience if deployed near SDARS repeaters,<sup>10</sup> BellSouth may have no choice but to avoid deploying in certain areas where terrestrial repeaters are operating. Such a result would be contrary to the public interest.

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<sup>7</sup> Opposition at 6. Buried in its Opposition is Sirius’ reluctant acknowledgment that “BellSouth operates a handful of systems.” *Id.* at n.25.

<sup>8</sup> News Release, “BellSouth Wireless Broadband Goes Live in Two Additional Markets,” at [http://bellsouth.mediaroom.com/index.php?s=press\\_releases&item=2925](http://bellsouth.mediaroom.com/index.php?s=press_releases&item=2925) (visited Oct. 10, 2006).

<sup>9</sup> *Id.*

<sup>10</sup> See BellSouth Petition at 6-7 and footnotes cited therein; WCS Coalition Petition at 3-4; NextWave Petition at 10-11.

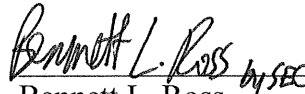
***Conclusion***

The record demonstrates that the Commission should deny Sirius' STA Request. Sirius has failed to demonstrate "extraordinary circumstances" for STA grant and has failed to appreciate the adverse consequences that operation of high-power repeaters may have on BellSouth's WCS operations.

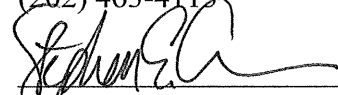
Respectfully submitted,

**BELLSOUTH MOBILE DATA, INC. And  
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October 16, 2006

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**Certificate of Service**

I, Kenneth B. Wolin, a legal assistant at Rini Coran, PC, do hereby certify that on this 16th day of October, 2006, I caused copies of the foregoing “Reply To Opposition of Sirius Satellite Radio, Inc. To Petition To Dismiss or Deny of BellSouth Mobile Data, Inc. and BellSouth Wireless Cable, Inc.” to be sent by United States Postal Service, First Class Mail, to the following:

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