



June 11, 2009

VIA ELECTRONIC FILING

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

**Re: In the Matter of Wireless Strategies, Inc. Request for Declaratory Ruling
WTB Docket No. 07-121**

Dear Ms. Dortch:

The National Spectrum Management Association (“NSMA”) respectfully recommends that the Commission dismiss the Wireless Strategies, Inc. (WSI) Request for Declaratory Ruling in the above-referenced proceeding. WSI has failed to justify the proposed system’s compatibility with existing, legitimate operations in the band, has failed to present a proposal consistent with the Commission’s rules, and has even failed to adequately define its own proposal by using ambiguous and potentially misleading terms that WSI created to describe it.

This process has been underway since February 2007 and is still unresolved. In the meantime, WSI has instituted numerous, repetitive *ex parte* actions with the Commission, consuming valuable staff resources. In necessary response, band users have spent considerable time and effort analyzing the proposal, attempting to obtain additional information and ultimately opposing the vague and incomplete proposal because many vital questions remain unanswered. NSMA respectfully submits that it is time for the Commission to bring this intensive and time-consuming dialogue to a close by terminating this proceeding.

On March 12, 2009, WSI filed an *ex parte* in a further attempt to clarify its still technically undefined 2007 Request for Declaratory Ruling.¹ The latest filing, like the others WSI has submitted previously, once again fails to resolve the many significant and specific coordination, interference and technical concerns repeatedly raised by the NSMA and others in this proceeding.

Coordination Issues

In its latest incarnation, the WSI proposal appears to be dropping the claim that its unspecified multipoint transceivers (or “distributed radiating elements”) can be “concurrently coordinated” in advance of their location identification and technical parameter selection, as part of the coordination for a single point-to-point licensed path (this was a central component of the Request for Declaratory Ruling), and instead now proposes that each multipoint transceiver will be individually coordinated per 101.103,² albeit not individually licensed.

Previously, WSI often stated that the multipoint transceivers must “collectively comply with the Commission’s antenna standards (101.115),” and they are “subject to conditions that (1) all radiating elements together conform to the applicable antenna radiation pattern in Section 101.115”.³ The Part 101.115 requirements clearly apply to antenna standards at each specific transmit site, and not a collection of transmitter sites scattered over an area measured in miles.⁴

The latest filing now states that each multipoint transceiver will be prior coordinated individually and will not begin operations until the license of the main link has been modified (an apparent abandonment of WSI’s central concept- concurrent coordination).⁵ Once again, we question how this process could possibly comply with the FCC’s microwave coordination rules. Section 101.115(a) requires the main lobe of each licensed antenna to be directed toward the receiving station with which it communicates. If WSI proposes to add these multipoint transceivers to the main link’s license, they would clearly violate this rule. Also, any license modification of the main link’s authorization would not cover *transmissions* from these remotely located stations. Simply stating that they would be secondary does not relieve them from the responsibility of meeting the Rules.

While NSMA believes this concept has already received much more consideration than is justified by the flawed proposal, a serious consideration of WSI’s proposal would require a new set of coordination procedures to support this currently undefined class of

¹ Wireless Strategies Inc. Request for Declaratory Ruling, WTB Docket No. 07-121 (filed Feb. 27, 2007).

² NSMA still has grave concerns that WSI’s interpretation of Part 101.103(d) is inconsistent with industry practice and required procedures. *See* In the Matter of Wireless Strategies Inc. Request for Declaratory Ruling, WTB Docket No. 07-121, *NSMA Written Ex Parte Filing*, at 6 (Feb. 23, 2009).

³ *See, e.g.,* In the Matter of Wireless Strategies Inc. Request for Declaratory Ruling, WTB Docket No. 07-121, *WSI Written Ex Parte Filing*, at 2 (Mar. 19, 2009) (“*WSI March 19 Ex Parte*”).

⁴ 47 C.F.R. § 101.115 (2009).

⁵ *WSI March 19 Ex Parte* at 6.

station. Such procedures would represent extensive, substantive changes to the current rules and would necessitate a substantially different allocation of the band.

Interference Issues

The current WSI proposal includes a currently undefined licensing regime that would assign some form of secondary (but unlicensed) status to its multipoint transceivers. The Request for Declaratory Ruling and subsequent filings have never addressed the impact of introducing tens and even hundreds or thousands of unregulated, unlicensed, non-compliant⁶ secondary multipoint transceivers into the highly organized and ordered Part 101 fixed services bands.

This kind of sweeping change -- affecting every fixed service band, every allocation and every licensee -- is ill-advised and is certainly far beyond the scope of a simple Declaratory Ruling Request. Under Part 101, subparts C, H and I, all transmitters in these bands, including these multipoint transceivers, must be individually licensed and must meet all of the Rules under these subparts.⁷

Parsing Rule sections individually and taking them out of their proper context, as WSI has repeatedly done in this proceeding, is at best erroneous and such strained interpretations cannot support the dramatic changes WSI seeks in this proceeding. Otherwise, the fundamental basis of Part 101 will be called into question and must be reinterpreted for each prospective user.

Technical Issues

The most recent WSI *ex parte* offers insight into the potential abuse contemplated by WSI. The Louisiana example stated that the EIRP required on the new one-mile multipoint (DRE) hop was only 6 dBm.⁸ This is an error, as, using the WSI values from the *ex parte*, a 6 dBm EIRP would result in a receive level below the radio's threshold.

WSI also uses Vigants to "calculate" the expected reliability on the new 1-mile path. Vigants is not applicable to 1-mile paths and certainly not applicable in situations where the calculated thermal fade margin is less than 10 dB. These technical discrepancies are further examples of the "fractured science" that WSI has been promoting in this proceeding.

In addition, WSI claims that use of the 6 GHz band is necessary since rain fading would preclude use of frequencies above 10 GHz.⁹ Since licensed 11 GHz paths are routinely (and successfully) deployed on links of many miles, this is an indication of the

⁶ The Louisiana example contained in WSI's recent *ex parte* filing references the use of a 6" X 6" flat panel. This antenna could hardly be expected to meet the very exact and stringent requirements of Section 101.115. *WSI March 19 Ex Parte* at 4.

⁷ See 47 C.F.R. § 101 Subparts C, H, I (2009).

⁸ *WSI March 19 Ex Parte* at 5.

⁹ *WSI March 19 Ex Parte* at 14.

distance WSI contemplates between its unlicensed multipoint stations and one end of its licensed point-to-point path.

Conclusion

Contrary to statements made in the Sprint Nextel *ex parte* filing in support of the Request for Declaratory Ruling, NSMA continues to have very significant concerns with all of WSI's various proposals to date. WSI has failed to provide suitable answers, technical justification, or even basic substantiation to support a wholesale reinterpretation of the Part 101 service rules and context. The proposal put forth in the Request for Declaratory Ruling and in subsequent *ex parte* presentations remains inconsistent with FCC Rules,¹⁰ does not comply with the Administrative Procedure Act,¹¹ and is not in the public interest.

For these reasons, and the many others already placed in the record by NSMA and others, NSMA believes the WSI request for declaratory ruling should be promptly dismissed.

Respectfully Submitted,

NATIONAL SPECTRUM MANAGEMENT ASSOCIATION

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¹⁰ Specifically, 47 C.F.R. §§ 1.903, 101.21, 101.113, 101.115, 101.141, and 101.143 (2009).

¹¹ See In the Matter of Wireless Strategies Inc. Request for Declaratory Ruling, WTB Docket No. 07-121, *Satellite Industry Association and Global VSAT Form Reply Comments* (Aug. 20, 2007).