

April 1, 2004

Federal Communications Commission
455 12th Street SW
Washington, District of Columbia 20554

**RE: Notice of Proposed Rule Making
ET Docket 04-37**

Dear Sirs:

I am an Extra Class licensee in the Amateur Radio Service. I am writing to express my comments on the above captioned proceedings.

1. The Commission has rightly taken note of the potential for BPL emissions to interfere with licensed services. I do not believe that most members of the amateur community object to the deployment of BPL, **provided however**, that Part 15 regulations are strictly enforced.
2. I am concerned with the language used in Paragraphs 1, 8, 31, 40, 42, 43, and in Appendices A and B where the text contains the words "mitigate" or "mitigation". The word mitigate is defined by Webster's Dictionary as "**to become less harsh or hostile**" or "**to make less severe or painful**". I also note that the Commission did not propose to further define the term "mitigate" by amendment of 47 CFR 15.3.

The language of Part 15 as it is now written is crystal clear (at 47 CFR 15.5(b)):

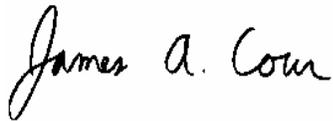
"Operation of an intentional, unintentional, or incidental radiator is subject to the conditions that no harmful interference is caused . . ."

District court judges are often asked to settle disputes regarding federal regulations. Absent specific definitions in the text of the law or case law precedent interpreting a "term of art", most judges consult the dictionary for the plain meaning of a word. I can envision a situation where a well meaning, but technically inept judge, could rule that an attempted reduction in harmful interference (*i.e.* mitigation) is sufficient, even if the BPL installation continues to cause harmful interference with a licensed service, albeit at a reduced level.

I believe the Commission would be doing a great service to the courts, the electric utilities, and the licensed services by avoiding use of vague language or, in the alternative, by further defining the term "mitigate" to mean attenuation in an amount sufficient such that "no harmful interference is caused".

3. Part 15 regulations, clearly articulated and properly enforced, should provide adequate protection to licensed users. Unfortunately, the history of the Commission's enforcement action has arguably been spotty. The instant proceeding may not be the appropriate time to consider changes in enforcement matters, but if the amateur community had greater assurance that Part 15 regulations would indeed be enforced then the Commission might have considerably more support for its position. I believe a specific time limit, say 20 days, to remedy a harmful interference complaint, would be reasonable, after which the affected licensee could initiate a cause of action to compel correction and to recover money damages. Hopefully, the need for such an action would be rare.

Sincerely,

A handwritten signature in cursive script that reads "James A. Cour".

James A. Cour
K1ZC