



Hogan & Hartson LLP  
Columbia Square  
555 Thirteenth Street, NW  
Washington, DC 20004  
+1.202.637.5600 Tel  
+1.202.637.5910 Fax

[www.hhlaw.com](http://www.hhlaw.com)

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Ari Q. Fitzgerald  
Partner  
202-637-5423  
AQFitzgerald@hhlaw.com

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

**Re: GE Healthcare Ex Parte  
ET Docket No. 08-59**

Dear Ms. Dortch:

GE Healthcare (“GEHC”) takes this opportunity to respond to several points raised in the February 12, 2009 *ex parte* in this proceeding by the Aerospace & Flight Test Radio Coordinating Council (“AFTRCC”)<sup>1</sup> in an attempt to hold up the process for evaluating the potential for a new allocation to support advanced medical devices in the 2360-2400 MHz band.

First, GEHC wishes to correct the record regarding the February 6, 2009 discussions by representatives of GEHC, DoD, NTIA and AFTRCC, of which AFTRCC gave the following account:

“...AFTRCC, DOD and NTIA representatives participating in the meeting all noted that probability analyses are not used, and should not be used, for assessing the risk of interference from a proposed technology to an incumbent safety-of-flight service like AMT that operates within a Restricted band as defined by the FCC. For such an analysis, a static case approach, as employed previously by AFTRCC, is the correct approach.”<sup>2</sup>

GEHC acknowledges that its Monte Carlo coexistence analysis, including the simulation assumptions and specific probabilistic propagation models employed, was discussed in some detail during the meeting and that AFTRCC questioned whether, in general, a probabilistic analysis is appropriate for assessing the coexistence of Medical Body Area Network Service (“MBANS”) devices with aeronautical mobile telemetry (“AMT”). However, it is inaccurate for

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<sup>1</sup> *Ex Parte* filing by AFTRCC, ET Docket No. 08-59 (filed Feb. 12, 2009) (“AFTRCC *Ex Parte*”).

<sup>2</sup> *Id.* at 1.

AFTRCC to assert that the DoD and NTIA representatives present concurred with the unqualified statement that probabilistic analyses "should not be used" or to imply that the DoD and NTIA representatives endorsed AFTRCC's static analysis as "the correct approach."

To the contrary, it was mutually agreed by representatives of DoD, NTIA and GEHC that making a full and accurate assessment of these questions was beyond the scope of the February 6 meeting and that the appropriate next step was a joint investigation by GEHC and the Joint Spectrum Center ("JSC") on the issue. GEHC looks forward to this investigation and is confident that it will ultimately establish the viability of MBANS / AMT coexistence and, consequently, expose the critical flaws in AFTRCC's misleading static analysis.

Second, with respect to AFTRCC's assertion that the issuance of an NPRM is not warranted "because it presumes the result of a JSC assessment before the assessment has been made," GEHC points out that a JSC assessment is not a requirement for the issuance of an NPRM by the Commission. GEHC's MBANS proposal dates back to the comments GEHC filed in response to the Commission's 2006 MedRadio Notice of Inquiry ("NOI"). In 2007, GEHC identified specific spectrum bands for the MBANS allocation and proposed detailed changes to Part 95 of the Commission's rules to create the MBANS. The Commission sought public comment on the proposal in April 2008. A substantial record has now been developed, and this record reflects broad support from medical and electronic device manufacturers and health care providers for the MBANS proposal. Moreover, early last fall GEHC proposed significant refinements of its proposal in response to feedback from incumbents, including AFTRCC.<sup>3</sup> By contrast, during the same period, AFTRCC has failed to respond to numerous salient questions about its claims and analysis raised by GEHC and other commenters.<sup>4</sup> Were an NPRM to be issued, perhaps AFTRCC would feel more compelled to engage GEHC and other interested parties in a constructive, good-faith manner.

Finally, regarding AFTRCC's statement that it expects to release shortly the results of a series of new tests, "designed to further evaluate the risk of interference from BSNs to AMT receive antennas,"<sup>5</sup> GEHC is deeply disturbed that it has not been consulted regarding the process.

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<sup>3</sup> See *Ex Parte* filing by GE Healthcare, ET Docket No. 08-59, at 8 (Sept. 18, 2008) ("GEHC September 18 *Ex Parte*") proposing that MBANS use of 2360-2390 MHz be limited to fixed use with geographic exclusion zones around all 157 AMT facilities, including those that currently do not even operate in the 2360-2390 MHz band, and clarifying that the aeronautical mobile use restriction would apply only to MBANS and not to AMT;

*Ex Parte* filing by GE Healthcare, ET Docket No. 08-59, at 2 (Sept. 25, 2008) ("GEHC September 25 *Ex Parte*"), modifying the proposed MBANS rules to alleviate WCA questions about secondary status.

<sup>4</sup> See Reply Comments of GE Healthcare, ET Docket No. 08-59, at 17-19 (Jun. 11, 2008) ("GEHC Reply Comments"); GEHC September 18 *Ex Parte* at 12-15; GEHC September 25 *Ex Parte* at 2-3; *Ex Parte* filing by GE Healthcare, ET Docket No. 08-59 (Oct. 30, 2008); *Ex Parte* filing by GE Healthcare, ET Docket No. 08-59 at 2-3 (Nov. 7, 2008); *Ex Parte* filing by Wireless Communications Association International, ET Docket No. 08-59 (Sept. 25, 2008); *Ex Parte* filing by Paul J Kolodzy, ET Docket No. 08-59 (Oct. 20, 2008).

<sup>5</sup> AFTRCC *Ex Parte* at 2.

GEHC has noted several serious flaws in AFTRCC's previous tests<sup>6</sup> and offered to participate in the definition and execution of any future tests.<sup>7</sup> Given AFTRCC's previous failure to collaborate, GEHC fears that AFTRCC will get it wrong once again.

Respectfully Submitted,

/s/ Neal Seidl

Neal Seidl  
Wireless System Architect  
GE Healthcare  
8200 W. Tower Avenue  
Milwaukee, WI 53223  
(414) 362-3413

/s/ David Davenport

David Davenport  
Electrical Engineer  
GE Global Research  
1 Research Circle  
Niskayuna, NY 12309  
(518) 387-5041

/s/ Ari Q. Fitzgerald

Ari Q. Fitzgerald  
Mark W. Brennan  
Hogan & Hartson LLP  
555 13<sup>th</sup> Street, N.W.  
Washington, D.C. 20004  
(202) 637-5423  
Counsel to GE Healthcare

cc: Paul Murray  
Renée Crittendon  
Angela Giancarlo

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<sup>6</sup> See GEHC Reply Comments at 17-19; GEHC September 18 *Ex Parte* at 12-15.

<sup>7</sup> See GEHC Reply Comments at 19.