

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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

REPLY COMMENTS

The Wireless Communications Association International, Inc. (“WCA”), by its attorneys, hereby submits its reply comments with respect to the *Second Further Notice of Proposed Rulemaking* (“*Second FNPRM*”) in the above-captioned proceeding.¹

In its initial comments in response to the *Second FNPRM*, WCA urged the Commission to move promptly towards licensing the Educational Broadband Service (“EBS”) white space, and to do so in a manner that both advances the Commission’s educational vision for EBS and facilitates a continuation of the financial and operational

¹ 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, *Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Second Further Notice of Proposed Rulemaking and Declaratory Ruling*, 23 FCC Rcd 5992, 6060-68 (2008) [“*Second FNPRM*”]. On June 26, 2008, the Wireless Telecommunications Bureau extended the comment and reply comment deadlines for the *Second FNPRM* to September 22, 2008 and October 22, 2008, respectively. See 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, *Order*, 23 FCC Rcd 10163 (WTB 2008).

support from commercial operators that has spurred twenty-five years of EBS growth.² The overarching principles espoused by WCA are consistent with the filings made by a broad array of EBS interests responding to the *Second FNPRM*. However, as WCA predicted, there is substantial disagreement within the educational community as to the specifics of how EBS white spaces can best be licensed to promote the FCC's objectives for the band.³ This lack of consensus is hardly surprising; the issues raised by the *Second FNPRM* are complex and, as WCA noted in its comments, a wide diversity of views on EBS white space licensing had been advanced when the issue was joined in earlier phases of this proceeding.⁴

Having reviewed the responses to the *Second FNPRM*, WCA remains convinced that “educators, students and the general public will benefit most from a solution that promptly licenses the EBS white space in a manner that permits EBS licensees to continue

² See Comments of Wireless Communications Ass'n Int'l, Inc., WT Docket No. 03-66, at 3 (filed Sept. 22, 2008) [“WCA Comments”].

³ For example, although the National EBS Association and the Catholic Television Network frequently share similar views on EBS regulatory issues, they have proposed quite different approaches to white space licensing. Compare Comments of the National EBS Association, WT Docket No. 03-66, at 2 (filed Sept. 22, 2008) [“NEBSA Comments”] (proposing that existing geographic service areas be extended to Basic Trading Area (“BTA”) boundaries before auctioning remaining white space), with Comments of the Catholic Television Network, WT Docket No. 03-66, at 3 (filed Sept. 22, 2008) (advocating awarding of white space to local accredited educators with largest number of enrolled students in BTA). Others have advocated a variety of different mechanism. See, e.g., Comments of American Association of School Administrators, *et al.*, WT Docket No. 03-66, at 12 (filed Sept. 22, 2008) (white space licenses should only be issued to “single entities that are composed of all eligible and interested entities within the license area.”); Comments of Bridge the Divide Foundation, Inc., *et al.*, WT Docket No. 03-66, at 8 (filed Sept. 22, 2008) (use a single-round, sealed bid auction, with eligibility limited to those incumbent EBS licensees that have a Geographic Service Area (“GSA”) centroid in the BTA); Comments of Hispanic Information & Telecommunications Network, Inc., WT Docket No. 03-66, at 8-13 (filed Sept. 22, 2008) (proposing two-stage auction process for licensing white space); Comments of Myers Lazarus, WT Docket No. 03-66, at 10-12 (filed Sept. 22, 2008) (Commission should ask Congress to exempt EBS from auction requirement and instead utilize the existing point system to resolve mutually-exclusive applications filed for 35-mile radius circular GSAs).

⁴ See WCA Comments at 2.

meeting their educational objectives through mutually-beneficial commercial relationships with wireless broadband operators across the country.”⁵ Unfortunately, no pending proposal for meeting this objective satisfies the entirety of the educational community. That does not mean, however, that a compromise resolution is unrealizable. As before, WCA intends to work with the leaders of the EBS community to bridge the differences in the current record to the greatest extent possible.

Regardless of how EBS white space ultimately is licensed, WCA agrees with the commenting parties that urged the Commission to resolve the many pending EBS licensing matters prior to the commencement of any new white space licensing.⁶ Before the Commission can start licensing the EBS white space, it is imperative that those who seek EBS white space know what territory is available to them, both so they can make rational decisions as to whether to pursue white space and so post-licensing disputes between incumbents and newcomers are minimized.

Finally, WCA agrees that the Commission should defer any decisions regarding the licensing of EBS spectrum in the Gulf of Mexico.⁷ There are a variety of large *unused* blocks of spectrum that are available in the Gulf of Mexico to the oil and gas industry, including the 700 MHz band, the 1710-1755/2110-2155 MHz Advanced Wireless Service

⁵ WCA Comments at 4, *citing* Amendment of Parts 21 and 74 to Enable Multipoint Distribution Service and Instructional Television Fixed Service Licensees to Engage in Fixed Two-Way Transmissions, *Report and Order*, 13 FCC Rcd 19112, 19152 (1998); Amendment of Parts 2, 21, 74 and 91 of the Commission’s Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service, *Report and Order*, 94 F.C.C. 2d 1203 (1983).

⁶ *See, e.g.*, Comments of Bellville Independent School District, WT Docket No. 03-66, at 3-5 (filed Sept. 22, 2008); Comments of Indiana Higher Education Telecommunication System, WT Docket No. 03-66, at 3-5 (filed Sept. 22, 2008); NEBSA Comments at 2; Comments of The Source for Learning, Inc, WT Docket No. 03-66, at 3-4 (filed Sept. 22, 2008).

⁷ *See* NEBSA Comments at 2-4.

blocks and now an additional 72.5 MHz of Broadband Radio Service (“BRS”) spectrum. And, the Commission has previously recognized the very real possibility that ducting at 2.5 GHz will cause interference from Gulf-based uses to land-based operations. Indeed, the Commission has found that there is a “*certainty* that ducting will occur between Gulf and land-based stations,” that this ducting will cause interference over much greater distances than caused by land-based systems, and that Gulf-based systems should therefore be subjected to interference protection requirements that are more stringent than those imposed on land-based facilities.⁸ The Commission also found that “it will be virtually impossible for current licensees to achieve [full coverage of the population along the Gulf coast] if they must afford full interference protection to Gulf of Mexico systems.”⁹ While these operational factors were given little consideration when the Commission permitted BRS licensing for the Gulf, they should not be so casually dismissed here.

Rather than jeopardize EBS operations on land, the Commission should defer licensing of EBS spectrum in the Gulf until BRS spectrum in the Gulf has been deployed and the Commission has a better opportunity to evaluate the impact of ducting.¹⁰ While WCA appreciates the importance of promoting America’s energy independence, those who advocate EBS licensing in the Gulf have provided no evidence at all that such licensing will actually promote oil and gas exploration. Exactly what is it that the oil and gas industry will be able to do if the EBS spectrum is added to the large swath of unused

⁸ 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, *Notice of Proposed Rulemaking*, 17 FCC Rcd 8446, 8465-66 (2002) (emphasis in original) (footnotes omitted).

⁹ *Id.* at 8467.

¹⁰ *See* NEBSA Comments at 2-4.

spectrum currently available in the Gulf? Until that question is answered, the record does not justify putting land-based educational uses at risk of interference.

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Respectfully submitted,

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