

SBE White Paper on RM-11308

RM-11308 is the result of a September 8, 2005, SBE Petition for Rulemaking proposing to modify the FCC's Universal Licensing System (ULS), and FCC Form 601, to allow TV Pickup licensees the option of entering the location(s) and height(s) of their electronic news gathering receive-only sites (ENG-ROs). ENG-RO facilities are typically placed near the top of tall towers, on the roofs of high-rise buildings, or on mountain tops, so as to increase the likelihood that, no matter where a news event occurs in a TV station's market, an ENG truck will have line of sight (or at least a useable bounce path) to at least one ENG-RO site. ENG-RO sites employ highly sensitive receivers, often using a feedhorn-mounted low noise amplifier (LNA). ENG-RO receiving antennas are either omnidirectional, or employ directional and remotely controlled antennas, that can be aimed in real time towards the location of an originating ENG truck (or other ENG platform). The SBE Petition for Rulemaking also proposed allowing Remote Pickup (RPU) licensees the ability to enter the location(s) and height(s) of any RPU-RO sites that might be used. RPU-RO sites are used where an RPU transmitter is not allowed; for example, 450/455 MHz RPU operations north of Line A, near the U.S.-Canada border.

Background

In the ET Docket 01-75 rulemaking, SBE asked that the ULS, and Form 601, be amended to allow TV Pickup licensees to enter the location(s) and height(s) of their ENG-RO sites. The November 13, 2002, ET 01-75 Report & Order (R&O) declined to do so, on the grounds that this proposal was supposedly "outside the scope of the rulemaking." SBE found this position curious, since the purpose of the ET 01-75 rulemaking was a general updating of the Part 74 Broadcast Auxiliary Services (BAS) rules, and the harmonization of those rules, where possible, with the Part 101 Rules. Accordingly, on April 4, 2003, SBE filed a Petition for Partial Reconsideration of the R&O, arguing that amending Form 601, and modifying the ULS, was entirely within the scope of the rulemaking. In the resulting October 20, 2003, ET 01-75 Memorandum Opinion and Order (MO&O), the Commission stuck to its guns, and continued to characterize this SBE suggestion as outside the scope of the rulemaking. The MO&O suggested that SBE could either work informally with Wireless Telecommunications Bureau (WTB) staff to effectuate the change, or could submit a dedicated Petition for Rulemaking.

SBE then spent the next two years attempting to convince certain WTB staffers to modify the ULS and Form 601, but without success. The problem, apparently, was not that those staffers didn't agree that the suggested changes would be helpful, but rather that it would cost the FCC money to have a contractor modify the ULS software. Strangely, this didn't appear to be a problem for the recent modifications to the ULS to start deleting BAS licenses for which a "construction completed," or NT, filing had not been made.

SBE then took the Commission up on its suggestion to file a dedicated Petition for Rulemaking. On January 23, 2006, that petition was assigned Rulemaking Number 11308, and a 30-day comment deadline was established.

Seven parties filed comments: NAB, CBS, Cox, Disney/ABC and Tribune all filed in support. SBE, of course, also filed in support, but did so on February 17, 2006, five days before the filing deadline, because of reports it had heard that Sprint Nextel was considering an opposition filing,



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believing (wrongly) that the SBE petition proposed to impose a new frequency coordination requirement on 2 GHz commercial mobile radio service (CMRS) licensees, and would also impose a tighter out-of-band-emissions (OOBE) mask on 2 GHz Advanced Wireless Services (AWS) base stations. Added to that early SBE filing was a "What the Petition Does *Not* Propose" section, intended to allay the Sprint Nextel concerns. A copy of this early filing was sent to Sprint Nextel, to ensure that they were aware of it.

Surprising Sprint Nextel and CTIA Opposition

But, to no avail: The February 23 Sprint Nextel RM-11308 comments came out in opposition; Sprint Nextel argued that it was not aware of any interference problems to ENG-RO sites, and that the SBE petition was "a solution in search of a problem." Accordingly, on March 2, 2006, SBE filed *ex parte* rebuttal comments, pointing out the inaccurate claims regarding the SBE Petition for Rulemaking and RM-11308 in the Sprint Nextel RM-11308 comments, and documenting in detail cases of interference to ENG_RO sites.

Next, on March 15, 2006, CTIA-The Wireless Association (CTIA) filed me-too opposition comments to RM-11308. The CTIA comments were essentially a carbon copy of the Sprint Nextel comments, although unlike the Sprint Nextel comments the CTIA comments were not timely filed, since the RM-11308 comment window had closed on February 23. Although the CTIA filing did not explain why it filed late, nor did it request leave for the FCC to accept its late-filed comments, the CTIA opposition is now also a part of the RM-11302 record in the Commission's Electronic Comment Filing System (ECFS).

Accordingly, on April 18, 2006, SBE filed additional *ex parte* rebuttal comments to the misguided CTIA opposition to RM-11308. This SBE *ex parte* filing said that, like Sprint, CTIA was barking up the wrong tree.

The WT Docket 04-356 Connection

In the WT Docket 04-356 rulemaking (Service Rules for 2 GHz AWS Stations) SBE had indeed proposed 1) a 0.5 km keep-away distance for AWS base stations to ENG-RO sites and 2) a tighter emission mask of $67 + 10\log(\text{TPO, watts})$ dB instead of the $43 + 10\log(\text{TPO,watts})$ dB emission mask proposed in the 04-356 NPRM, *those proposals were, and continue to be, entirely separate from RM-11308*. All RM-11308 was proposing was a means to allow TV Pickup licensees to document the location(s) and height(s) of their ENG-RO sites in the ULS. This would then allow any interested party to quickly (and anonymously) do a point-radius search, to see if an ENG-RO site was nearby. If so, and if early enough in the planning process, it might be possible (and easy) to select a different AWS base station site.

It should also be noted that the SBE-proposed WT 04-356 keep-away requirement would not be absolute: If an AWS licensee nevertheless wished to site a newcomer base station within 0.5 km of an existing ENG-RO site, it could still do so, but would then have to submit a site-specific application for that base station. Under the SBE proposal, that site-specific grant would have an equipment test requirement. If pre-activation tests showed no interference to the nearby ENG-RO site, then fine, the AWS licensee could activate the new base station and commence service. But, if the equipment tests



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revealed interference, then the tests would have to be suspended until the appropriate filters had been installed. If the tests showed that the interference was due to OOB from the base station (seen as an in-channel signal by the ENG receiver), additional filtering would be added to the AWS base station transmitter. If the tests showed that the interference was due to brute force overload (BFO) to the LNA used at the ENG-RO site, then filtering in front of the LNA would be added. Only when further equipment tests revealed the absence of interference to the earlier-in-time ENG-RO site could the AWS base station be placed into regular service. (It should be noted that the FCC Rules already provide exceptions to geographic licensing, where licensees are required to submit, in certain cases, a site-specific application, and wait for grant of that application. For example, a CMRS base station near a radio quiet zone, near an FCC Monitoring Station, or a base station with an antenna height sufficient to require FAA approval.)

Ironically, both Sprint Nextel and CTIA had filed comments and reply comments to WT 04-356, and neither had opposed the SBE proposals for a 0.5-km keep-away distance to ENG-RO sites, and a tighter emission mask (if the tighter emission mask was not adopted, then the required keep-away distance would increase to 6.7 km). Further, the Sprint comments to 04-356 also said that a tighter emission mask should be adopted, although the reason for that request was to ensure no interference to existing Sprint PCS base stations. And, the Sprint comments made it clear that the Commission must protect their base station receivers from interference due to *both* OOB or BFO-- exactly the protection that SBE requested for ENG-RO sites!

Apparently both Sprint Nextel and CTIA overlooked the SBE comments to the WT 04-356 rulemaking, and are trying to correct for that oversight by attacking RM-11308, since it is now far too late for Sprint Nextel or CTIA to re-open the WT 04-356 pleading cycle.

To SBE this appears to border on an abuse of the Administrative Procedures Act (APA), and certainly falls into the "hardball" category of behavior. Further, Sprint Nextel and CTIA may end up shooting themselves in the foot by opposing RM-11308 (on bogus grounds, in SBE's view), because if the WT 04-356 R&O, when released, adopts the SBE suggestions, then Sprint Nextel, and other AWS licensees, will be obligated to check that none of its planned AWS base stations are within 0.5 km of an existing ENG-RO site. If RM-11302 gets adopted, an AWS licensee will be able to do this quickly, easily, and anonymously. But, if RM-11302 is unsuccessful, an AWS licensee would then have to start calling every TV station in the vicinity of the planned new build, to ascertain the location(s) of each station's ENG-RO site(s). This would, of course, reveal the plan to deploy AWS in a particular area, something that the AWS licensee might not wish to do. Conversely, if the WT 04-356 R&O declines to adopt the SBE proposals, then Sprint Nextel should have no interest or concern in whether RM-11302 gets adopted.

Continued Need for RM-11308, Regardless of What Decision is Reached in the WT 04-356 Rulemaking

But, broadcasters will still have a stake in RM-11308, because of the plan to move DoD uplinks into the 2 GHz TV BAS band (see the related SBE White Paper on DoD Uplinks). Because the DoD uplinks will be obligated to demonstrate that they protect ENG-RO sites when they get ready to make the move from the 1.8 GHz Space Ground Link System (SGLS) band to the 2 GHz TV BAS band, it is



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important that TV Pickup licensees be able to document the location(s) and height(s) of their earlier-in-time, and must-be-protected, ENG-RO sites.

Finally, everyone should understand that because the FCC chose to first run the SBE Petition for Rulemaking "up the flagpole" by issuing an RM number, as opposed to jumping immediately to an NPRM, a further set of comments and reply comments will be possible when the FCC upgrades RM-11308 to an NPRM, with a docket number. So Sprint Nextel, CTIA, and other interested parties will have their chance to again submit comments and reply comments before any final rule gets adopted.

What Broadcasters Can Do

Broadcasters should let the FCC know that they support RM-11308! Although the comment period closed on February 22, 2006, *ex parte* comments can still be filed using the ECFS. Letters from individual TV stations carry particular weight in rulemaking proceedings, because so often only the "standard" trade groups or organizations file comments. So when letters come in from individual stations, that gets the Commission's attention. As is the standard SBE practice, all of these filings are posted on the SBE web site, in the "Regulatory/Gov't Relations" section. These filings are of course also available from the ECFS. For more information, contact:

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