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November 7, 2012

Via Electronic Delivery

Ruth Milkman
Chief, Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, SW
Washington, D.C. 20554

Re: Notice of Written Ex Parte Communications;
EBS Spectrum in the Gulf of Mexico
(WT Docket No. 03-66, WT Docket No. 02-68)

Dear Ms. Milkman:

The Telecommunications Subcommittee of the American Petroleum Institute ("API")[1] and the Regulatory Committee of the Energy Telecommunications and Electrical Association ("ENTELEC")[2] urge the Federal Communications Commission ("Commission") to act favorably on API's longstanding proposal in the above-captioned proceeding to allocate the 2.5 GHz Educational Broadband Service ("EBS") band to the oil and gas industry and other non-educational users in the Gulf of Mexico and to allow preemptory emergency use of this spectrum by entities actively engaged in supporting an oil spill response. This proceeding was initiated by the Commission more than four years ago.[3] API and ENTELEC urge the Commission to move forward without further delay.

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[1] API is a national trade association representing more than 500 companies involved in all phases of the petroleum and natural gas industries, including exploration, production, refining, marketing and transportation of petroleum, petroleum products and natural gas. Among its many activities, API acts on behalf of its members before federal and state regulatory agencies. The API Telecommunications Subcommittee evaluates and develops responses to state and federal proposals affecting telecommunications facilities used in the oil and gas industries.

[2] The ENTELEC Regulatory Committee participates and takes advocacy positions in legislative, administrative, regulatory and judicial proceedings on behalf of the association as necessary to promote engineering, design, construction, maintenance, administration and operation of telecommunications, automation, electrical power, information processing systems, and other electrical and electronic facilities employed in the energy industries. Sprint, a member of the ENTELEC Regulatory Committee, has not participated in or otherwise approved of this letter.

[3] *Third Order on Reconsideration and Sixth Memorandum Opinion and Order and Fourth Memorandum Opinion and Order and Fourth Memorandum and Order and Second Further Notice of Proposed Rulemaking and Declaratory Ruling*, FCC 08-83, Released March 20, 2008 ("*Third Report*").

Nothing has changed to decrease the Commission's original concerns that the Gulf of Mexico is an underserved area and that the 2496-2690 MHz EBS band is one of the few bands available and adequate for operations in support of off-shore oil and gas facilities. Nor has anything changed to alter the Commission's observation that EBS spectrum should be put to more productive non-educational uses since "*there are no schools or universities in the Gulf of Mexico*."[4]

On May 16, 2011, API submitted an ex parte presentation supporting its earlier Comments that making this spectrum available for offshore energy operations will promote spectrum efficiency in the Gulf of Mexico, provide much-needed operational and safety capabilities for thousands of offshore oil and natural gas workers, and ensure when necessary that emergency and cleanup efforts are supported with sufficient spectrum in the event another incident in this area occurs in the future.[5]

The continued passage of time has heightened the urgency for the Commission to ensure that adequate spectrum resources are available in the Gulf of Mexico should another emergency incident occur in that area in the future.[6] Drilling in the deep Gulf of Mexico is becoming more robust two years after the *Deepwater Horizon* incident that prompted a six-month moratorium on deep-water exploration.[7]

As noted already in this proceeding, coordinating a major cleanup effort in the Gulf of Mexico requires significant communications infrastructure, but the Commission currently has allocated a total of only 12 Part 90 frequencies nationwide – 4 HF frequencies, 6 VHF frequencies, and 2 UHF frequencies – for oil spill containment purposes.[8] There is no broadband spectrum allocated for point-to-multipoint oil spill response. The Commission's limited allocation of frequencies is grossly inadequate to meet voice and other communications needs in response to a major spill event.

Despite the dearth of frequencies to support massive oil spill clean-up operations, and even though EBS spectrum is not needed for educational purposes in the Gulf of Mexico, the

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[4] *Third Report at 76.*

[5] Letter to Ruth Milkman, Chief, Wireless Telecommunications Bureau, from Jack Richards and Greg Kunkle, Keller and Heckman LLP, dated May 16, 2011.

[6] The *Deepwater Horizon* cleanup effort included over 20,000 people, 1,000 boats, and 100 aircraft. Cacas, Max. "Communications lesson learned from Gulf oil spill." *Federal News Radio*, November 9, 2010. http://www.federalnewsradio.com/?nid=17&sid=2111872 (accessed April 12, 2011).

[7] In the aftermath of the disaster, the federal government imposed a moratorium on certain portions of the Gulf of Mexico. It lifted the ban in October 2010.

[8] See, Letter to Ruth Milkman dated May 16, 2011. Limitation 8 of Part 90.35 prescribes oil spill containment frequencies that can be used on a secondary basis: 25.04, 25.08, 150.980, 150.9875, 154.585, 158.445, 159.480, 159.4875, 454, and 459 MHz. Limitation 15 prescribes oil spill containment frequencies for shared government/non-government use: 36.25 and 41.71 MHz.

National EBS Association and the Catholic Television Network not surprisingly oppose any incursion into "their" spectrum.[9] The essence of their argument is "interference" to existing operations. This is the same complaint voiced by the BRS establishment and rejected by the Commission during the earlier reallocation of BRS spectrum for general use in the Gulf of Mexico.[10]

API proposed that the 112.5 MHz of EBS spectrum in the Gulf of Mexico be disaggregated into five 22.5 MHz licenses and made available for day-to-day industrial operations in 35-mile radius service areas. API also proposed that, in contrast to the BRS proceeding, the Gulf Service Area for EBS spectrum be licensed to the shoreline at high-mean tide.[11] This would grant access for the large number of oil platforms working within 12 miles of the coastline, thus creating a more inclusive emergency network in the Gulf of Mexico. Concerns regarding interference at the edge of the zone can be resolved by the Commission's existing rules governing signal strength at the edges of radio authorizations, just as they are terrestrially.[12]

The spectrum unbalance that caused the Commission to initiate this inquiry (*i.e.*, a huge spectrum allocation to the Educational Broadband Service in a large geographic area unserved by schools or universities) continues. Allowing non-educational institutions to obtain licenses for EBS spectrum in the Gulf of Mexico will increase spectrum efficiency, promote safety and disaster response, and support efficient energy production in the United States.

API and ENTELEC jointly request that the Commission move expeditiously to permit non-educational institutions to obtain licenses for EBS spectrum in the Gulf of Mexico, under the provisions proposed by API in its Comments in this proceeding.

Your attention to this matter is appreciated. Should you have any questions or require any additional information, please do not hesitate to contact the undersigned.

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[9] Letter to Marlene H. Dortch, Secretary, FCC, from National EBS Association and Catholic Television Network, June 20, 2011.
[10] *Third Report* at 49.
[11] *Comments of the American Petroleum Institute,* WT Docket No. 03-66 et al., Sept. 22, 2008 at 6.
[12] *Third Report* at 49.

Respectfully submitted,

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