



September 18, 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:

On August 21, 2009 WSI filed a request for an immediate ruling in the above-referenced proceeding. The National Spectrum Management Association (“NSMA”) has submitted ex-parte filings in opposition to this Request for Declaratory Ruling and is submitting this ex-parte notice to emphasize that this Request for Declaratory Ruling should be denied. As noted in several of the NSMA filings, 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 failed to clarify their request and alleviate the concerns of other licensees. A brief summary of our concerns include:

First, the WSI proposal clearly violates 47 CFR 101.115 requiring antennas used in this Part to meet minimum gain, beamwidth and suppression (pattern) requirements *from the centerline of the antenna*

Second, 47 CFR 101.115 also states: “each station authorized under the rules of this part must employ a directional antenna adjusted with the center of the major lobe of radiation in the horizontal plane directed toward the receiving station with which it communicates.” Their distributed transmitters (“multipoint transceivers”) cannot be authorized as they neither transmit nor receive along the same major lobe as the licensed antenna. Therefore, what WSI is really asking for is to be able to overlay an unlicensed service of hundreds of thousands of transmitters with non-conforming antennas, and no rules to adequately protect the existing services.

Third, the WSI proposal clearly violates 47 CFR 101.103 and 47 CFR 101.21 which define the transmitter's location to the nearest second and the nearest meter in height.

WSI's interpretation of 47 CFR 101.115, stating that it is an *electrical* specification, not a *physical* specification is not properly supported in their arguments. Interpreting 47 CFR 101.115 apart and separate from 47 CFR 101.21 and 47 CFR 101.103 is incorrect and nullifies the intent of the rule.. Without a defined location of the transmitting antenna including all of its pieces and parts, the basis of 47 CFR 101.115 is meaningless. It is clear even from WSI's convoluted explanation that these *electrical* requirements must be measured from the "centerline of the antenna"¹ which is of course, a *physical* location.

WSI has repeatedly stated throughout this proceeding that their so-called DREs could somehow "*collectively*" meet the requirements of 47 CFR 101.115, but they have never provided any documented technical proof that they can. Placing a transmitting element more than a few meters away from the antenna sub-assembly will drastically affect its *electrical* specifications. Indeed the transmitting element(s) is a key piece of the antenna and largely responsible for determining its electrical performance.

Transmitting from a 6"X6" flat panel² (or from hundreds of such non-conforming radiators), at locations miles away from the antenna and in directions completely opposed to the main beam of the antenna, most certainly would "*collectively*" result in major violations of the Rule. Each of these transmitting antennas, connected to separate radios and transmitting separate and distinct material, have their own main beams, their own beam widths, and their own radiation patterns, and must meet the Rules on their own. WSI's use of the term "smart antenna" to describe this area-wide deployment of dispersed transmitting sources does not meet any known, accepted definition for such an antenna and is inconsistent with the Rules.

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

By: _____/s/_____
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¹ WSI August 21, 2009 ex parte at Page 2, paragraph 2

² WSI March 19, 2009 ex parte at Page 4