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Via ECFS Filing Only

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

Attention: Chief, Office of Engineering and Technology

Re: WT Docket No. 10-153, Amendment of Part 101 to Facilitate
Wireless Backhaul; Written *Ex Parte* Communication of the
Society of Broadcast Engineers, Incorporated.

Greetings:

On behalf of our client, the Society of Broadcast Engineers, Incorporated (SBE), the national association of broadcast engineers and technical communications professionals, and its more than 5,000 members worldwide, we would like to note SBE's support for the relief requested by the National Spectrum Management Association (NSMA) in this proceeding in a written *ex parte* submission dated October 24, 2014. In that letter, NSMA urged that the Commission (1) issue an additional *Public Notice* asking broadcast auxiliary service (BAS) station licensees to update the information in the ULS database relative to their fixed stations so that missing receive site information is provided, and (2) provide a convenient mechanism for doing so. This information is needed so that Part 101 fixed service applicants who wish access to the 7 and 13 GHz BAS bands can adequately protect fixed and mobile BAS stations in those bands from harmful interference.

As is noted by NSMA in its October 24 letter, SBE has been an active partner with NSMA in a working group that is establishing coordination procedures and guidelines to facilitate compatible fixed service sharing of the 7 and 13 GHz BAS bands. This sharing was permitted in the above-referenced docket proceeding in 2011 [*Use of Microwave for Wireless Backhaul*, 26 FCC Rcd. 11614 (2011)]. SBE representatives have participated in the NSMA working group. Indeed, SBE has a distinct interest in facilitating the most efficient use of the scarce, overcrowded TV BAS spectrum at 7 and 13 GHz by both fixed and mobile BAS users. There is an obvious need to have a clear and accurate database of BAS operation in order that some fixed service stations can make use of the 7 and 13 GHz BAS bands outside the service areas of incumbent BAS stations. SBE routinely coordinates intra-service BAS mobile use of those bands in all markets through its volunteer frequency coordination program, which has been extremely successful and necessary for many years, especially in facilitating efficient use by TV

Pickup and other mobile BAS stations. SBE's coordination program is hampered, however, by the absence of comprehensive receive site data in the ULS. Many SBE frequency coordinators have remedied this in their individual broadcast markets by creating and maintaining their own local market databases with the cooperation of the local broadcast community. Where they exist, they are considerably more accurate than is ULS data. However, that effort is neither complete nor regularly updated in some markets. It takes an extraordinary amount of volunteer effort and time to create and maintain a complete database that includes all licensee data and which is updated timely for even a medium-sized market. A better solution for all concerned is to ensure (to the maximum extent possible) that the ULS database is accurate with respect to BAS stations so that it can be consulted by all interested parties; thus to enable the most efficient use of these very limited and heavily occupied bands by BAS licensees, and by fixed service stations where possible.

NSMA's letter offers conjecture as to the reason(s) why the ULS database is so inaccurate now and why it contains so many incomplete receive site records for BAS stations. From SBE's perspective, it is irrelevant at this late date to attempt to ascertain what the initial cause was for the inaccuracies. It does not matter now whether it was during the manual conversion of license records to the ULS in the first place or because of the abandonment of use of the paper form 313. It is more urgent instead to offer a workable, *positive incentive* for broadcast auxiliary licensees to modify the license data in those BAS licenses so as to include current contact information, comprehensive receive site information, and to delete licenses no longer in use.

The NSMA letter is unclear because the relief requested therein is inconsistent. At page one of the letter NSMA suggests that the Commission should issue a public notice (apparently aimed at all TV BAS licensees), pertaining to ULS database errors in many BAS licenses. SBE supports that relief. It is noted that the Commission did that once before, in 1999, but the Public Notice at the time did not result in a completely corrected database. Nor was the Commission's October 16, 2003 order in ET Docket 01-75 any more successful. There, the Commission noted that it would be Commission policy to allow applications to add missing receive site data without a prior coordination notice (PCN) exhibit, if the missing receive site data was due to use of an early paper form 313. That was a reasonable action for the Commission to take, but it was not a broad enough incentive to cause then-current licensees to fix database errors that in all likelihood were created two or even three licensees prior to the current licensee. The PCN process for BAS licensing has created a *disincentive* to make changes at all in BAS licenses due to its cost and complexity. That being the case, SBE is not optimistic that a Public Notice, without more, is likely to produce a complete solution to the problem cited by NSMA.

An SBE member and a volunteer frequency coordinator in one of the largest broadcast markets took it on himself recently to notify contact representatives and communications law firms who represent Part 74 BAS licensees that certain of their clients had errors or omissions in their ULS license data, and that would work against their clients' best interests because it is impossible for other radio services sharing the same spectrum to protect incumbent BAS licensees without that data. His one-person effort was remarkably effective in producing positive results. SBE has provided the same advice to its membership numerous times. Because broadcast engineers are often assigned the obligation by licensees to maintain BAS licenses and to keep

them updated, this too has had a positive effect. SBE will continue to advise its membership to keep the ULS data updated.

However, it is long past time that another public notice was issued to licensees. SBE urges the Commission to issue one at the earliest possible time. In addition, SBE suggests that the public notice be accompanied by, and include reference to a one-time opportunity, for a significant period of time such as six months, during which licensees can modify BAS licenses to correct contact information, coordinates, path azimuths (regardless of the current minor change correction limit of 1 degree), and to provide all receive site information, *without the requirement of any application fee or PCN process*. The licensees should be obligated to provide copies of their filed applications to SBE and to NSMA for dissemination to private sector frequency coordinators, volunteer and commercial.

Later in its *ex parte* filing, NSMA seems to be asking for different relief than a public notice. At page 3 of its filing, NSMA asks the Commission to send “notification letters” to all 7 and 13 GHz TV BAS and CARS fixed link licensees with a “license converted” entry in their ULS history section, and which illustrate missing or erroneous information in certain categories. The letter would ask BAS licensees to correct inaccurate fixed-link licenses. This is an overly complicated solution to the problem and it is, in SBE’s view, far too narrowly focused. The public notice plan is a more comprehensive method of addressing this problem and utilizes far fewer Commission resources. For its part, SBE will provide extensive dissemination of such a public notice to its members generally and to its volunteer frequency coordinators.

Of special concern to SBE is NSMA’s suggestion at page 4 of its letter that, should a “properly coordinated newcomer FS link become operational” which causes harmful interference to “an existing, but inaccurately licensed TV BAS or CARS fixed link, the Commission may decide that the TV BAS or CARS fixed link must make corrective modifications, and not the newcomer FS station.” NSMA then recommends that the Enforcement Bureau issue an advisory to clarify its position on the matter. SBE firmly opposes this proposal. The sharing criteria for fixed service stations was established in the 2012 *Second Report And Order, Second Further Notice Of Proposed Rulemaking, Second Notice Of Inquiry, Order On Reconsideration, And Memorandum Opinion and Order* in Docket 10-153 (FCC 12-87, released August 3, 2012). Therein, the Commission established protection criteria for fixed service access to the 7 and 13 GHz BAS bands, and affirmed them on reconsideration. The obligation to avoid interference to incumbent BAS stations was absolute and the onus is on the fixed service station to do what is necessary to protect the service areas of BAS licensees, per this quote from paragraph 90 of the Second Report and Order in this proceeding:

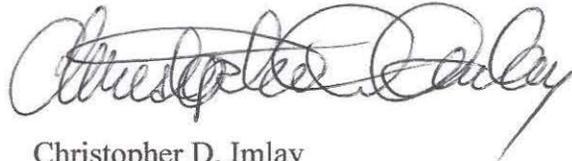
(T)he transmission paths of Part 101 FS stations are fixed. That makes it possible for FS applicants to provide licensees and other applicants with detailed notifications that include proposed transmission azimuths, among other technical parameters, and to allow the other affected parties 30 days to respond (footnote omitted). Although our rules provide for the Commission to resolve any differences that the parties are unable to resolve by reasoned discussions with each other (footnote omitted), it is hardly ever necessary for the Commission to intervene in the frequency coordination process among parties that are subject to our Part 101 coordination procedures

(footnote omitted). The chance that the parties will reach an impasse seem particularly remote under these circumstances, where FS paths are barred from crossing any of the geographic areas where ENG-RO stations are licensed...For those reasons, we remain confident that the existing frequency coordination procedures will ensure that Part 101 FS operators will not interfere with ENG-RO operations in the 6875-7125 MHz and 12700-13150 MHz bands.

Commercial frequency coordinators are therefore obligated to ascertain, prior to licensing a fixed service station in either band, what is necessary to ensure protection for incumbent BAS licensees operating in the band. It is unreasonable to change the sharing criteria that were established four years ago and affirmed three years ago through notice and comment rulemaking without the same due process that was used in allowing the sharing in the first place. And there is no place whatsoever in this process for Enforcement Bureau action. Instead, SBE urges NSMA and the Commission to use the private sector cooperative approach that the Commission relies on now, as outlined in the above quotation.

Therefore, SBE requests that the Commission issue the public notice that NSMA initially requests in its *ex parte* filing of October 24, 2014, and that the public notice be accompanied by an opportunity for not less than a period of six months within which BAS licensees can, without PCN procedures or application fees, modify their Part 74 licenses to update contact information, add and correct receive site coordinates and other necessary receive site information, and to correct path azimuths (without limitation). In this way, the Commission can contribute to the development of a reasonable ULS database that will enable additional fixed service stations to share the spectrum in the BAS 7 and 13 GHz bands and make BAS use of the bands more efficient.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Christopher D. Imlay", written in a cursive style.

Christopher D. Imlay
General Counsel, SBE