



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 6, 2002

The Honorable Rick Santorum
United States Senate
120 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Santorum:

Thank you for your June 4, 2002 letter concerning the request by Digital Broadband Applications Corp. ("DBAC") to provide competitive interactive video and high-speed Internet services to U.S. consumers via an advanced hybrid satellite network. Specifically, DBAC seeks to operate earth stations in the United States with Canadian-licensed Direct Broadcast Satellite ("DBS") and U.S.-licensed Fixed-Satellite Service satellites (as well as using terrestrial Local Multipoint Distribution Service spectrum, where available) to deliver its proposed service. I respect the serious nature of the issues raised in your letter and appreciate the opportunity to assure you of my commitment to facilitate competition in the multichannel video and broadband marketplaces, as well as technical innovation.

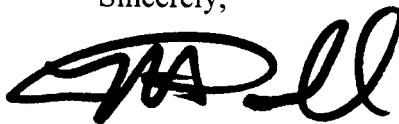
The Commission's International Bureau placed the DBAC Application on Public Notice, establishing a comment cycle that closed in March 2002. In response, several parties filed comments, along with one Petition to Deny. DBAC's application presents a myriad of complex issues. In the record of the proceeding, DBAC asserts that its service should not be considered purely a DBS service because DBAC intends to provide integrated two-way video data. (By comparison, DBS is a one-way service.) This is an important distinction because the United States schedule of commitments under the World Trade Organization Agreement on Basic Telecommunications Services includes an exemption from most-favored-nation obligations for DBS. Under the exemption, the United States is not required to extend most-favored nation treatment in evaluating applications to access non-U.S. satellite systems for such non-covered services. Therefore, if it were determined that the proposed DBAC service is solely a DBS service, under Commission precedent, DBAC will have to satisfy an effective competitive opportunities for satellite services ("ECO-SAT") test demonstrating that U.S. companies have effective competitive opportunities to provide DBS service in Canada. Parties opposing the DBAC application contend that DBAC will not be able to make the ECO-SAT showing, and that waiver of the test is not warranted.

We will include a copy of your letter in the record of this proceeding. The Commission staff currently is conducting a thorough review of the DBAC Application and the public record in the proceeding. I assure you that in its review, the staff will fully consider the points raised in

your letter, and that action on the DBAC Application will be completed as expeditiously as possible.

I appreciate your taking the time to let me know of your interest in this matter. Please do not hesitate to contact me if you have any further questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "M. Powell", written in a cursive style.

Michael K. Powell
Chairman

RICK SANTORUM
PENNSYLVANIA

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June 4, 2002

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The Honorable Michael Powell
Chairman, Federal Communications Commission
445 12th Street, N.W.
Washington, D.C. 20554

Dear Chairman Powell:

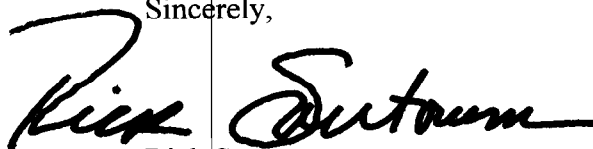
I support industry developments that will help spur economic growth and maintain U.S. technological leadership, including in the communications marketplace. American technological leadership to date has been aided by a system that rewards entrepreneurial risk and a policy regime that permits competitive entry.

I therefore request that the Federal Communications Commission ("FCC") consider in a timely manner Digital Broadband Applications Corporation's ("DBAC") application to provide an interactive video and high-speed Internet service over satellites to consumers across the United States. Such a grant would support additional competition in the multichannel video and broadband marketplaces, as well as technical innovation.

DBAC's use of satellites – as well as terrestrial Local Multipoint Distribution Service ("LMDS") spectrum where available – will provide an important alternative for Americans for broadband video and data services, such as interactive multichannel programming and two-way high-speed Internet access, for many people in rural Pennsylvania and across America in particular.

In addition, DBAC's application represents innovation in interactive video service. DBAC's subsidiary was the first provider of digital, interactive cable, and holds a patent for interactive television set-top box technology. Moreover, DBAC's work with its technology partner to develop new applications for LMDS spectrum, namely meshed-network non-line of sight Internet access, should be considered, particularly when this application promises to raise the value of such spectrum. For all the above reasons, I urge you to consider the merits of the DBAC's application and encourage its approval. Thank you for your assistance and commitment to American consumers.

Sincerely,



Rick Santorum
United States Senator

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