

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of	)	
	)	
Amendment of Part 101 of the Commission's	)	WT Docket 10-153
Rules to Facilitate the Use of Microwave for	)	
Wireless Backhaul and Other Uses and to Provide	)	
Additional Flexibility to Broadcast Auxiliary	)	
Services and Operational Fixed Microwave	)	
Licensees	)	
Request for Interpretation of Section 101.141(a)(3)	)	WT Docket 09-106
of the Commission's Rules Filed by Alcatel-	)	
Lucent, Inc., et al	)	
Petition for Declaratory Ruling Filed by Wireless	)	WT Docket 07-121
Strategies, Inc.	)	

To: The Commission

**EIBASS *Ex Parte* Response To January 31, 2012, WSI *Ex Parte* Filing**

1. Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) hereby respectfully submits its response to the January 31, 2012, *ex parte* filing of Wireless Strategies Incorporated (WSI).

**I. WSI *Ex Parte* Filing**

2. In its *ex parte* filing, WSI quotes<sup>1</sup> from a November 22, 2011, EIBASS WT Docket 10-153 *ex parte* filing, where EIBASS observed that a sub-Category B transmitting antenna will not cause interference to existing paths, as a newcomer path is obligated to protect all existing paths. While this demonstration is more difficult using a sub-standard transmitting antenna, the incumbent station nevertheless maintains its entitlement to path protection.

3. Thus, so long as the Section 101.103(d) prior coordination notice (PCN) process has been properly followed, there should not be an interference-to-incumbents issue. However, what WSI fails to mention is EIBASS' second point,<sup>2</sup> namely that use of a sub-standard *transmitting* antenna is spectrum inefficient because it can unnecessarily preclude future newcomer paths.

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<sup>1</sup> WSI *ex parte* filing, at Exhibit A, page 3, third paragraph.

<sup>2</sup> November 22, 2011, EIBASS WT Docket 10-153 *ex parte* filing, at paragraph nine.

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This was the basis for requiring minimum antenna performance in the first place. Indeed, the importance of efficient use of limited point-to-point microwave spectrum has only increased since the Category A and Category B performance requirements were created.

4. One compromise, proposed by EIBASS in its November *ex parte* filing, is to allow use of sub-category B *receiving* antennas, while maintaining minimum performance requirements for *transmitting* antennas. However, a newcomer path electing to install a sub-standard receiving antenna would only be protected on the basis of a Category B antenna in non-frequency congested areas, or a Category A antenna in frequency congested areas. That places the interference risk where it should be, on the newcomer path electing to cut corners by installing a sub-standard *receiving* antenna.

### **II. WSI Claim That the RPE of Its Claimed Physically Small Phased Array Transmitting Antenna is a Trade Secret Is Not Reasonable**

5. In the related WT Docket 07-121 rulemaking, WSI made claims that it had developed a physically small, phased array microwave antenna. WSI filings claimed this antenna met FCC Category A specifications. EIBASS has expressed its skepticism about these claims because WSI has refused to provide in its docket filings any credible documentation of the claimed antenna's RPE. While WSI has provided tabulations of the RPE, EIBASS notes that anyone with a word processor can create a mere tabulation. That the tabulation<sup>3</sup> exactly matched the requirements of a Category A antenna made WSI's claim all the more suspicious to EIBASS. The record in this proceeding, and the related WT Docket 07-121 proceeding, fails to provide evidence that a physically small, phased array microwave antenna meeting FCC Category A criteria, or even FCC Category B criteria, actually exists.

6. If an antenna manufacturer really had figured out a way to make a physically small microwave antenna meeting FCC Category A (or even Category B) requirements, and at a commercially viable cost, one would expect that it would want documentation of this achievement widely and openly distributed. Indeed, a paper regarding the accomplishment, published in a peer-reviewed technical journal, would typically occur. And given the amazing nature of the claim, that documentation should be of the highest quality, including actual pattern measurement plots and the qualifications of the party making the measurements. Yet five years later, WSI has still failed to provide such documentation.

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<sup>3</sup> WSI Request for Declaratory Ruling, dated February 23, 2007, and date-stamped June 7, 2007, at the page 13 RPE tabulation for "Adaptive Antenna System Model AAS-106" antenna.

## **EIBASS *Ex Parte* Response to WSI *Ex Parte* Filing to WT Docket 10-153**

7. EIBASS notes that in an August 18, 2011, letter to the Commission, regarding three disputed Common Carrier point-to-point microwave applications by OEM Communications, LLC (OEMC), which EIBASS believes is a front for WSI,<sup>4</sup> OEMC claimed that providing the RPE for its Model OC-11200B “smart adaptive antenna system” would result in divulging a “trade secret.”<sup>5</sup> EIBASS disagrees. Measurements of the RPE of an antenna need not divulge any information about how the antenna achieves its performance. Nor can pictures of the antenna, and the test range or laboratory screen room where the measurements were taken, constitute a valid trade secret, since as soon as the antenna is installed on a proposed path, interested parties would then be able to see the antenna for themselves.

8. Thus, the only purpose that EIBASS can see for raising the “trade secret” argument is because either the claimed antenna does not exist, or fails to meet FCC Category A (or, at a minimum, Category B) antenna requirements. Further, EIBASS still cannot find any evidence that the OEMC Model OC-11200B antenna, or any OEMC antenna, for that matter, is commercially available.

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<sup>4</sup> See the October 25, 2011, EIBASS Reply Comments to WT Docket 10-153, at paragraph seven.

<sup>5</sup> The application file numbers are 0004792571, 0004792606, and 0004792617.

**III. Summary**

9. Parties filing comments to Commission rulemaking proceedings are entitled to their opinions, and the Commission can reach its own conclusions as to the veracity and credibility of each party's comments. However, when an application is filed with the Commission, the applicant then becomes subject to Section 1.17 of the FCC Rules ("Truthful and Accurate Statements to the Commission") and Title 18, Section 1001, of the United States Code (statements to federal officials). Indeed, the certification portion of FCC Form 601, Main Form, Page 4, spells out both requirements.<sup>6</sup> Thus, EIBASS urges the Commission not only to require further evidence of the claimed antenna performance, but to take appropriate enforcement action if it finds that the antenna performance claims in an application were knowingly and intentionally falsified.

/s/ Dane E. Ericksen, P.E., CSRTE, 8-VSB, CBNT  
EIBASS Co-Chair  
Hammett & Edison, Inc., Consulting Engineers  
Sonoma, CA

/s/ Richard A. Rudman, CPBE  
EIBASS Co-Chair  
Remote Possibilities  
Santa Paula, CA

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EIBASS  
18755 Park Tree Lane  
Sonoma, CA 94128  
707/996-5200  
dericksen@h-e.com

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<sup>6</sup> General certification statement #3 reads "The Applicant certifies that all statements made in this application and in the exhibits, attachments, or documents incorporated by reference are material, are part of this application, and are true, complete, correct, and made in good faith." In boxed text underneath the signature block, the form reads: "WILLFUL FALSE STATEMENTS MADE ON THIS FORM OR ANY ATTACHMENTS ARE PUNISHABLE BY FINE AND/OR IMPRISONMENT (U.S. CODE, TITLE 18, §1001.)"