

February 15, 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 Wayne Leighton, Acting Special Advisor to Commissioner Deborah Taylor Tate and with Bruce Gottlieb, Legal Advisor to Commissioner Michael J. Copps. 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 and map. The positions expressed by WCA at the meeting mirrored its earlier formal filings in these dockets. 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.

Marlene H. Dortch  
February 15, 2008  
Page 2

Respectfully submitted,

*/s/ Paul J. Sinderbrand*

Paul J. Sinderbrand

Counsel for the Wireless Communications  
Association International, Inc.

Attachments

cc: Wayne Leighton  
Bruce Gottlieb



Finishing the Job:

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

February 2008

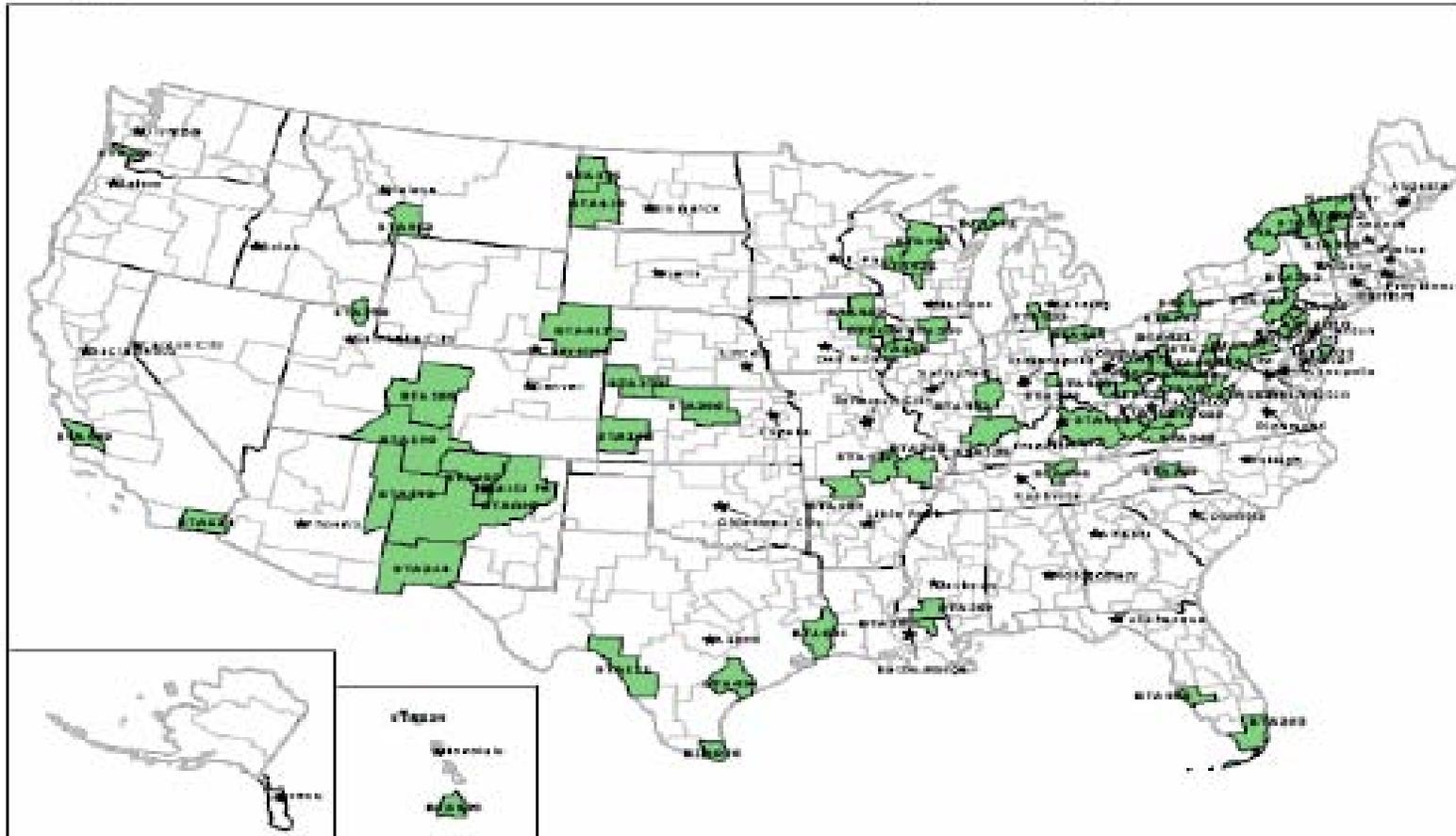
## BRS and EBS Auctions

---



- 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-standing 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/m<sup>2</sup> 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.

## BRS In The Gulf Is Problematic

---



- “Ducting of signals, including MDS/ITFS microwave signals, enables these signals to travel relatively unattenuated for distances far greater than would occur without the presence of the duct” 17 FCC Rcd 8446, 8463-64 (2002).
- Over 20 million people reside in BTAs bordering on the Gulf of Mexico.
- Rules governing 2.5 GHz in and around the Gulf of Mexico must achieve two objectives.
  - Not pose a risk of interference from Gulf-based to land-based systems; and
  - Not so hamstring land-based network designs that service to these 20+ million people is unreasonably hampered.

## “Ducting” over the Gulf cannot be ignored

---



- Prior to 2004 rewrite of 2.5 GHz rules, Section 21.902(c)(1)(ii) imposed special interference protection obligations on MDS stations that would propagate over large bodies of water.

## The 2002 *BRS Gulf NPRM*

---



- “Given the much greater population density of the land-based relative to Gulf systems, the steps taken to modify one land-based main or booster station so that it can fully protect a very few Gulf stations might mean the loss of service to hundreds or thousands of households in the urban or suburban area the main or booster station was designed to serve. We believe this tradeoff would be unacceptable and we are therefore proposing that land-based stations be allowed to provide a lesser degree of protection to Gulf stations than Gulf stations must provide to land stations.” 17 FCC Rcd 8446, 8467 (2002).
- Proposals in *Gulf NPRM* were superseded by adoption of new BRS/EBS rules

## The Current Rules Will Not Work

---



- Given unpredictability of ducting, land-based licensees will have to severely limit their signal strengths near the Gulf to assure compliance with the 47 dBuV/m signal strength limit at their GSA boundary.
- It will be virtually impossible for Gulf-based licensees to assure compliance with 47 dBuV/m limit and still provide service.
- Height benchmarking rule, which provides protection against co-channel interference, assumes standard propagation and will not provide protection against interference to land-based systems when ducting occurs.

## WCA Proposal

---



- Gulf Service Area must exclude the 35 mile radius GSA of any incumbent BRS or EBS licensee.
- As with PCS, BRS licenses for BTAs bordering on the Gulf coast should extend at least to the boundaries of the counties comprising the BTA.
- Consistent with all Part 27 services, the Gulf Service Area should have an innermost boundary 12 nautical miles from the Gulf coastline.

## WCA Proposal

---



- Borrowing approach adopted in Cellular Radio Service, establish a “Gulf Coastal Zone” between BRS GSA and Gulf Service Area. Either licensee should be permitted to service Gulf Coastal Zone, subject to compliance with technical rules.
- Per the *BRS Gulf NPRM*, a land-based system should be deemed to be in compliance with the technical rules if it can demonstrate using the Epstein/Peterson propagation model that it is predicted to comply with the signal strength limit in the absence of ducting. Gulf-based systems would be required to comply with technical rules, even if ducting occurs.

## 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.

## GSA Boundary Drawing

---



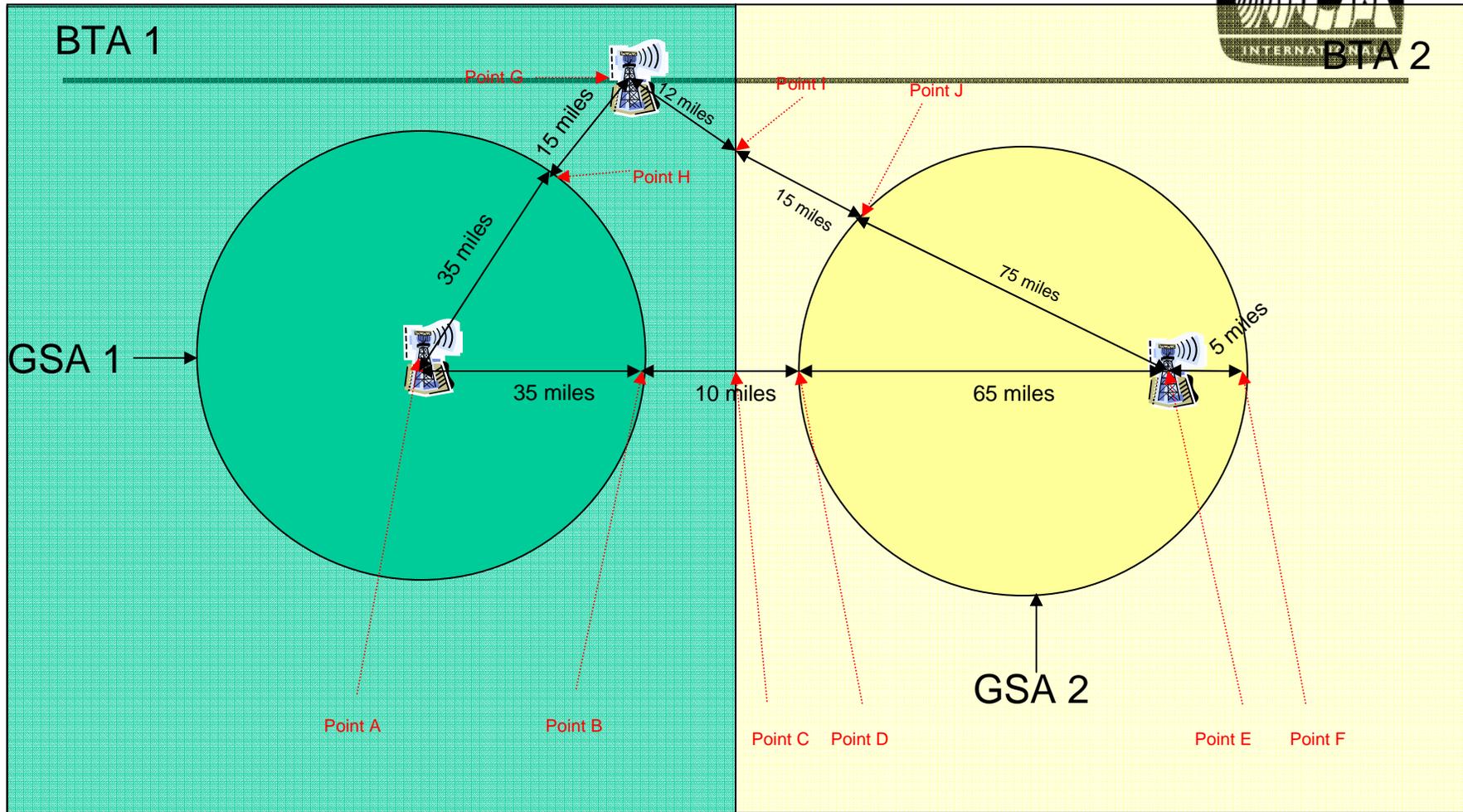
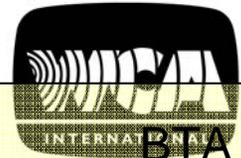
- Adopt WCA-NIA-CTN Settlement
  - If an EBS license term expired before January 10, 2005, it was not considered “in existence” and thus was not accorded a protected service area (“PSA”) used to split overlapping footprints (*i.e.*, other stations on the same channel(s) that had PSAs which would have 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

# Gulf of Mexico BRS GSAs Composite with 12 mile Line

