

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MAINE

Hearing scheduled
Date: June 10, 2004
Time: 3:00 p.m.
Location: Portland (telephonic)

In re:)	Chapter 11
)	
PEGASUS SATELLITE TELEVISION, INC., et al.,)	Case No. 04-20878
)	
Debtors.)	(Jointly Administered)

**STATEMENT OF NATIONAL RURAL TELECOMMUNICATIONS COOPERATIVE
CONCERNING MOTION OF THE DEBTORS WITH RESPECT TO
ALLEGED VIOLATIONS OF THE AUTOMATIC STAY**

The National Rural Telecommunications Cooperative (“NRTC”) submits this statement, for the Court’s information, concerning certain matters addressed in connection with the motion of the Debtors to prohibit alleged violations of the automatic stay by DIRECTV, Inc. (“DIRECTV”).

1. Neither the Debtors’ original motion, nor their “First Supplement” to the motion challenged any actions that NRTC is currently taking or sought any relief with respect to NRTC. Nonetheless, the Debtors’ counsel made a number of allegations concerning NRTC at the June 7, 2004 hearing. The Debtors have now expanded upon some of those allegations in their “Second Supplemental Memorandum”, which they filed yesterday. Yet, their amended proposed order still seeks no relief with respect to NRTC.

2. The Debtors did not provide NRTC with prior notice or an opportunity to respond to those arguments or those memoranda. The Debtors’ motion and proposed relief simply do not

put at issue whether NRTC owes any fiduciary duties to Pegasus Satellite Television, Inc. or any of its affiliates that entered into “Member Agreements” with NRTC (collectively, “PST”), or whether NRTC breached any duty that NRTC may owe to PST. NRTC therefore submits that issues involving NRTC cannot and should not be considered in any manner, much less decided, in the context of the current motion.

3. For the record, NRTC disputes the allegations that the Debtors raised concerning NRTC. In particular, NRTC does *not* owe any fiduciary duties to PST, an operating subsidiary of a publicly-traded corporation. NRTC will demonstrate, at the appropriate time, why PST will not be able show that NRTC owes PST any fiduciary duties or that NRTC breached any duty to PST.

4. In 1993, PST entered into an arms-length contract with NRTC that defines the relationship between them and that delimits the duties they owed each other. Through a series of sophisticated transactions and highly-leveraged financings, PST later acquired rights under an additional 159 identical contracts from members or other affiliates of NRTC. As of June 1, 2004, PST served about 80% of the DIRECTV subscribers in NRTC’s territories.

5. PST’s business strategy was of its own choosing. No fiduciary duty arises from this purely contractual relationship, as a matter of law or fact. Similarly, no fiduciary duty arises from PST becoming a non-voting affiliate of NRTC. A non-voting affiliate of NRTC is merely an entity with whom NRTC chooses to enter into a contractual relationship.¹

6. NRTC therefore requests that the Court not make any determination, at this time, as to the nature of the Member Agreements or the relationship between NRTC and PST. Such a

¹ NRTC has about 1100 “members”, which are generally rural, not-for-profit electric or telephone cooperatives. Members are allowed to vote for NRTC’s board of directors and to participate generally in NRTC’s business activities. NRTC Bylaws, Art. II, §§ 1 & 5. For-profit “affiliates”, such as PST, are allowed to participate in discrete business activities, but have no voting rights or other indicia of membership in the cooperative. *Id.*

determination could only be made after appropriate notice to NRTC, with NRTC being afforded an opportunity to be heard.

Dated: June 10, 2004

Respectfully submitted,

THE NATIONAL RURAL
TELECOMMUNICATIONS
COOPERATIVE,
By its attorneys,

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