

February 12, 2008

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

Re: 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

Review of the Spectrum Sharing Plan Among Non-Geostationary Satellite Orbit Mobile Satellite Service Systems in the 1.6/2.4 GHz Bands - IB Docket No. 02-364

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

NOTICE OF ORAL EX PARTE COMMUNICATIONS

Dear Ms. Dortch:

Pursuant to Section 1.1206(b)(2) of the Commission's Rules, I am writing to advise the Commission that earlier today I separately met on behalf of the Wireless Communications Association International, Inc. ("WCA") with Renée Roland Crittendon, Legal Advisor to Commissioner Jonathan Adelstein and with Angela E. Giancarlo, Legal Advisor to Commissioner Robert McDowell. The purpose of the meetings was to discuss the above-referenced proceedings involving the rules governing the Broadband Radio Service and the Educational Broadband Service.

The issues discussed are summarized in the attached PowerPoint presentation. The positions expressed by WCA at the meeting mirrored its earlier formal filings in these dockets. Following the meetings, counsel for WCA provided to Ms. Crittendon and to Ms. Giancarlo copies of WCA's August 18, 2006 Opposition to Petitions for Reconsideration and its January

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10, 2005 Comments in response to the *Further Notice of Proposed Rulemaking* in these proceedings.

Pursuant to Section 1.1206(b) of the Commission's Rules, an electronic copy of this letter is being filed with the office of the Secretary. Should you have any questions regarding this presentation, please contact the undersigned.

Respectfully submitted,

/s/ Paul J. Sinderbrand

Paul J. Sinderbrand

Counsel for the Wireless Communications
Association International, Inc.

Attachment

cc: Renée Roland Crittendon
Angela E. Giancarlo



Finishing the Job:

**FACILITATING WIRELESS
BROADBAND IN THE 2.5 GHz
BAND**

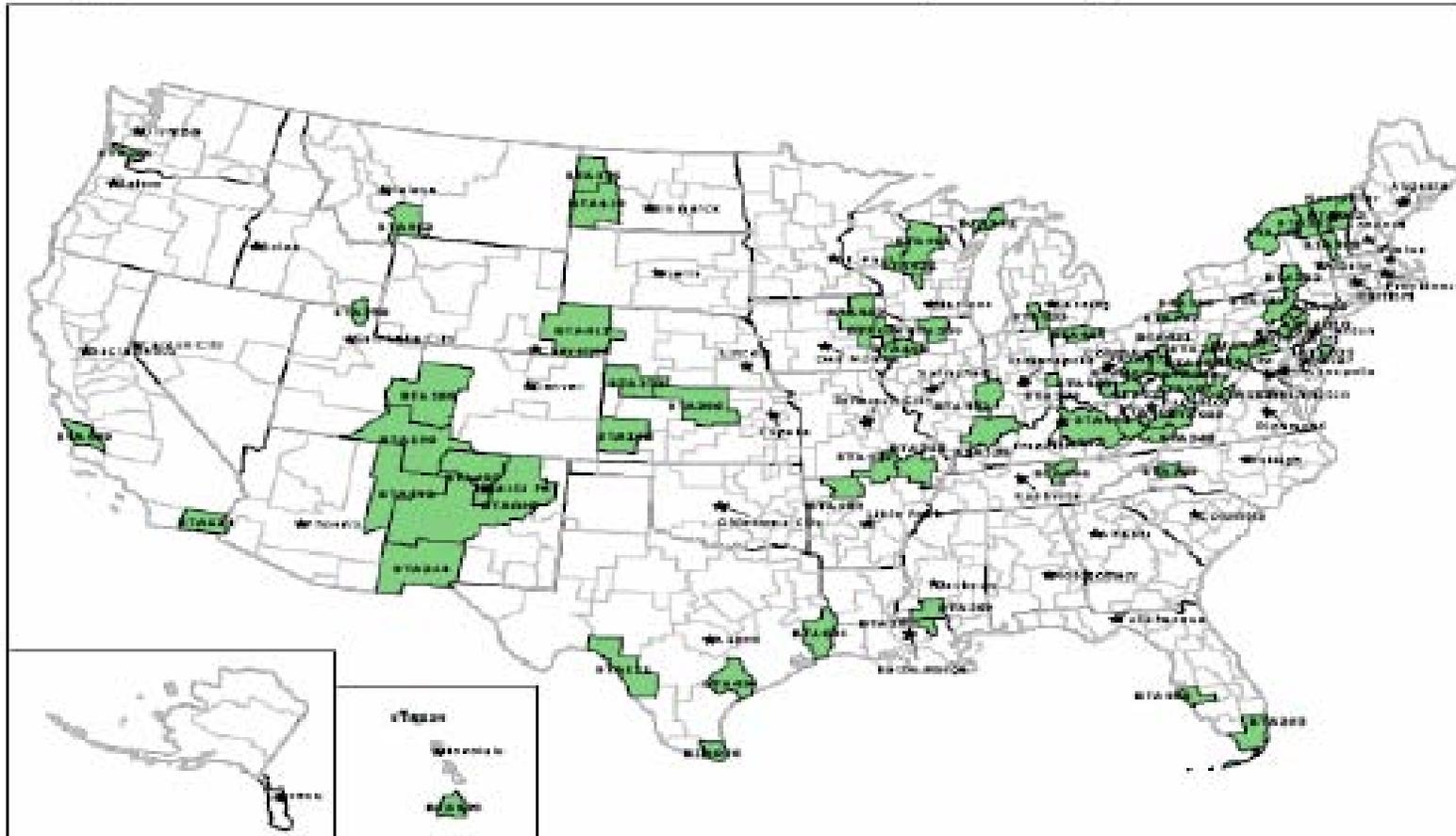
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BRS and EBS Auctions



- WCA Proposal For Immediate Re-auction Of Forfeited BRS BTA Authorizations Received Universal Support.
 - Putting Spectrum Into Hands Of Licensees Will Promote Transitions And Facilitate Deployment Of New Service Offerings.
- FNPRM On EBS White Space Auction Is Timely.
 - Important Issues Remain In Adjusting Auction Process For Assignment of Educational Licenses
 - Several Billion MHz/pops Currently Laying Fallow.

What BRS BTA Licenses Are Available?



WCA's Unopposed Petition For Recon Should Be Granted



- Add deadlines for effectuating cures to height benchmarking and dual OOB mask rules.
- Revise user station spectral mask so fixed user stations, not just mobile stations, attenuate their signals at least $43 + 10 \log (P)$ dB at the channel edge and $55 + 10 \log (P)$ at 5.5 MHz from the channel edges.
- Revise Section 27.53(l) to reflect long-standing policy that where two or more contiguous channels are utilized as part of the same system, all OOB limitations are to be measured at the outermost edges of those contiguous channels.
- Give standing to submit documented interference complaint to all licensees that suffer documented interference, not just first adjacent channel licensees.

WCA's Unopposed Petition For Recon Should Be Granted



- Harmonize the deadline for self-transitions with the deadline established for proponent-driven transitions by modifying Section 27.1236(b)(6) to require completion of any self-transition within 51 months of July 19, 2006
- Reverse decision barring BRS-1/2 licensees from simultaneous operations in the 2150-2162 MHz band and the 2.5 GHz band during migration process.
- Incorporate long-stinting policy of allowing EBS lease agreements to provide the lessee with the option of offering the EBS licensee/lessor either the actual equipment utilized on its channels or comparable equipment, upon termination of a lease into Section 27.1214(c).

WCA's Unopposed Petition For Recon Should Be Granted



- To comport with the mandate that every EBS licensee be provided with facilities in the MBS that are substantially similar to the its pre transition facilities, modify Section 27.55(a)(4)(iii) to provide that the $-73 + 10\log(X/6)$ dbW/m² limit on signal strength at the GSA border is not applicable to MBS facilities provided to an EBS licensee by a proponent during the transition.
- Establish the use of great ellipses for determining the specific boundaries of exclusive GSAs.

Adopt BellSouth and SBE BRS-1 Proposals



- Digitize BAS Channel A10 And Relocate Out of 2496-2500 MHz To Eliminate BRS-1 Interference.
- Require Globalstar MSS in 2496-2500 MHz To Comply With PFD Limits US Successfully Advocated for Rest of 2500-2690 MHz Band At WRC-07.

Applications Dismissed In 2004 Should Remain Dismissed



- FCC should reject – AGAIN – HITN’s effort to have applications dismissed in 2004 reinstated.
 - FCC correctly decided to dismiss all Mxed site-based applications not part of a pending settlement when it shifted to geographic licensing.
 - Decision complied with legal requirements and was consistent with precedent
 - HITN request would be unfair to those licensees that accepted FCC ruling without seeking reconsideration twice.
 - HITN can seek the spectrum in white space auction.

Other Matters On Reconsideration



- Self-Transitions Should Be Restricted To After Deadline For Initiation Plans
- The Commission Should Not Interject Itself Into Private Contractual Disputes As Requested By HITN.
- The 2004 Elimination of a Gulf of Mexico GSA Should Be Affirmed.
 - Reconsideration was untimely filed by two years.
 - Creating Atlantic and Pacific GSAs is beyond scope
 - No showing of demand that cannot otherwise be met
 - If Gulf GSA is adopted, WCA proposed rules should be implemented to assure that Gulf service does not jeopardize service to millions living and working near the Gulf shore.

GSA Boundary Drawing

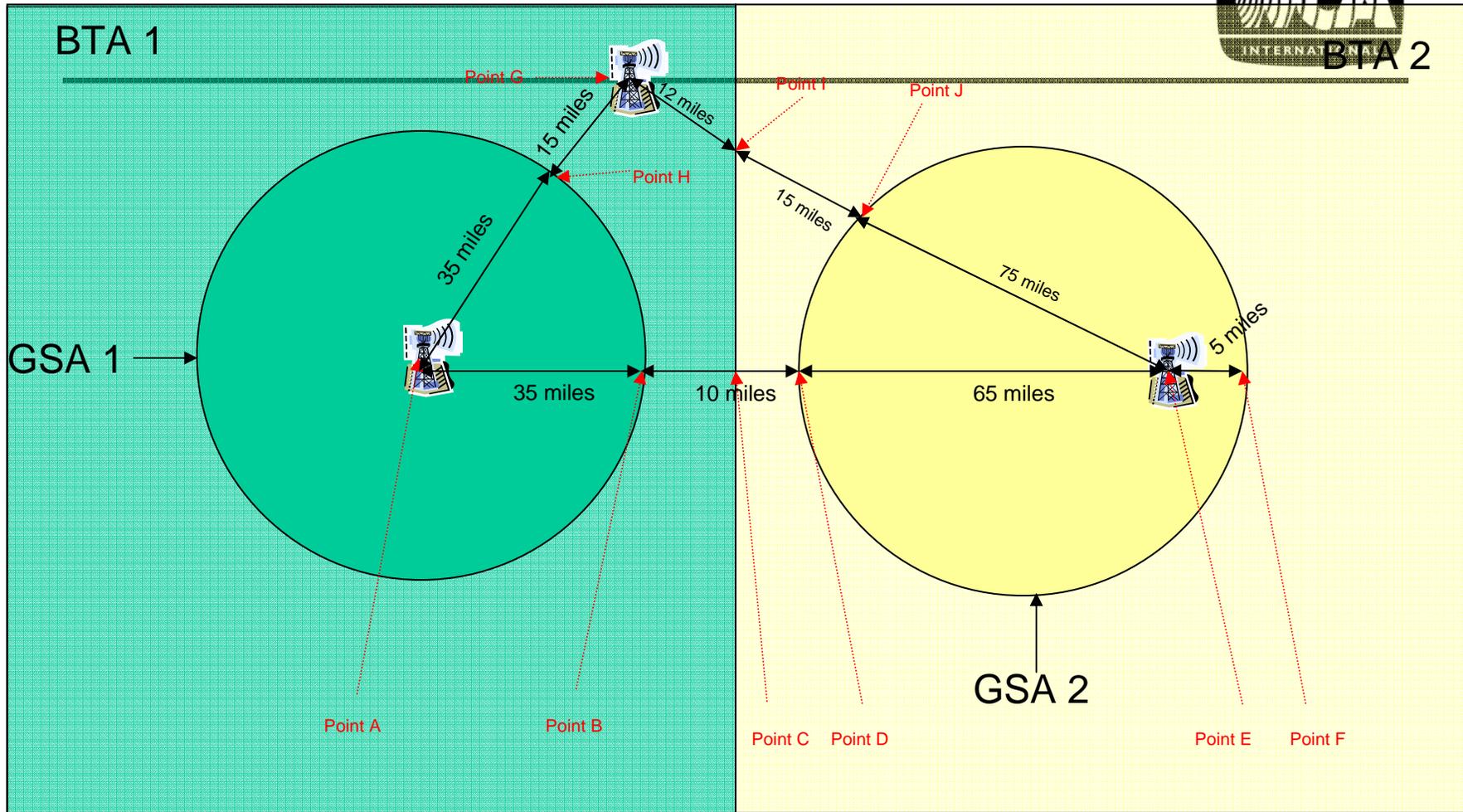
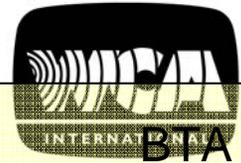


- Adopt WCA-NIA-CTN Settlement
 - If an EBS license term expired before January 10, 2005, it was not considered “in existence” and thus was not accorded a protected service area (“PSA”) used to split overlapping footprints (*i.e.*, other stations on the same channel(s) that had PSAs which would have overlapped the expired license would not take the expired license into account in determining their GSAs) *unless it has been renewed nunc pro tunc to date.*
 - If the FCC grants additional late-filed EBS license-renewal applications that expired before January 10, 2005, the renewed license will be accorded a GSA *that does not include any overlapping PSA areas (i.e., the license will be reinstated but not nunc pro tunc for purposes of making it “in existence” as of January 10, 2005) except in cases of manifest Commission error where reinstatement is in the public interest.*
- Reject Ad Hoc MDS Alliance’s Unprincipled Proposal For Drawing Boundaries For Overlaps Between BRS 2 and 2/A By Awarding the Entire Overlap Area to the BRS Channel 2 Licensee

Grant WCA 10/29/07 Request For Declaratory Ruling on Height Benchmarking



- Height benchmark is defined for pairs of base stations based on “the distance squared between the station and the GSA service area boundary measured along the radial between the respective stations.”
- Where the two base stations are in GSAs that share a common border through which the radial between the two stations passes, D is the distance from the base station at issue to that common boundary.
- What, however, of those cases where the radial between two base stations does not pass through a common GSA boundary?
- Consistent with Coalition Proposal, WCA has sought declaration that D is the distance between the base station and the nearest boundary of the other station’s GSA along the radial between the two base stations.
- FCC should also clarify obligation of licensees to cooperate where both stations are within height benchmark or where victim station is outside height benchmark



DISTANCES (map not to scale):

AB = 35 miles	EA = 110 miles	GA = 50 miles
AC = 40 miles	EB = 75 miles	GE = 102 miles
AD = 45 miles	EC = 70 miles	GH = 15 miles
AE = 110 miles	ED = 65 miles	GI = 12 miles
AG = 50 miles	EF = 5 miles	GJ = 27 miles
AH = 35 miles	EI = 90 miles	

Reject HITN's "Ex Parte Request For Clarification"



- Untimely petition for reconsideration: Filed 11/2/06, but due 7/19/06
- Devoid of substantive merit
 - Proposed elimination of penalty for failing to respond to PTDR undermines transition process
 - Proposed repeal of right of Proponent to implement Transition Plan at its own risk during a contested proceeding will delay transitions and encourage unfounded counterproposals