

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Fostering Innovation and Investment in the Wireless Communications Market)	GN Docket 09-51 (Late Filed)
)	
A National Broadband Plan for our Future)	

COMMENTS/REPLY COMMENTS OF JAMES EDWIN WHEDBEE

To the Commission:

Comes now, JAMES EDWIN WHEDBEE, who respectfully submits these comments and/or reply comments in the GN Docket #09-51 Notice of Inquiry issued by the Wireless Telecommunications Bureau. Preliminarily, these comments and/or reply comments are late filed in part because of the depth and far-reaching consequences of the Commission's Notice of Inquiry; accordingly, I respectfully beg the Commission's indulgence for these being late filed.

[1] These comments/reply comments (“comments” hereinafter) do not attempt to reach non-controversial aspects or widely agreed-to aspects of the Commission's Notice. However, I will comment on the issues of: spectrum leasing, shared use of spectrum, licensee supervision of unlicensed users of spectrum, commercial experimentation in radiocommunications, and the use of Part 15 equipment by licensees when power levels are appropriate to Part 15.

[2] With respect to spectrum leasing, I believe the Commission should allow all licensees operating under Section 90.35 of the Commission's rules and regulations (47 CFR 90.35) to lease their spectrum. This frees fallow spectrum in a larger swath of frequencies and provides a potential revenue stream for incumbents. Therefore, I would remove all frequency restrictions associated with spectrum

leasing by Part 90 licensees. I cannot speak for other services, but see potential there as well. Modification of the spectrum leasing rules to accommodate this change would be fairly simple in that the Commission need only delete out of the existing rules the references to frequencies/services.

[3] With respect to overlays and underlays of licensed spectrum (shared use of spectrum) and licensee supervision of unlicensed uses of that spectrum, I suggest giving licensees the authority under their licenses to manage that spectrum on behalf of the Commission. A simple rule modification in the initial paragraphs of Part 15 would take care of this. For example, if a Part 15 user of a licensee's spectrum caused interference, allow the licensee to act on a limited basis on behalf of the Commission to resolve the interference. There is nothing lost by delegating some monitoring and intervention tasks to licensees who have the most to lose if interference occurs; moreover, doing so puts the two parties together and if the licensee values the spectrum, the licensee has the onus to approach the Part 15 user and work with that Part 15 user to resolve the interference before involving the Commission. Now, once the licensee and Part 15 user have interacted to resolve the interference, the duty is on the Part 15 user to resolve the complaint. If a satisfactory resolution is not obtained, then and only then would the Enforcement Bureau necessarily be involved. This would lighten the Commission's burden, require users to work together, and give licensees greater management responsibilities for the spectrum they enjoy.

[4] I would very strongly encourage the Commission to lengthen the terms of experimental licenses from the current two/five year arrangement to a straight ten year license. Most legitimate research takes considerably longer than two years, particularly if the studies are to be published in peer reviewed publications or submitted in patent applications; accordingly, the current two year licenses are simply too brief. I also recommend the elimination of rules in Part 5 (47 CFR Part 5) which restrict

commercial use of experimental licenses. Instead, I suggest the Commission actually write into Part 5 a rule allowing commercial research and development as a basis for license eligibility, and make the experimental licenses fully commercial. In furtherance of this aim, it is imperative that experimental licensees be able to communicate with the same incumbents the experimental licenses are aimed at helping through enhanced research and development. Therefore, the Commission should eliminate the requirement that experimental licensees obtain specific permission to communicate with incumbent licensees/permittees in two-way communications services. This would promote rapid growth of jobs in telecommunications through commercial experimental licenses. To ensure that this research and development growth was industry-wide, except for the two-way communications provision, I would adopt the identical rule changes with respect to experimental broadcast permits and licenses under Part 74 of the Commission's rules (47 CFR Part 74).

[5] Finally, one of the most significant hurdles all new permittees and licensees run into is equipment costs. Part of these costs can be attributed to how equipment certification is handled. For example, certain Part 74 licenses actually restrict a broadcast auxiliary station to a power level and power density over given spectrum which is lower than would apply to a Part 15 user without a license. There are a number of situations in which this proves true, but I'll explain just one for the sake of brevity. Specifically, I refer to the low power broadcast auxiliary stations which operate in the UHF television spectrum. It is legally possible to have a fully-licensed Part 74 station which has a lower effective radiated power than a "White Spaces" transmitter occupying the identical spectrum. Given that licensees are supposed to enjoy a certain legal preference over unlicensed users under Part 15, it seems peculiar that a Part 74 licensee should be restricted to equipment certified only under Part 74. Therefore, to eliminate this situation, Part 15 should be modified so that, subject to the power and emission restrictions of Part 15, licensees may use Part 15 certified equipment when not inconsistent

with the other terms and conditions of their license or permit.

Now therefore, the undersigned recommends the Commission's consideration of the foregoing in adopting hereafter rules and regulations aimed at promoting the changes desired hereinabove.

Respectfully Submitted:

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COMMENTER