

SUPPLEMENTAL REPLY COMMENTS)
OF JAMES E. WHEDBEE, M.ED.)
IN ET DOCKET #04-27 (Broadband)
over the Power Lines)...)

To the Commission:

This further responds to comments of ARRL, et al., opposing the adoption of the rules as proposed, and the NTIA opposing in part and favoring in part the adoption of these rules as proposed. While I still believe the rules - as currently suggested - are a poor design on protecting incumbent licensees, I do see one area where the Commission might consider allowing the current proposal: buried power lines associated with fully shielded and enclosed transformers. Given the shielding the ground affords, these buried lines and enclosed transformers wouldn't harm to any appreciable degree the rights of licensees. In this one case I think the Commission could, in good faith, adopt the present proposal using the most recent NTIA data.

As for above-ground power lines and unshielded power transformers, in response to the NTIA's introductory paragraph of its late-filed comments, I still see this proposal as politically-grounded and lacking in adequate remedies for enforcement actions to be taken against interfering BPL entities. The FCC has a legal and political duty to ensure incumbent licensees both have regulatory protections from interference, through equipment certification, and by requiring BPL entities to act as any other entity under Part 15 by shutting down when harmful interference is occurring. The test for what is "harmful" should be anything which degrades a licensee's ability to communicate. Degradation of communications to any degree by a Part 15 operator is unacceptable and should require the FCC to intervene when voluntary compliance by the BPL operator cannot be secured. Any suggestion that a worldwide 1 deciBel increase in the noise-floor is acceptable, as NTIA suggests, is irrational. That's the same as suggesting that a one percent increase in the lead contamination of water is okay as long as somebody profits from it...it's ludicrous. What the NTIA's results suggest is an average increase in the threshold; obviously, nearer to the United States and nearer still to these noise sources, the noise floor will be substantially worse. That's contrary to our national security, particularly since many military communications systems employ weak-signal technologies along the same lines amateur radio operators use (i.e., troposcatter for one). I speak from experience having served during Operation Desert Storm in the United States Army in the 13th Signal Battalion, such increased noise floors can damage communications for the military. Now isn't the time to even think of risking harm to our soldiers.

Finally, in response to some in the BPL industry/BPL proponents. Some have suggested that licensees be required to move 30 meters from a location when harmful interference is experienced. This is indicative of the BPL industry's utter lack of knowledge in how Part 15 operations work! The duty to move if harmful interference occurs is on the Part 15 operator not an incumbent licensee. Consequently, if BPL is connected to my powerline (outside my home) and it interferes with my equipment - and it most likely would - the BPL operator must move or remove the equipment...not me. What's more, if the FCC refused to enforce this, the BPL operator could expect me to sue for extinguishment of the power company's power line easements over my property, and let me assure you, I would prevail. Therefore, the FCC needs to ensure the BPL folks know and fully grasp the consequences of operating under Part 15...if allowed, BPL will operate in different parts of this nation at the pleasure and will of licensees. BPL operators need to not be starting this relationship with

arrogant propositions like making incumbent licensees move. That won't be tolerated.

Responding further to now pending motions for extensions of time. I favor those motions. However, I favor extending the time indefinitely until the FCC can revise this NPRM to more properly reflect the appropriate relationship between Part 15 BPL operators and existing licensees. That relationship should reflect that Part 15 BPL operators exist at the sufferance of existing licensees, and that no harmful interference whatsoever will be tolerated, and further, that any interference can result in the removal of the BPL equipment.

Respectfully submitted:

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