

MOTION

FOR RE-ISSUANCE OF THE NOTICE OF PROPOSED RULE MAKING IN DOCKET 04-37 IN THE MATTER OF BROADBAND OVER POWER LINES (BPL)

BY

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The petitioner in this motion is a licensed Amateur Radio Operator holding an Amater Extra class license and has been licensed for over ten years.

EVIDENCE

1. On June 4, 2004 the National Telecommunications and Information Administration (NTIA) released partial results in its Phase 2 study of Broadband Over Powerline (BPL) systems. This study was incorporated as comments in the BPL NPRM (Docket 04-37). In its comments the NTIA not only added significant, quantifiable detail to BPL's interference potential, but the NTIA also suggested several additional rules to remedy and/or alleviate interference. These suggestions are not included in the original NPRM as proposed rules, since the NPRM was released prior to the study's release.
2. Pursuant to 47 CFR 1.401(c):

“The petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested, and shall indicate how the interests of petitioner will be affected.”
3. If recommendations are added to the eventual rule based on the NTIA's findings, then the petition is in fact in violation of the above reference since the petition did not “set forth the text or substance of the proposed rule [or] amendment”. The actual rule adopted will be substantially different than the NPRM in both text *and* substance. Further, since the NPRM does not include these recommendations in codified form, it is impossible for parties to know how they will be affected by the final rule. In addition, the NPRM will not supply the necessary “data deemed to support the action requested” if the NTIA's suggestions are to be codified.

THE MOTION

As a result, the petitioner submits the following Motion:

“The petitioner moves that the Federal Communications re-issue, if NTIA Phase 2 recommendations are to be included, its proposed rule in Docket 04-37 to fully codify those recommendations and comply with 47 CFR 1.401(c).”

For the reasons set forth herein, the petitioner urges the Federal Communications Commission to grant the Motion included above.

Respectfully submitted,

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