



WASHINGTON, DC

October 23, 2015

STEPHEN E. CORAN
202.416.6744
SCORAN@LERMANSENTER.COM

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

**Re: Written Ex Parte Presentation
WC Docket No. 10-90**

Dear Ms. Dortch:

On behalf of JMZ Corporation dba KwiKom Communications (“JMZ”), this responds to the invalid test report and irrelevant information submitted by LaHarpe Telephone Company (“LaHarpe”) in its Reply Comments filed on September 28, 2015 in the above-captioned proceeding.¹

In its Comments, JMZ demonstrated that it is “an unsubsidized competitor that provides fixed broadband and voice service to locations within the census blocks reported on its Form 477 and which overlap the [LaHarpe] study area.”² To support this fact, JMZ provided a Declaration from its Vice President, a map of its coverage area and a screen shot of its web page showing pricing and speed tiers.

In its Reply Comments, LaHarpe includes lengthy “Field Test Results” purporting to show locations where JMZ was not providing service.³ This information is based on field tests that LaHarpe’s consulting engineering firm apparently conducted in August and September.

There are several problems with LaHarpe’s analysis. Most significantly, the Reply Comments and test results misstate the standard by which Commission staff will make its overlap determination. LaHarpe states that JMZ’s map showed “unserved ‘white areas’ [that] were sufficient pursuant to paragraph 22 of the Public Notice to demonstrate that JMZ did not serve 100 percent of the locations within LaHarpe’s study area.”⁴ The issue, however, is not where JMZ “serves,” but where it is “offering” service.⁵ The Bureau provided guidance

¹ Public Notice, “Wireline Competition Bureau Publishes Preliminary Determination of Rate-of-Return Study Areas 100 Percent Overlapped by Unsubsidized Competitors,” DA 15-868 (rel. July 29, 2015) (“Public Notice”). The Public Notice indicated that this proceeding would be treated as “permit-but-disclose” for ex parte purposes. See *id.* at 10.

² Comments of JMZ Corporation in Response to Public Notice, WC Docket No. 10-90 (filed Aug. 28, 2015) (“JMZ Comments”) at 1.

³ See Reply Comments of LaHarpe Telephone Company, Inc., WC Docket No. 10-90 (filed Sept. 28, 2015) (“LaHarpe Reply Comments”) at Attachments C and D.

⁴ *Id.* at 2.

⁵ Public Notice at 9.

suggesting that criteria used in the Phase II challenge process would be “[r]elevant information.”⁶ Consistent with that criteria, JMZ provided evidence that, in addition to its Form 477 upon which the Commission already relied, showed where JMZ “offered” service.⁷

LaHarpe’s misstatement of the Commission’s standard of review dooms its “Field Test Results.” What is relevant is where JMZ has provided evidence showing that it “offers” service in a manner that is consistent with the Commission’s definition. Conducting field tests to determine the location of signals fails to support LaHarpe’s argument.

Even so, LaHarpe’s test results are fatally flawed for other reasons. As described in the Declaration of Jack Unger, JMZ’s Technical Consultant (“Unger Declaration”), it appears that LaHarpe’s engineering firm did not utilize the correct channel width setting, which resulted in LaHarpe failing to verifiably detect JMZ’s signals in certain cases. Also, LaHarpe’s use of an SSID cannot be a reliable indicator of the presence or absence of JMZ’s signals. LaHarpe also appears to have tested only to identify non-proprietary Wi-Fi signals when, in fact, JMZ uses proprietary equipment that would not be detected by equipment searching for non-proprietary equipment. It also appears that LaHarpe did not test for 3650-3700 MHz signals, which JMZ uses in its network. Finally, LaHarpe is simply wrong in stating that the LaHarpe Water Tower does not serve the LaHarpe City Hall. The Unger Declaration includes photographic evidence and a speed test summary showing the presence of a link with speeds of approximately 25 Mbps downstream and 4 Mbps upstream.

LaHarpe also makes uninformed and generalized claims about the reliability of fixed wireless technology.⁸ This argument has nothing to do with JMZ’s service, is unsupported by relevant facts and is beyond the scope of the Commission’s inquiry. Likewise, LaHarpe’s self-styled “public interest argument” is inapplicable to the Bureau’s resolution of the one question that it must consider: whether LaHarpe’s study is overlapped 100 percent by an unsubsidized competitor.⁹ In particular, LaHarpe cannot claim poverty from a loss of federal support when an *unsubsidized* competitor is effectively providing 10/1 Mbps broadband and voice service in its study area. Certainly, there is no basis in the Commission’s consideration of the specific issue here to favor one technology or category of carriers over another.

In sum, the LaHarpe Reply Comments fail to adequately rebut the factual evidence in the JMZ Comments demonstrating that JMZ offers fixed broadband and voice service to all locations within the census blocks reported on its Form 477 and which overlap the LaHarpe study area.

⁶ *Id.* at 9 & n.42.

⁷ See JMZ Comments, Declaration of Zachary Peres at 2 (“In each location where service is offered, JMZ has access points or base stations in or adjacent to the LaHarpe study area, holds itself out to the public as offering both voice and broadband service, and can provide such services to a requesting party within 7-10 business days without an extraordinary commitment of resources. In addition, JMZ will soon be upgrading two sites to further expand coverage and enhance broadband speed”).

⁸ See LaHarpe Reply Comments at 2.

⁹ See *id.* at 5-9.

LS

Marlene H. Dortch, Secretary

October 23, 2015

Page 3

Pursuant to Section 1.1206 of the Commission's Rules and consistent with the *Public Notice*, this letter is being filed electronically via the Electronic Comment Filing System in the above-captioned proceeding.

Respectfully submitted,



Stephen E. Coran

*Counsel to JMZ Corporation dba KwiKom
Communications*

Enclosure

cc: Chelsea Fallon
Suzanne Yelen
Thomas Gleason
Gerard J. Duffy

Declaration of Jack Unger
On behalf of JMZ Corporation dba KwiKom
WC Docket No. 10-90

My name is Jack Unger and I am the President of Ask-Wi.Com, Inc. I am the Technical Consultant to JMZ Corporation dba KwiKom ("JMZ"). I am making this Declaration on behalf of JMZ in support of a written ex parte filing that responds to the Reply Comments of LaHarpe Telephone Company, Inc. ("LaHarpe") filed on September 28, 2015 in WC Docket No. 10-90. I hereby declare under penalty of perjury that the statements of fact stated below are true and correct to the best of my knowledge, information and belief.

I have reviewed the Reply Comments, including the September 8, 2015 and September 22-23, 2015 "Field Test Results" provided by Monte R. Lee and Company ("Lee Company"). As further described below, the test methodology described and used by Lee Company contains multiple test flaws. As a result of these test flaws, the conclusions of LaHarpe and Lee Company about the areas where JMZ's fixed wireless signals cover are incorrect and invalid, and therefore should not be relied upon by the Commission.

1. **Channel Width Test Failures** – Fixed wireless broadband service is delivered using wireless channels of various sizes typically including (but not limited to) 5 MHz, 8 MHz, 10 MHz, 20 MHz, 40 MHz and 80 MHz. All of Lee Company's tests appear to have been performed using only 20-MHz wide channels. JMZ uses some 20-MHz wide channels but it also uses other channel widths, some narrower and some wider than 20 MHz. Lee Company's Ubiquiti equipment 20-MHz channel-width test configuration setting did not allow Lee Company to verifiably detect signals using channel widths other than 20 MHz. For this reason, all of Lee Company's conclusions that JMZ does not provide coverage at certain locations because "no KwiKom SSID's were found" are invalid.

2. **SSID Network Identification Premise is False** – A wireless SSID is the "service set identifier" - the arbitrary label assigned to a wireless network by the network administrator to specify which wireless network that piece of wireless equipment is enabled to connect to. Each wireless network requires a unique SSID to determine which wireless stations can connect to it and which wireless stations to exclude. Wireless stations without the proper SSIDs are refused connection. Most of Lee Company's test results discovered wireless devices with blank SSID fields. These blank-field entries may or may not have been actual JMZ signals that either a) used different channel widths, or b) had their SSIDs hidden. Further, there is no requirement that an SSID include the actual name of the network operator. One of many examples from Lee Company's tests shows an SSID of "E246FD." Another Lee Company result shows an SSID of "Not Yours." There is no way either to prove or to disprove who the operators of these (or, in fact, any) piece of wireless equipment actually are simply by attempting to decode or decipher the SSID. The basic premise used by Lee Company to determine the presence or absence of JMZ

signals is false. All of the Lee Company's conclusions about whether JMZ signals actually exist in certain areas are invalid because a network SSID is not a reliable indicator of the actual network operator.

3. **Proprietary Protocol Test Failures** – Fixed wireless broadband service is delivered using a variety of over-the-air wireless protocols. While some wireless equipment manufacturers *do* use standard WiFi over-the-air protocols, other wireless equipment manufacturers *do not* use standard WiFi protocols; they use their own proprietary over-the-air wireless protocol. In some locations, JMZ uses proprietary-protocol based Cambium wireless equipment. The Ubiquiti Wi-Fi-based test equipment that Lee Company used does not have the capability to detect the presence of signals that use Cambium's proprietary over-the-air wireless protocol. For this reason, Lee Company's conclusions that JMZ does not provide coverage at certain locations are invalid.
4. **3.65 GHz Test Failures** – In some locations, JMZ transmits in the 3650-3700 MHz band. From its report, it appears that Lee Company tested for JMZ's coverage using only Ubiquiti 2.4 GHz and 5 GHz equipment, but *did not* test using 3650-3700 MHz equipment. Consequently, the Lee Company failed to detect the presence of JMZ's signals that transmit in the 3650-3700 MHz band. For this reason, Lee Company's conclusion that JMZ does not provide coverage at certain locations is invalid.
5. **Known Tower Location Test Failures** – In some locations where JMZ has fixed wireless transmission equipment on specific water towers, including the City of LaHarpe water tower, Lee Company reported that it failed to detect any JMZ signals from those water towers. Lee Company's failure could be due to any one of four reasons listed above. For example, for the LaHarpe water tower, Lee Company reported that it scanned for JMZ signals at two separate locations and failed to detect any JMZ signals. Lee Company's failure clearly illustrates that its' test process methodology was faulty because, as the following pictures and screenshots demonstrate, JMZ provides fixed wireless broadband service to the LaHarpe City Hall from a radio mounted on the LaHarpe water tower. **Figure 1** shows the JMZ antenna mounted on the LaHarpe City Hall pointing towards the LaHarpe water tower which is visible in the distance.

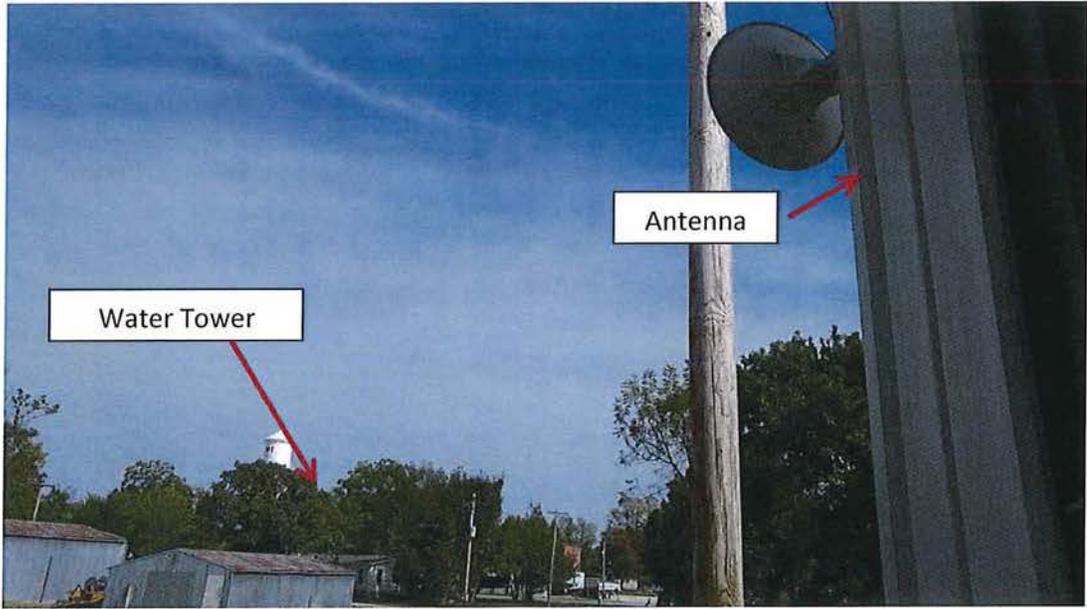


Figure 1 - LaHarpe City Hall Antenna with LaHarpe Water Tower Visible in the Distance

Figure 2 shows the JMZ antenna on the City Hall building. The antenna is pointing towards the LaHarpe water tower which is out of sight, behind the camera.

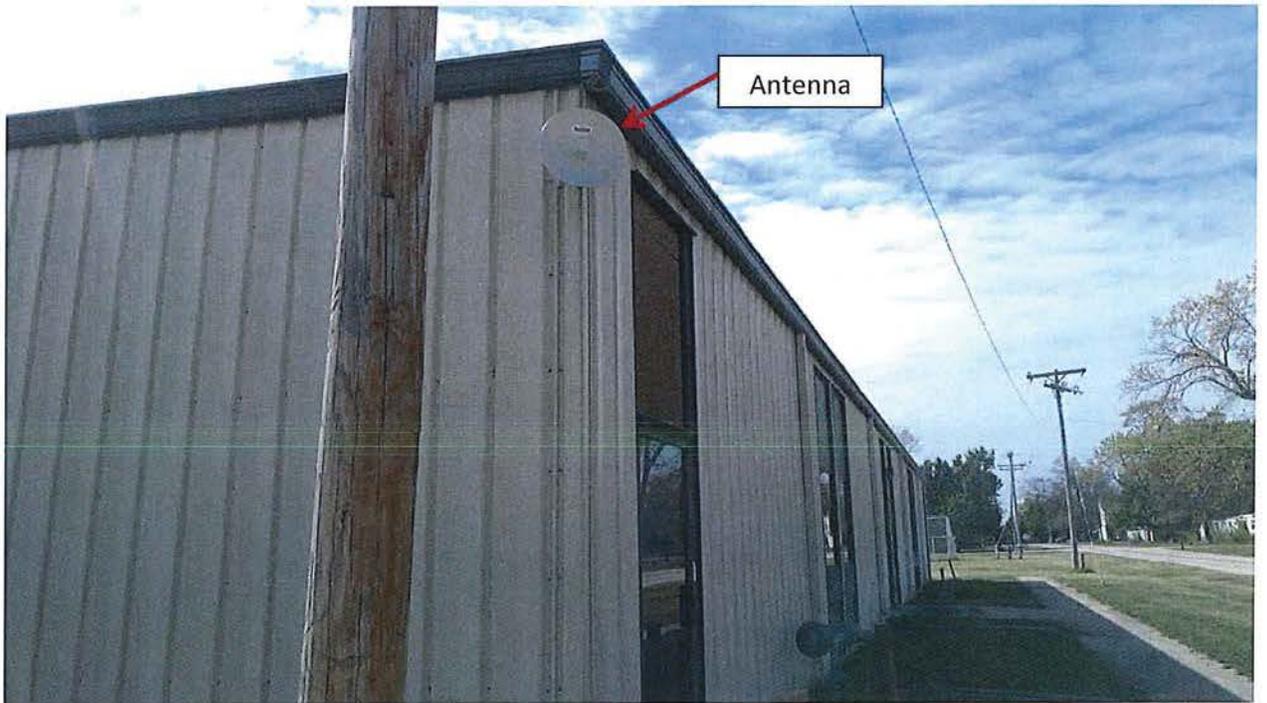


Figure 2 - LaHarpe City Hall Antenna (Water Tower Out of Sight Behind Camera)

Figure 3 shows the signal strengths and other wireless connection statistics for the wireless link between City Hall and the LaHarpe water tower.

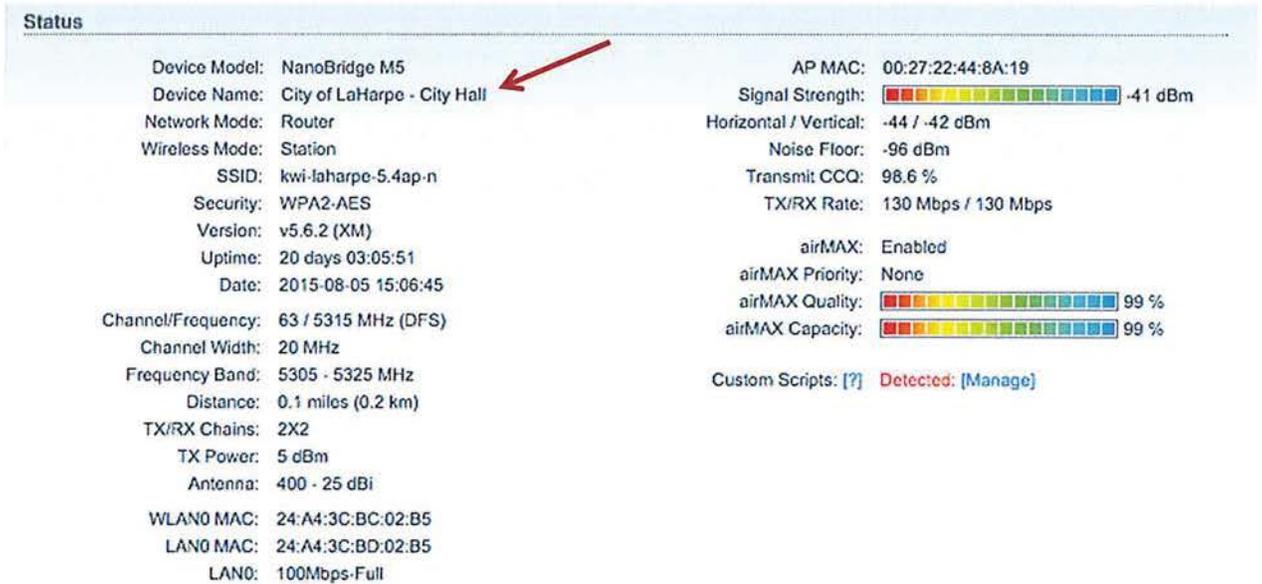


Figure 3 - Wireless Connection Statistics for LaHarpe City Hall Wireless Connection to Water Tower

Figure 4 shows the results of a speed test for the wireless link between the LaHarpe City Hall and the LaHarpe water tower.

All Tests Finished for Clerk City - CITY OF LA HARPE - Thu Oct 8 16:13:19 2015

Download: 25.61 Mbps (Test Complete)

Upload: 3.97 Mbps (Test Complete)

Total Average: 25.46 Mbps

Peak Download: 26.74 Mbps

Peak Upload: 4.30 Mbps

Limited at: Upload: 4 Mbps / Download: 25 Mbps

Bytes transferred: UP: 12.43 MB Down: 72.59 MB

Test is 100% complete.

Figure 4 - Speed Test Between LaHarpe City Hall and LaHarpe Water Tower

Figures 1 through 4 illustrate that the claims of LaHarpe and the Lee Company are incorrect and invalid. JMZ clearly does have fixed wireless transmission equipment on the LaHarpe water tower.

For the reasons described above, the claims of LaHarpe and Lee Company are without merit.

A handwritten signature in black ink, appearing to read "Jack Unger", written in a cursive style.

Jack Unger
October 22, 2015