December 17, 2012

Manager, Emerging Networks
Spectrum Management Operations Branch
DGSO
Industry Canada
300 Slater Street
Ottawa, Ontario K1A0C8

Re: Response by 4253311 Canada Inc. to Consultation on Renewal Process for 2300 MHz and 3500 MHz Licences – DGSO-006-12

Dear Manager of Emerging Networks:

4253311 Canada Inc., a subsidiary of NextWave Wireless Inc., (collectively “NextWave”), which holds spectrum licences issued by Industry Canada in the 2.3 GHz band (referred to herein as Wireless Communications Services, or “WCS”, licences), hereby responds to Industry Canada’s Consultation on Renewal Process for 2300 MHz and 3500 MHz Licences (DGSO-006-12) (the “Consultation”).¹ NextWave’s comments herein focus exclusively on the 2300 MHz band WCS licences and their renewal. As described in greater detail below, NextWave supports Industry Canada’s proposal to extend the current WCS licence terms and deployment deadlines until 2017 to enable the development and deployment of commercial mobile broadband equipment for the band.

As noted in the Consultation, the 2300 MHz band is in the early stages of becoming a global band for next generation mobile broadband networks with pre-commercial LTE system deployments commencing in certain parts of Asia, including China and India. In North America, however, the band’s utility for mobile broadband services has been severely limited due to difficulties in producing mobile equipment that can meet the more stringent regulatory requirements adopted to protect Satellite Digital Audio Radio Services (“SDARS”) in the adjacent band.

On October 17, 2012, after a fifteen-year debate, the U.S. Federal Communications Commission (“FCC”) adopted new rules to govern both WCS and SDARS operations in the 2300 MHz band that are anticipated to enable both services to mitigate interference to the other, while facilitating the introduction for the first time of mobile broadband services in the WCS frequencies.² Industry Canada, facing similar circumstances with both WCS and SDARS operating in the 2300

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¹ Canada Gazette, October 20, 2012, Department of Industry, Radiocommunication Act, Consultation on Renewal Process for 2300 MHz and 3500 MHz Licences; Notice No. DGSO-006-12.
MHz band, has before it the opportunity to make changes to the Canadian rules to enable the development of equipment that can operate in these frequencies as well as the introduction of mobile broadband services.

In its Consultation, Industry Canada requests comments on the licence renewal rules for the 2300 MHz WCS licences - the initial 10 year licence term for which is set to expire starting in March of 2014.³ Two proposals have been put forth in the Consultation: 1) extend the current WCS licence terms along with the deployment requirements; or 2) issue licences for a new term, maintaining the current deployment deadlines, which are concurrent with the end of the initial 10-year term. For reasons noted in prior submissions to Industry Canada, and in keeping with the FCC’s recent decision on the WCS-SDARS rules, NextWave supports the first proposal to extend the current licences and the deployment deadlines until 2017 when it is anticipated that affordable commercial mobile broadband equipment will be available for deployment.

As noted in the Consultation, historically the reason for the lack of deployment of mobile broadband services in the WCS band has been the unavailability of suitable and affordable wireless broadband equipment that meets the technical requirements of the licences.⁴ Both the FCC and Industry Canada have twice extended previous deployment deadlines for the WCS licences for this very reason. Citing the same concerns, and noting the timelines required for standards and vendor development work to be completed for the unique regulatory requirements for the WCS band, the FCC in its October 2012 decision yet again extended the buildout requirements for U.S. WCS licencees until 48 months after the new rules are effective, resulting in a U.S. construction deadline for the WCS licences of roughly early 2017.⁵ Industry Canada’s proposal to extend similarly the Canadian deadline is sound given the unique challenges of and equipment availability for the band.

In order to provide increased certainty for WCS licencees as well as sufficient time for the standards and vendor communities to complete their work to make mobile broadband equipment available in the band, NextWave supports the proposal to extend the WCS licence terms and the construction deadlines until 2017.

Please do not hesitate to contact me if you have questions.

Respectfully submitted,

/Jennifer M. McCarthy/

Jennifer M. McCarthy
Senior Vice President, Regulatory Affairs
NextWave Wireless Inc.

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³ NextWave’s WCS licences are set to expire in November of 2014 and April of 2015.
⁴ Consultation paras 14-20.
⁵ FCC Decision para 121. While the FCC has adopted new rules for the U.S. licences, these rules are not yet in effect and, therefore, the clock for the 48 month construction deadline has not started.