

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of:)	
)	
Amendment of Parts 1, 21, 73, 74 and 101 of the Commission's Rules to Facilitate the Provision of Fixed and Mobile Broadband Access, Educational and Other Advanced Services in the 2150-2162 and 2500-2690 MHz Bands)	WT Docket No. 03-66 RM-10586
)	
Part 1 of the Commission's Rules Further Competitive Bidding Procedures)	WT Docket No. 03-67
)	
Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Amendment of Parts 21 and 74 to Engage in Fixed Two-Way Transmissions)	MM Docket No. 97-217
)	
Amendment of Parts 21 and 74 of the Commission's Rules With Regard to Licensing in the Multipoint Distribution Service and in the Instructional Television Fixed Service for the Gulf of Mexico)	WT Docket No. 02-68 RM-9718
)	

To: The Commission

FURTHER COMMENTS

The School Board of Miami Dade County Florida ("MDCPS"), provides the following comments with respect to the Report and Order and Further Notice of Proposed Rule Making, FCC 04-135, released July 29, 2004, (the "NPRM"). Among other things, the NPRM requested comment on (a) procedures for transitioning to the new EBS band plan in instances where no proponent timely files an Initiation Plan and (b) the proper treatment of grandfathered E and F Group ITFS licensees in the transition to EBS.

Transition to New Band

The NPRM seeks to implement a transition process whereby ITFS stations, which were originally licensed on a “community” basis under Section 307(b) of the Communications Act are relicensed as EBS stations on a geographic area basis within a Major Economic Area (“MEA”). There are 46 MEA’s in the contiguous 48 States and one MEA each for Alaska and Hawaii. MEA boundaries frequently cross state lines. Some MEA’s encompass portions of several states.

The NPRM’s preferred method of implementing the ITFS/EBS transition is a proponent-initiated transition through the development of viable “Initiation Plans” on an MEA-by-MEA basis. If this method of transition fails, however, the NPRM envisions a forced transition to the new EBS band through an MEA-wide auction process, awarding existing licensees bidding credits equal to the value of their existing stations. Licensees wishing to “opt out” of this process may turn in their high power 24 MHz licenses and receive, in return, a high power 6 MHz license.

There are significant problems with the NPRM’s transition process in instances when the parties fail to develop a viable MEA-wide Initiation Plan. Few, if any, educational licensees have any interest in MEA-wide EBS services. Education is most often a local matter delegated to local school districts and local educational institutions. No school board in Pensacola, Florida needs an EBS station serving Mobile, Alabama or Biloxi, Mississippi or New Orleans, Louisiana. Yet all of these communities are located in MEA Number 27 and all would be subject to forced transition through an MEA-wide EBS auction if no timely “Initiation Plan” is developed for the large and diverse area that is MEA Number 27.

MDCPS submits that the forced EBS transition plan as presently proposed ignores

principles of localism underlying Section 307(b) of the Communications Act. A better approach would be to address the failure of MEA Initiation Plans on a State-by-State, County-by-County basis. This will permit local solutions to what is, in reality, a local concern, namely, the best use of EBS to meet local educational needs.

Licensees in failed MEA transitions should be allowed to propose Initiation Plans at the county level. This will minimize the need to force a transition solution on EBS licensees and focus the Commission's efforts on counties where local licensees are truly unable to work together to resolve ITFS/EBS transition issues. Forced transition mechanisms, such as mandatory auction of licensed EBS spectrum, could then be limited to each specific county where licensees failed to develop an Initiation Plan for a viable transition to the EBS band.

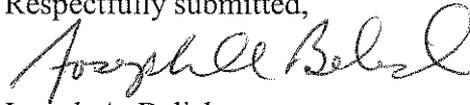
Grandfathered E and F Group Status

The NPRM inquires into the proper treatment of grandfathered ITFS operations on the E and F groups. MDCPS submits that in 1983 the Commission acted to grandfather existing ITFS licensees operating on the E and F groups in perpetuity. Licensed ITFS operation on the E and F group are not secondary. They are protected from interference. They should remain protected from interference.

ITFS licensees have devoted significant resources to constructing and operating grandfathered E and F group stations. There is no public interest reason that these stations and channels should not inure to the benefit of the non-commercial educational entities whose efforts and funds developed them. These stations should be have recognized geographic service areas, just like ITFS stations licensed on other channels. They should be allowed to transition to the

new EBS band, just like ITFS stations licensed on other channels.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Joseph A. Belisle". The signature is fluid and cursive, with a large initial "J" and "B".

Joseph A. Belisle
Counsel for The School Board of
Miami-Dade County, Florida

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