

Engineers for the Integrity of Broadcast Auxiliary Services Spectrum

ELECTRONICALLY FILED TO IB DOCKET 13-213

EIBASS Co-Chairs

DANE E. ERICKSEN, P.E.,
CSRTE, 8-VSB, CBNT
Consultant to
Hammett & Edison, Inc.
San Francisco, CA
707/996-5200
dericksen@h-e.com

RICHARD A. RUDMAN, CPBE
Remote Possibilities
Santa Paula, CA
805/921-0382
rar01@mac.com

EIBASS Members

KENNETH J. BROWN
Broadcast Technical
Consultant
Carneys Point, NJ

PAUL B. CHRISTENSEN, Esq.,
CPBE, CBNT, 8-VSB, AMD
Law Office of Paul Christensen
Jacksonville, FL

GERRY DALTON, CBRE, CBNT
Communications Consultant
Dallas, TX

HOWARD FINE
SCFCC Database Administrator
Los Angeles, CA

MICHAEL G. MCCARTHY, CSRE
McCarthy Radio Engineering
Chicago, IL

MICHAEL S. NEWMAN
CSI Telecommunications, Inc.
San Francisco, CA

WILLIAM F. RUCK
NCFCC Chairman
San Francisco, CA

KARL VOSS
Frequency Coordinator
Scottsdale, AZ

BURT I. WEINER
Broadcast Technical Services
Glendale, CA

April 7, 2016

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

Dear Ms. Dortch:

This *ex parte* filing of EIBASS is in response to the April 1, 2016, *ex parte* filing of the Open Technology Institute (OTI) to IB Docket 13-213 (Terrestrial Low Power System/Advanced Wireless Services Band 5, aka TLPS/AWS-5, or just TLPS). The OTI *ex parte* filing stated

Although Globalstar has a legitimate claim to the exclusive use of the licensed portion of Channel 14 where and when it actually commences service, the advocates note that Globalstar is highly unlikely to deploy immediately on a nationwide basis.

OTI is mistaken: Any Globalstar TLPS Ancillary Terrestrial Component (ATC) operation of its 2,483.5–2,495 MHz Mobile Satellite Service (MSS) allotment would *not* be exclusive due to the presence of indefinitely grandfathered, co-primary, co-channel Part 74 TV Broadcast Auxiliary Service (BAS) stations on TV BAS Channel A10 at 2,483.5–2,500 MHz. There are are grandfathered Channel A10 TV Pickup stations in most of the major metros, including Boston, Chicago, Denver, Detroit, Los Angeles, Miami, New York City, Philadelphia, Phoenix, Sacramento, Salt Lake City, San Diego, San Francisco, Washington, DC. Indeed, in Los Angeles TV BAS Channel A10 is used by CBS Station KCAL-TV, D09 (V09), as that station's home channel for electronic news gathering (ENG).

This co-primary allocation is noted in the FCC Part 2 Table of Allotments in note NG147, which states:

NON-FEDERAL GOVERNMENT (NG) FOOTNOTES

* * * * *

NG147 In the band 2483.5-2500 MHz, stations in the fixed and mobile services that are licensed under Part 74 (Television Broadcast Auxiliary Stations), Part 90 (Private Land Mobile Radio Services), or Part 101 (Fixed Microwave Services) of the

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Commission's Rules, which were licensed as of July 25, 1985, and those whose initial applications were filed on or before July 25, 1985, may continue to operate on a primary basis with the mobile-satellite and radiodetermination satellite services, and in the segment 2495-2500 MHz, these grandfathered stations may also continue to operate on a primary basis with stations in the fixed and mobile except aeronautical mobile services that are licensed under Part 27 (Miscellaneous Wireless Communication Services) of the Commission's Rules. * * * *

The allotment is also give in Section 74.602(a)(2) of the FCC Rules, which states:

74.602 Frequency assignment.

(a) ***

(2) In the band 2483.5-2500 MHz, no applications for new stations or modification to existing stations to increase the number of transmitters will be accepted. Existing licensees as of July 25, 1985, and licensees whose initial applications were filed on or before July 25, 1985, are grandfathered and their operations are on a co-primary basis with the mobile-satellite and radiodetermination-satellite services, and in the segment 2495-2500 MHz, their operations are also on a co-primary basis with Part 27 fixed and mobile except aeronautical mobile service operations. * * * * *

Even though grandfathered TV BAS Channel A10 TV Pickup stations cannot increase the number of TV Pickup station transmitters, at the time of the 1985 grandfathering a single TV Pickup station license authorized multiple transmitters (*i.e.*, ENG trucks or other platforms) by a TV Pickup licensee; that is, a single TV Pickup license for a station in a major TV market could easily cover dozens of units. Further, the current FCC Universal Licensing Service (ULS) data base no longer even tracks the number of TV Pickup transmitters a licensee uses.¹ In other words, the number of TV Pickup *licenses* is not remotely a valid metric for the number of TV Pickup *transmitters*, each representing an ENG truck, aircraft, blimp, or other mobile platform.

EIBASS notes that in its June 13, 2002, comments to IB Docket 01-185, which granted ATC authority to MSS, Globalstar stated, at page 2, as follows:

The extreme tardiness of the Cingular/Sprint and AWS filings notwithstanding, these filings are notable because the parties readily concede that **co-frequency sharing between MSS and severed terrestrial systems is infeasible or impractical**. The Telcordia and Comsearch Analyses merely bolster the undisputed fact that **MSS and severed terrestrial systems cannot practically share the same frequencies**. In view of this consensus, the Commission must remove from consideration any proposal to permit co-frequency sharing between MSS and severed terrestrial systems. [bolding added]

EIBASS submits that there is no difference between the infeasibility of co-channel "severed

¹ Indeed, in a July 29, 2005, FCC Public Notice, DA 05-2223, the Commission confirmed that a single TV Pickup license authorizes an unlimited number of transmitters, although this policy would appear not to apply to grandfathered TV BAS Channel A10 stations, because of the Section 74.602(a)(2) restriction.

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terrestrial systems" in the same area at the same time and the infeasibility of sharing with co-channel TV BAS Channel A10 TV Pickup stations in the same area at the same time. Given the unscheduled nature of electronic news gathering (ENG) use, frequency sharing is not practical for the same reason you don't park in fire station driveways, or in front of fire hydrants: You don't know when the space (or spectrum) will be needed, so you have to keep it clear.

Between co-primary users, the newcomer is obligated to protect the incumbent², yet Globalstar has provided no details how hundreds or thousands of TLPS Access Points (APs), whose duty cycles would be subject to subscriber demand, could protect grandfathered ENG operations, which by their very nature are mobile and must transmit from varying locations and at odd hours. It is not credible that Globalstar could construct a Network Operations Center (NOC) that would adequately protect ENG operations, and wouldn't suffer from a "hidden node" problem, since such a NOC would be unlikely to have sensitivity matching the network of fixed ENG receive-only sites that broadcasters have created. Even if Globalstar could construct a system to allow its NOC to shut down APs, it is not likely that paying subscribers would tolerate such secondary status.

Although the OTI *ex parte* filing was dated April 1, April Fool's day, EIBASS believes that the comments were not submitted in jest, but rather due to inadequate research by OTI. Thus, EIBASS is making this instant *ex parte* filing to ensure that the IB 13-213 docket record correctly reflects the allotment for indefinitely-grandfathered³ TV BAS Channel A10 stations.

Respectfully,

/s/ **Dane E. Ericksen**

/s/ **Richard A. Rudman**

Dane E. Ericksen

Richard A. Rudman

² This "long-standing" FCC policy was re-affirmed in the April 2, 2003, Memorandum, Opinion and Order (MO&O) to the ET Docket 98-142 rulemaking (MSS 7 GHz downlinks), at paragraph 21.

³ That is, there is no sunset date for the grandfather rights.