

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

In the Matter of	)	
	)	
Amendment of the Commission's Rules with	)	GN Docket No. 13-185
Regard to Commercial Operations in the	)	
1695-1710 MHz, 1755-1780 MHz and	)	
2155-2180 MHz Bands	)	
	)	
Allocation of 3G Spectrum Below 3 GHz	)	ET Docket 00-258
	)	

To: The Commission

**EIBASS Petition for Reconsideration**

Engineers for the Integrity of Broadcast Auxiliary Services Spectrum (EIBASS) hereby respectfully submits its Petition for Reconsideration to the March 31, 2014, Report and Order (R&O) relating to the reallocation of federal spectrum at 1.7, 1.8 and 2.2 GHz to the commercial mobile radio services (CMRS), and to move Department of Defense (DoD) operations currently in the L-band to the S-band at 2,025-2,110 MHz; that is, to the 2 GHz TV Broadcast Auxiliary Services (BAS) band. Since the R&O has not yet been published in the Federal Register, the 30-day clock for such petitions has not started to run; thus, this Petition for Reconsideration is timely filed.

**I. EIBASS Comments and *Ex Parte* Comments Regarding DoD Aspect  
Apparently Ignored**

1. At paragraphs 210 and 211 of the R&O, discussing DoD entry into the 2,025-2,110 MHz TV BAS band, EIBASS was stunned to see not a single reference to its comments or *ex parte* comments regarding the DoD-at-2-GHz portion of the rulemaking. The September 18, 2013, EIBASS comments were timely, and the December 7, 2013, EIBASS *ex parte* comments were filed in response to November 25, 2013, DoD/National Telecommunications and Information Agency (NTIA) *ex parte* comments.

2. EIBASS is at a loss to understand how the Commission complied with its obligations under the Administrative Procedures Act (APA) when the R&O makes no mention whatsoever to the multitude of technical and regulatory issues raised by EIBASS. DoD has now been granted co-primary status to the 2 GHz TV BAS band not just for mobile, but also

## **EIBASS Petition for Reconsideration: GN Docket 13-185, DoD Move to 2 GHz**

for airborne mobile, operations. Even during the truncated comment period for the MB Docket 08-255 “Analog Nightlight” rulemaking, where the Commission concluded that the short time frames required by the 2008 Analog Nightlight Act justified abridging certain APA requirements, the Commission nevertheless managed to address all pertinent comments and reply comments.<sup>1</sup>

3. Issues raised by EIBASS included:

3A. Does “protection in accordance with a Memorandum of Understanding between Federal and non-federal fixed and mobile operations” mean the April 30, 2009, Society of Broadcast Engineers, Inc. (SBE)–DoD Memorandum of Understanding (MOU),<sup>2</sup> or does it mean that some new MOU is to be created?

3B. If a new MOU, will that MOU be drafted as a part of these docketed proceedings, subject to the APA? If some other procedure, will EIBASS and other interested parties have the right to participate?

3C. Will there be shared regulatory jurisdiction between the FCC and NTIA?<sup>3</sup>

3D. When demonstrating that newcomer DoD S-band operations will protect incumbent TV BAS operations, will DoD/NTIA be required to use the same Longley-Rice Irregular Terrain Model (ITM) parameters mandated for CMRS operators entering the 1.8 GHz L-band?<sup>4</sup>

3E. Just as DoD wants no clutter loss models used when demonstrating protection of its remaining L-band operations, will DoD similarly be precluded from using clutter losses when demonstrating that its newcomer S-band operations will protect incumbent TV BAS operations?<sup>5</sup>

3F. Will TV BAS licensees, including TV Pickup licensees, be protected to the same 100% of the time basis demanded by DoD for protection from newcomer CMRS L-band users? That is, not just 95% of the time, not just 99% of the time, but 100% of the time.<sup>6</sup>

---

<sup>1</sup> See the January 15, 2009, MB Docket 08-255 R&O, at paragraph 3, and footnote 9.

<sup>2</sup> This MOU is now on-file in the ET Docket 00-258 record in the Electronic Comment Filing System (ECFS), at <http://apps.fcc.gov/ecfs/document/view?id=7020354936>.

<sup>3</sup> See the September 18, 2013, EIBASS comments, at paragraph 11.

<sup>4</sup> See the November 25, 2013, NTIA *ex parte* comments, at page 86, and the December 7, 2013, EIBASS *ex parte* comments, at paragraph 3 and also at Figure 1.

<sup>5</sup> See the December 7, 2013, EIBASS *ex parte* comments, at paragraph 4.

<sup>6</sup> See the November 25, 2013, NTIA *ex parte* comments, at page 212.

## EIBASS Petition for Reconsideration: GN Docket 13-185, DoD Move to 2 GHz

3G. Will the basis for protection of TV Pickup stations be their operational areas of record?<sup>7</sup>

### II. Summary

4. While the R&O did acknowledge and discuss the EIBASS comments regarding Advanced Wireless Services (AWS) operations at 2,020–2,025 MHz, at paragraphs 55 and 57 of the R&O, mention of EIBASS or the issues raised by EIBASS are missing entirely from paragraphs 210 and 211 of the R&O (discussing DoD entry to 2,025–2,110 MHz). It is as if the EIBASS comments regarding DoD were being ignored. The AWS issue involves merely *adjacent band* issues, whereas the DoD entry into the 2 GHz TV BAS band involves far more problematic *co-channel* operation. It makes no sense for the Commission to have acknowledged and discussed the EIBASS comments regarding adjacent-band AWS but to have ignored the EIBASS comments regarding co-channel DoD. EIBASS accordingly respectfully requests that a Memorandum, Opinion and Order be issued, addressing the EIBASS comments regarding DoD use of 2,025–2,110 MHz.

Respectfully submitted,

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

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

April 25, 2014

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

---

<sup>7</sup> See the September 18, 2013, EIBASS comments, at paragraphs 17 through 19.