



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

August 7, 2002

The Honorable Robert Andrews
U.S. House of Representatives
2439 Rayburn House Office Building
Washington, D.C. 20515

Dear Congressman Andrews:

Thank you for your June 20, 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.

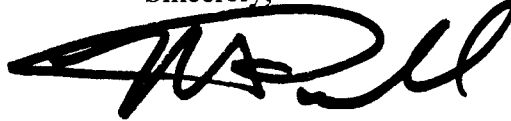
The Commission's International Bureau placed the DBAC Application on Public Notice, establishing a comment cycle that closed in March 2002. In response, several parties filed comments, along with one Petition to Deny. DBAC's application presents a myriad of complex issues. In the record of the proceeding, 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

ROBERT E. ANDREWS

FIRST DISTRICT, NEW JERSEY

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June 20, 2002

Chairman Michael Powell
Federal Communications Commission
445 12th Street, N.W.
Washington, DC 20554

*J.P. Saltillo
PV
MKP
2/8/02*

Dear Chairman Powell:

I write to urge the Federal Communications Commission (FCC) to give strong consideration to the earth station application filed by Digital Broadband Applications Corp. (DBAC) to provide satellite broadband video and data services through a combination of U.S. and Canadian satellites and terrestrial LMDS spectrum.

The landscape for satellite-delivered services - and broadband services generally - has changed considerably over the past five years. While Congress and the FCC have adopted policies designed to preserve competition in these marketplaces, the reality is that industry consolidation - such as the proposed merger between EchoStar and Hughes - as well as the economic downturn means that U.S. consumers will be left with too few choices for broadband video and data services.

DBAC's application provides an opportunity to maximize use of alternative satellite and terrestrial frequencies in order to bring a new competitor to the U.S. marketplace, including to rural areas. I understand that U.S. satellite providers such as EchoStar and Hughes have little or no capacity remaining to offer new entrants like DBAC, much less to Canadian providers.

Thus, the American public would be greatly served by the introduction of an additional satellite provider offering dynamic video and data services, for which U.S. consumers have long waited, rather than by the application of policies that would benefit incumbent DBS providers, to the detriment of U.S. consumers. Thank you for your consideration.

Sincerely,



Robert Andrews
Member of Congress

REA:cf

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