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March 22, 2012

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Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

**Re: 2,457 Part 101 Licenses Held by Metropolitan Area Networks, Inc.  
Call Sign WQJE757, File Number 0003869908.**

Dear Ms. Dortch:

On behalf of the Fixed Wireless Communications Coalition (FWCC), I am replying to the letter of March 6, 2012, from Barry A. Friedman, Esq. to the Commission on behalf of Metropolitan Area Networks, Inc. (MAN). (Although Mr. Friedman's March 6 letter shows a cc to me, I did not receive that copy, and Mr. Friedman's letter had not appeared in the FCC's ULS database as of March 19. The FWCC had its first actual notice of Mr. Friedman's letter on March 20.)

The FWCC has asked the Commission to delete from its database the above-referenced 2,457 Part 101 licenses granted to MAN, on the ground that MAN's requested extension date for construction, March 3, 2011, has long since passed. The licenses' continuing presence in the database impedes the frequency coordination of links that, if licensed, will actually begin operation.

It is undisputed that MAN has pending petitions for reconsideration which, if granted, would extend the construction deadline for these licenses to March 3, 2011—more than a year in the past—but not beyond. One of the pending petitions addresses MAN's request for a waiver of the filing fee associated with the request for extension to March 3, 2011; the other seeks reinstatement of that same request following its dismissal for failure to pay the filing fee. In a letter dated March 2, 2012, the FWCC pointed out that both of the pending proceedings are essentially moot. Regardless of how they are ultimately decided, MAN will still have failed to meet its construction obligations, so that the MAN licenses terminated automatically as of March 4, 2011 (if not sooner), pursuant to Section 101.63 of the Commission's Rules.

Marlene H. Dortch, Secretary

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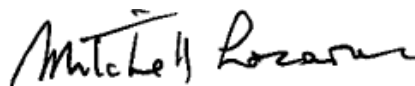
In its letter of March 6, MAN counters: “If the Commission were to grant the [MAN] Petitions for Reconsideration, the Commission would, as is customary set a new construction deadline, as the Commission could not grant an extension to a date that passed over a year ago.”

We agree with the second part of the sentence: that the Commission cannot grant an extension to a date that passed over a year ago. That is precisely why the MAN petitions are moot, and its licenses should be deleted. But we dispute the first part of the sentence, that the Commission “as is customary” would set a new construction deadline. The FWCC is not aware of any “custom” by which the Commission spontaneously grants unrequested extensions of construction deadlines. MAN does not cite any authority for this idea.

MAN’s real motivation, we suspect, lies in the insistence that its licenses remain in the Commission’s database until there are “final, non-appealable orders regarding all aspects” of all 2,457 licenses. This phrase may signal MAN’s intent to follow the pending reconsideration petitions, should they be denied, with Applications for Review to the Commission. An order denying the Applications for Review can then be challenged before the U.S. Court of Appeals. A “final, non-appealable” order thus is one as to which the Court of Appeals has ruled and the U.S. Supreme Court has denied *certiorari*, or else the deadline for filing a notice of appeal (or a petition for *certiorari*) has passed. But even if MAN were to achieve complete success in the pending proceedings before the Commission or the Court of Appeals, that success still would not extend the construction deadline beyond March 3, 2011, and would not cure MAN’s having failed to commence operation by that date. MAN’s only purpose in holding out for final, non-appealable orders can be to promote delay.

The Commission should follow the plain language of its rules by promptly deleting from the database any MAN licenses for facilities that had not commenced operation on or before March 3, 2011. When MAN has resolved the ongoing disputes over filing fees, its appropriate remedy is to re-file the applications, subject to frequency coordination, and thus re-start the 18 month construction period.

Respectfully submitted,



Mitchell Lazarus  
Counsel for the Fixed Wireless  
Communications Coalition

cc: Rick Kaplan, Chief, Wireless Telecom. Bur.  
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