

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

In the Matter of Application of CHOICE COMMUNICATIONS LLC For a New Educational Broadband Service Station on the A Group Channels at St. Thomas, Virgin Islands File No. 0002104447

MEMORANDUM OPINION AND ORDER

Adopted: June 22, 2005

Released: June 22, 2005

By the Deputy Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On March 25, 2005, Choice Communications, LLC (Choice) filed an application¹ and waiver request in support of its application for four vacant A-group, commercial Educational Broadband Service (EBS) channels in St. Thomas, Virgin Islands.² Choice filed its Application pursuant to Section 27.1201(c)(1) of the Commission’s Rules,³ and pursuant to the rights granted in the BTA Auction Order.⁴ Specifically, Choice seeks a waiver of the filing freeze that was imposed by the Commission on new EBS applications in the Commission’s April 2003, NPRM and MO&O that proposed new technical rules and a new band plan for EBS and Broadband Radio Service (BRS) spectrum.⁵

¹ Application, File No. 0002104447 (filed Mar. 25, 2005) (Application).

² Choice Request for Waiver (filed March 25, 2005) (Waiver Request).

³ Section 27.1201(c)(1) of the Commission’s Rules states in relevant part that “a wireless cable entity may be licensed on EBS frequencies in areas where at least eight other EBS channels remain available in the community for future EBS use. Channels will be considered available for future EBS use if there are no co-channel operators or applicants within 80.5 km (50 miles) of the transmitter site of the proposed wireless cable operation and if the transmitter site remains available for use at reasonable terms by new EBS applicants on those channels within three years of commencing operation.” 47 C.F.R. § 27.1201(c)(1).

⁴ See Amendment of Parts 21 and 74 of the Commission’s Rules with Regard to filing Procedures in the Multipoint Distribution Service and in the Instructional Television Fixed Service and Implementation of Section 309(j) of the Communications Act – Competitive Bidding, Report and Order, 10 FCC Rcd 9589, 9612 ¶ 41 (1995) (BTA Auction Order).

⁵ See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission’s Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands. Notice of Proposed Rulemaking and Memorandum Opinion and Order, WT Docket No. 03-66, 18 FCC Rcd 6722, 6811 ¶ 226, 6825 ¶ 260 (2003) (NPRM and MO&O) (stating in relevant part that “[i]t is . . . ordered that applications for new MDS or ITFS licenses, major modifications of MDS stations, or major changes to ITFS stations other than applications for license assignments or transfers of control WILL NOT BE ACCEPTED until further notice.”)

2. Choice's application was listed on public notice as accepted for filing on April 6, 2005.⁶ No petitions to deny or other oppositions were filed. Comments in support of the application were filed by the Honorable Donna M. Christensen, Member of Congress,⁷ The Executive Director of the St. Croix Chamber of Commerce,⁸ the Chancellor of the University of the Virgin Islands,⁹ a local business executive,¹⁰ and a representative of the Virgin Islands Territorial Emergency Management Agency.¹¹ The supporting commenters argue that granting the Waiver Request will aid in providing competitive wireless services to consumers,¹² allow educational institutions to provide additional resources to their students at lower costs,¹³ and provide a wireless communications system that could ensure reliable communications in case of a hurricane or other natural disaster.¹⁴

3. For the reasons set forth below, we grant the Waiver Request and direct the Broadband Division to process the application.

II. BACKGROUND

4. In developing regulatory policies in the 2500-2690 MHz band over the last several decades, the Commission has been cognizant of this band's vast potential to host a variety of services. In 1963, the Commission established the Instructional Television Fixed Service (ITFS) in the 2500-2690 MHz band,¹⁵ envisioning that it would be used for transmission of instructional material to accredited public and private schools, colleges, and universities for the formal education of students.¹⁶ In 1983, in response to the demand for additional spectrum for delivery of video entertainment programming to subscribers, the Commission re-allotted eight ITFS channels (the E and F channel blocks) and associated response channels for use by the Multipoint Distribution Service (MDS).¹⁷ The Commission determined

⁶ See Wireless Telecommunications Bureau Site-By-Site Accepted for Filing, Report No. 2113, *Public Notice* (rel. Apr. 6, 2005) at 49.

⁷ Letter from Donna M. Christensen, Member of Congress to The Honorable Kevin J. Martin, Chairman, Federal Communications Commission (filed May 6, 2005) (Christensen Letter).

⁸ Letter from Benjamin Rivera, Jr., Executive Director, St. Croix Chamber of Commerce to Marlene H. Dortch, Secretary, Federal Communications Commission (filed May 6, 2005) (Chamber of Commerce Letter).

⁹ Letter from Jennifer Jackson, Chancellor – St. Croix Campus, University of the Virgin Islands to Federal Communications Commission (filed May 6, 2005) (UVI Letter).

¹⁰ Letter from Dan Johnson to Federal Communications Commission (filed May 6, 2005).

¹¹ Letter from Al Javois to Federal Communications Commission (filed May 6, 2005) (VITEMA Letter).

¹² Chamber of Commerce Letter at 1-2; Christensen Letter; Johnson Letter; UVI Letter.

¹³ Christensen Letter; UVI Letter.

¹⁴ Christensen Letter; VITEMA Letter.

¹⁵ See Educational Television, Docket No. 14744, *Report and Order*, 39 FCC 846 (1963) (*MDS R&O*), *recon. denied*, 39 FCC 873 (1964) (*ETV Decision*).

¹⁶ See Amendment of the Commission's Rules With Regard to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service; and Applications for an Experimental Station and Establishment of Multi-Channel Systems, *Report and Order*, 48 Fed. Reg. 33873, 33875 ¶¶ 9 (1983) (*1983 R&O*) (*citing ETV Decision*, 39 FCC 846, 853 ¶ 25).

¹⁷ See Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service, Gen Docket No. 80-112 and CC Docket No. 80-116, *Report and Order*, 94 FCC 2d 1203 (1983) (*First Leasing Decision*).

that the ITFS spectrum was underutilized given that there were a substantial number of unused ITFS channels in many areas of the country.¹⁸ At the same time, in an effort to encourage more intensive use of the spectrum and to help ITFS licensees generate needed revenue, the Commission began to relax use restrictions to permit ITFS licensees to lease excess capacity on their facilities to commercial entities.¹⁹

5. On October 25, 1991, the Commission adopted a proposal to permit use of available ITFS channels by wireless cable entities.²⁰ In order to ensure that wireless cable use did not have a negative impact upon ITFS, the Commission established a series of requirements that must be met before ITFS channels could be used for wireless cable use.²¹ In order for commercial operators to take advantage of ITFS frequencies, at least 8 ITFS channels must remain available in the community.²² Also, there can be no co-channel ITFS station within 50 miles of the proposed system.²³ If an ITFS applicant applies at the same time as the commercial operator, the ITFS application will be granted if the applicant is qualified.²⁴

6. In March 1996, the Commission completed an auction of MDS licenses for unused spectrum in each of 493 BTAs and BTA-like areas.²⁵ The Commission granted the BTA authorization the exclusive right to apply for available ITFS frequencies on a commercial basis within the BTA.²⁶

7. In April 2003, the Commission proposed new technical rules and a new band plan for EBS and BRS spectrum and at the same time imposed a filing freeze on new EBS applications.²⁷ On June 10, 2004, the Commission adopted new rules that initiated a fundamental restructuring of the 2500-2690 MHz band²⁸ in order to provide both existing EBS and BRS licensees and potential new entrants greater flexibility in order to encourage the highest and best use of spectrum domestically and internationally. Among other things, the Commission eliminated the “wireless cable” exception to the EBS eligibility rules for those markets which had transitioned to the new band plan.²⁹ The Commission also sought

¹⁸ *Id.* at 1206-07 ¶ 4.

¹⁹ *Id.*

²⁰ See Amendment of Parts 21, 43, 74, 78, and 94 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and Cable Television Relay Service, Gen. Docket No. 90-54, *Second Report and Order*, 6 FCC Rcd 6792, 6793, 6801-06 ¶¶ 4, 42-58 (1991) (*Second Report and Order*); see also *Second Report and Order* at Appendix C; 47 C.F.R. § 74.990 (1991).

²¹ See former 47 C.F.R. § 74.990.

²² See former 47 C.F.R. § 74.990(a).

²³ *Id.*

²⁴ See former 47 C.F.R. § 74.990(e).

²⁵ FCC Fact Sheet, *Auction 6: Multipoint/Multichannel Distribution Services*, accessible on the Commission's web site at <http://wireless.fcc.gov/auctions/06/factsheet.html>.

²⁶ See *BTA Auction Order*, 10 FCC Rcd at 9612 ¶ 41.

²⁷ See *NPRM and MO&O*, 18 FCC Rcd at 6811 ¶ 226, 6825 ¶ 260.

²⁸ See Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands. *Report and Order and Further Notice of Proposed Rulemaking*, WT Docket No. 03-66, 19 FCC Rcd 14165 (2004) (*BRS/EBS R&O and FNPRM*).

²⁹ See *id.* at 14293 ¶ 349.

comment on whether to eliminate the wireless cable exception to the EBS eligibility rules pre-transition.³⁰ The Commission stated that if it did eliminate the exception, it would grandfather existing licenses granted pursuant to the exception.³¹

8. Since 1996, Choice and its predecessors have provided an array of video, audio, telecommunications, and information related services to both business and residential customers in the U.S. Virgin Islands. Choice has invested over \$30 million (including \$18 million of property, plant, and equipment) to construct and expand a digital wireless broadband network that provides a variety of broadband services, including wireless digital multichannel video service, digital audio service, and high-speed wireless Internet access service, to St. Thomas, St. John, and St. Croix. Choice also is the largest provider of dial-up Internet service in the U.S. Virgin Islands. Choice offers dial-up Internet service over its own facilities as well as facilities leased at retail rates from Innovative Communications (Innovative), the incumbent local exchange carrier (ILEC) and local cable television provider.³²

9. Choice holds the Basic Trading Area (BTA) authorization for the U.S. Virgin Islands (BTA 491).³³ In addition, Choice holds special temporary authorizations (STAs) to operate on the B-group and G-group EBS channels. Choice avers that it fully utilizes its licensed BRS spectrum, as well as all available licensed EBS spectrum on a leased basis.³⁴ Choice explains that it has digitized all of its signals and has implemented aggressive compression ratios to increase channel capacity and data throughput.³⁵ Choice states, however, that even with digital compression, it has reached the limits of available licensed spectrum in the BTA.³⁶ The Commission in its April 2003, *NPRM and MO&O* imposed a filing freeze on new EBS applications while it proposed new technical rules and a new band plan for EBS and BRS spectrum.³⁷ On March 25, 2005, Choice filed an application for the A-group EBS frequencies in St. Thomas, USVI.³⁸

10. Choice, as the BTA authorization holder for the U.S. Virgin Islands, pursuant to Section 27.1201(c)(1) of the Commission's Rules and the *BTA Auction Order* has the exclusive right to apply for the commercial EBS channels.³⁹ Section 27.1201(c)(1) permits wireless cable entities that own or lease at least four BRS channels in a market to apply for EBS channels when at least eight EBS channels remain available in the community for future use.⁴⁰ In the St. Thomas/St. Croix, Virgin Islands community,⁴¹

³⁰ *See id.* at 14293 ¶ 350.

³¹ *Id.*

³² Waiver Request at 1.

³³ FCC Announces Grant of MDS Authorizations, *Public Notice*, Report No. D-889-A (rel. Oct. 28, 1996).

³⁴ Waiver Request at 1.

³⁵ Waiver Request at 1-2 n.2.

³⁶ *Id.* Choice states that in 2000 it digitalized and compressed its video signals system-wide, which now totals 137 video and 56 audio channels. Choice also states that no other entity offered digital video in the market, until recently when Innovative began to transition its system to digital operation. *Id.*

³⁷ *See NPRM and MO&O*, 18 FCC Rcd 6722, 6811 ¶ 226, 6825 ¶ 260.

³⁸ Application.

³⁹ 47 C.F.R. § 27.1201(c)(1); *see also BTA Auction Order*, 10 FCC Rcd at 9612 ¶ 41.

⁴⁰ 47 C.F.R. § 27.1201(c)(1); *BTA Auction Order*, 10 FCC Rcd at 9612 ¶ 41.

⁴¹ St. Thomas and St. Croix are viewed as a single community under Section 27.1201 of the Commission's Rules because the transmitters for the systems on each island are within 50 miles of each other. 47 C.F.R. § 27.1201.

only eight EBS channels have been licensed in the past 40 years, all to Shekinah Networks, Inc. (Shekinah).⁴² Shekinah leases its excess capacity airtime to Choice.⁴³ At the present, 12 EBS channels remain available for licensing in the community, which allows up to four EBS channels to be licensed to Choice pursuant to Section 27.1201(c)(1).⁴⁴

11. Choice currently provides a variety of educational programming, including C-SPAN, The Learning Channel, Discovery Channel, PBS, and The History Channel.⁴⁵ Choice also provides wireless broadband internet service for in-class education, administrative purposes, and communications with students and parents.⁴⁶ Choice is donating computer equipment to schools and offering 25 percent student discounts in order to encourage educational use of its services.⁴⁷

III. DISCUSSION

12. As the BTA authorization holder for the U.S. Virgin Islands, Choice has the exclusive right to apply for these commercial EBS channels pursuant to Section 27.1201(c)(1) of the Commission's Rules⁴⁸ and the *BTA Auction Order*.⁴⁹ Choice seeks a waiver of the filing freeze that was imposed by the Commission on new EBS applications in the Commission's April 2003, *NPRM and MO&O*.⁵⁰ The Commission may grant a request for a waiver if it is shown that: (i) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (ii) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁵¹ In this case, we conclude that Choice has justified a waiver under the second prong of the waiver standard because a series of unique factors, taken together, lead us to conclude that it would be contrary to the public interest to deny Choice access to these frequencies.

13. We note the Commission implemented a filing freeze with respect to all applications for new BRS and EBS licenses, as well as for major modifications of those licenses, in order to permit the orderly and effective resolution of issues in the BRS/EBS proceeding.⁵² In August 2003, the Commission modified the freeze by permitting the filing of applications for new BRS licenses and major

⁴² Shekinah is licensed on the B-group in St. Croix (WND210) and the G-group on St. Thomas (WNC892).

⁴³ Waiver Request at 2.

⁴⁴ 47 C.F.R. § 27.1201(c)(1).

⁴⁵ Letter from Steven J. Parish, Chief Executive Officer, Choice Communications to Marlene H. Dortch, Secretary Federal Communications Commission (dated May 5, 2005) at 1 (Parish Letter).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ 47 C.F.R. § 27.1201(c)(1).

⁴⁹ *BTA Auction Order*, 10 FCC Rcd at 9612 ¶ 41.

⁵⁰ *See NPRM and MO&O*, 18 FCC Rcd at 6811 ¶ 226, 6825 ¶ 260.

⁵¹ 47 C.F.R. § 1.925(b)(3).

⁵² *See* Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands. *Second Memorandum Opinion and Order*, WT Docket No. 03-66, 18 FCC Rcd 16848 ¶ 1 (2003) (*Second MO&O*).

modifications of those licenses.⁵³ The Commission also permitted the filing of applications for major modifications of EBS licenses, but still maintained the filing freeze with respect to applications for new EBS licenses.⁵⁴ The Commission stated that the “purpose [of the freeze] was to prevent further construction that might be inconsistent with rules and policies that [it] may later adopt for the band [and therefore was] concerned that unconstrained investment in interim technology and systems could generate resistance to the adoption of advanced-system rules, if after subsequent analysis [it] were to conclude that the interim technologies involved are not consistent with necessary rule changes.”⁵⁵ In altering the freeze, the Commission explained that “several MDS/ITFS operators were well underway with serious efforts to deploy two-way, if not fully mobile, Internet access services when the MO&O was adopted [and that the] freeze action may have disrupted those plans and brought those efforts to a halt.”⁵⁶ The Commission, however, reasoned “that continuing the freeze on applications for new ITFS stations should not disrupt existing business plans.”⁵⁷

14. In support of its Application, Choice argues that a waiver would be appropriate because without additional spectrum, it must decide between substantially reducing its wireless broadband (*i.e.*, wireless digital subscriber line or WDSL) deployment plans for 2005 and reducing its video and audio program offerings to accommodate the increasing demand for wireless broadband services.⁵⁸ Choice explains that its efforts to compete effectively with the incumbent telephone and cable television provider are constrained by the limited amount of spectrum available for BRS. Choice states that it experienced an approximately 20 percent increase in sales of its WDSL product in January 2005 and is growing at 20 percent per month.⁵⁹ Choice also states that it has experienced a 40 percent annual growth rate in television subscribers over each of the past two years.⁶⁰ Because Choice is currently using all of the spectrum available to it, it notes that in order to introduce new wireless broadband Internet services, it requires additional capacity, which will increase Internet connection speeds and improve geographic coverage through non-line-of-site (NLOS) capabilities.⁶¹ Choice opines that additional commercial EBS spectrum will facilitate the wide deployment of NLOS wireless broadband service.⁶² Thus, without additional spectrum, Choice contends that it would be forced to decide between substantially reducing its WDSL deployment plans for 2005, and reducing its video and audio program offerings to accommodate the increasing demand for wireless broadband services.⁶³ While we are sympathetic to the competitive business concerns raised by Choice, these concerns, standing alone, do not rise to the legal level necessary to meet our waiver standard.

15. On the other hand, we believe grant of the waiver has the immediate potential to reap substantial benefits for the consumers of the U.S. Virgin Islands. Conversely, denial in this instance

⁵³ See *Second MO&O*, 18 FCC Rcd at 16848 ¶ 1.

⁵⁴ *Id.*

⁵⁵ See *id.* at 16851 ¶ 6.

⁵⁶ See *id.* at 16851 ¶ 8.

⁵⁷ See *id.* at 16851-52 ¶ 10.

⁵⁸ See Waiver Request 2-3.

⁵⁹ See *id.* at 2-3 and 2 n.7.

⁶⁰ See *id.* at 3.

⁶¹ *Id.*

⁶² *Id.*

⁶³ See Waiver Request at 2-3.

would harm consumers because applying the freeze would limit their ability to receive expanded competitive broadband services in the U.S. Virgin Islands. Other than Choice, few competitive alternatives for video programming or telecommunications services exist in the U.S. Virgin Islands.⁶⁴ In particular, there are only two local full-service television stations serving the U.S. Virgin Islands and three additional media outlets deliver their signal via satellite.⁶⁵ Choice contends that customers can not use direct broadcast satellite service without equipment specifically designed to overcome low look angles and rain fade, which are problems caused by the Virgin Islands unique location.⁶⁶ As a result, according to Choice, the primary source of television is cable television service offered by Innovative, the ILEC in the Virgin Islands that also provides cellular and DSL services.⁶⁷ Choice offers video and audio programming in competition with Innovative.⁶⁸ Granting Choice immediate access to a minimum of four additional 6 MHz-wide channels will allow Choice to provide NLOS wireless broadband services to additional consumers while also maintaining its video programming services. Congresswoman Christensen states that “the granting of licensure to the petitioner will spur much needed local competition in the communications industry, which will in turn, lower costs to consumers.”⁶⁹ Given the unique, insular location of the Virgin Islands,⁷⁰ Choice explains that despite the high demand for broadband Internet service, the availability of the service, wireline or wireless, is very limited in the U.S. Virgin Islands.⁷¹ In fact, currently there is no broadband cable data service available in the territory.⁷² Grant of the waiver will give Choice the spectrum it requires to offer additional broadband services to the consumers of the U.S. Virgin Islands.⁷³

16. In revising the rules and establishing BRS and EBS, the Commission noted that one of its primary goals was “to encourage the provision of new technologies and services to the public.”⁷⁴ In this case, waiving the filing freeze would increase the availability of competitive video and broadband services to consumers in the U.S. Virgin Islands. In light of the fact that Choice is currently utilizing the entire spectrum currently available to it, we also conclude that Choice has no reasonable alternative. Moreover, waiver of the rule is in the public interest because it would avoid a situation where there is restricted access to competitive video and broadband services for the residents of the U.S. Virgin Islands.

17. In eliminating the wireless cable exception to the EBS eligibility rule post-transition, the Commission noted, “[g]iven that EBS-eligible licensees have not been able to apply for new stations in this band since 1995, we believe the better action is to restrict access to ITFS frequencies after the

⁶⁴ *Id.* at 6.

⁶⁵ *Id.*

⁶⁶ *Id.*

⁶⁷ *Id.* Choice states it is establishing a foothold in the market with its digital wireless cable service. *Id.*

⁶⁸ *Id.* at 1.

⁶⁹ Christensen Letter.

⁷⁰ *See id.* at 5-6. The geographic isolation of the Virgin Islands ensures that a grant of the waiver of the filing freeze for Choice will not negatively impact the rights of any licensees in adjacent markets or impact any spectrum transitions in neighboring markets. *Id.*

⁷¹ *Id.* at 3 n. 8.

⁷² *Id.* at 3 n.8.

⁷³ *See* ¶ 14 *supra*; *see also* Waiver Request at 2-3.

⁷⁴ *BRS/EBS R&O & FNPRM*, 19 FCC Rcd at 14165-66 ¶ 2 (*citing* 47 U.S.C. §§ 157(a), 309(j)(4)(C)(iii)).

transition to educational institutions and non-profit educational organizations.”⁷⁵ In this case, several factors lead us to conclude that waiving the filing freeze would not harm educational entities that wished to access EBS spectrum. First, far from harming educational entities,⁷⁶ Choice’s request has the support of educators. Notably, the University of the Virgin Islands, the *only* university on the islands, supported Choice’s Waiver Request.⁷⁷ Second, given the relative isolation and small population of the United States Virgin Islands, there would appear to be a relatively small number of local educational institutions that would be interested in applying for EBS spectrum. In fact, a review of our licensing records indicates that Shekinah is the only licensee of EBS spectrum in the U.S Virgin Islands.⁷⁸

18. We note that our action does not prejudice the Commission’s ability to decide in the pending rulemaking whether to eliminate the wireless cable exception to the EBS eligibility rule pre-transition. Our decision to waive the filing freeze in this situation is based upon the specific factual situation present in this case. If the Commission decides to eliminate the exception pre-transition, Choice’s facilities will be grandfathered pursuant to the Commission’s directive in the *BRS/EBS R&O and FNPRM*.⁷⁹

IV. CONCLUSION AND ORDERING CLAUSES

19. For the reasons discussed above, we grant Choice’s request for a waiver of the filing freeze that was imposed by the Commission on new EBS applications in the Commission’s April 2003, *NPRM and MO&O*. We direct processing of Choice’s Application.

20. Accordingly, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925(b)(3) of the Commission’s Rules, 47 C.F.R. § 1.925(b)(3), that the waiver request filed by Choice Communications, LLC on March 25, 2005, in connection with File No. 0002104447 IS GRANTED, and that the Commission’s filing freeze that was imposed on new EBS applications in the Commission’s April 2003, *NPRM and MO&O* IS WAIVED.

21. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309 that the licensing staff of the Broadband Division SHALL PROCESS the captioned application with this *Memorandum Opinion and Order* and the Commission’s Rules.

FEDERAL COMMUNICATIONS COMMISSION

Scott D. Delacourt
Deputy Chief, Wireless Telecommunications Bureau

⁷⁵ *Id.*, 19 FCC Rcd at 14293 ¶ 349.

⁷⁶ Indeed, given Choice’s offer of donated computer equipment and discounts to students for internet access, granting a waiver in this case may ultimately serve the educational purposes of EBS by expanding Choice’s ability to provide advanced services to schools and students. *See* Parish Letter.

⁷⁷ *See* UVI Letter.

⁷⁸ *See* ¶ 10 *supra*.

⁷⁹ *BRS/EBS R&O & FNPRM*, 19 FCC Rcd at 14165, 14292-93 ¶¶ 347-350.