



FEDERAL COMMUNICATIONS COMMISSION
Enforcement Bureau
Spectrum Enforcement Division
445 12th Street, S.W.
Washington D.C. 20554

June 16, 2006

James N. Horwood, Esq.
Attorney for the City of Manassas
Spiegel & McDiarmid
1333 New Hampshire Avenue, N.W.
Washington, DC 20036

Mr. Walter P. Adams
Vice President, New Technology
COMTek
14151 Newbrook Drive, Suite 400
Chantilly VA 20151

Via Certified Mail
Return Receipt Requested

Dear Mr. Horwood and Mr. Adams:

By letter dated March 7, 2006, the FCC's Spectrum Enforcement Division of the Enforcement Bureau directed the City of Manassas to take several actions related to the allegation by amateur radio licensee Mr. Dwight Agnew (Call sign AI4II) that the City of Manassas' broadband over power line (BPL) operation causes harmful interference to his authorized transmissions while traveling along Virginia Business Route 234 in Manassas. We address your responses to those directives below.

First, you were directed to demonstrate system compliance with 47 C.F.R. § 15.611(b) of the Commission's rules. Specifically, you were directed to make measurements at the locations described in Mr. Agnew's complaint, during the hours of peak usage of the system by BPL customers.¹ Documentation of these measurements was to be submitted to the Commission. If the measurements revealed any portion of the system to be non-compliant with the pertinent Commission requirements, you were instructed to so note in the report submitted to the Commission, including a description of remedial steps taken to bring the system into compliance, along with post-remediation measurements demonstrating compliance with the Commission's general technical requirements for Access BPL at Section 15.611(b) (47 C.F.R. § 15.611(b)).

¹ These measurements were to be made in accordance with the guidelines of Section 15.613 of the Commission's rules (47 C.F.R. § 15.613).

Once compliance was confirmed, you were directed to take steps to reach resolution with Mr. Agnew regarding his complaint. To that end, you were directed to either eliminate any continuing harmful interference, as alleged by Mr. Agnew, to his mobile operations in the Business Route 234 area, or reduce the emissions in that area to 20 dB below the Part 15 limit.² You were also required to submit a report to the Commission detailing your investigation of Mr. Agnew's complaint, which was to include any steps taken to mitigate the alleged interference, and give the status of the matter subsequent to these actions.

On April 6, 2006, you submitted a "preliminary validation study" which you later supplemented on April 14, 2006, in a "full final report." Based on a preliminary analysis of these submissions, we are directing the City of Manassas/COMTek to take additional actions, as explained in more detail below, to address non-compliance with the Commission's emission requirements as evidenced by these submissions. Additionally, we are directing the City of Manassas/COMTek to address specifically and reach a resolution with regard to Mr. Agnew's complaint or reduce the emissions in that area to 20 dB below the Part 15 limit. Finally, we are directing the City of Manassas/COMTek to provide information regarding its plans to ensure adequate notice to existing customers, in the event of a directive from the Commission to cease operations.

Emissions requirements. Based on our preliminary review of the Product Safety Engineering, Inc. report submitted on April 6, 2006 and the Rheintech Laboratories, Inc. report submitted on April 14, 2006, it appears that the BPL system is not in compliance with the Commission's emission requirements at several frequencies. We note that these frequencies are not part of the amateur band and thus, separate from Mr. Agnew's complaint. Accordingly, to fully comply with the Commission's rules, you are directed to take immediate steps to eliminate all excessive emissions. Upon your completion of any remedial actions, you must conduct additional measurements to demonstrate compliance with the Commission's emission requirements. Within 30 days of the date of this letter, you are directed to submit a report on the steps you have taken, and the additional steps necessary to remain in compliance with the applicable FCC rules.

Interference complaint. As noted above, you were directed to take action to resolve any continuing harmful interference as alleged by Mr. Agnew to his mobile operations or reduce the emissions in that area to 20 dB below the level required for compliance with Part 15 of the Commission's rules.

In your responsive submissions, you acknowledge a high level of noise and interference in the area of concern. You concluded, however, that based upon on/off tests conducted in the areas that Mr. Agnew described, the Manassas BPL system was not the cause of the interference to Mr. Agnew's mobile operations. In this regard, the report does not include any indication that your tests included steps to specifically address Mr. Agnew's complaint (*e.g.*, conduct tests with Mr. Agnew present, utilize similar equipment, re-create the mobile transmission environment, or attempt to compare the local interference and noise with the types of signals affecting Mr. Agnew). Alternatively, the technical measurements included in the Product Safety Engineering,

² See 47 C.F.R. § 15.611(c)(1).

Inc. report submitted on April 14, 2006 do not demonstrate that the emissions levels in the area described by Mr. Agnew have been reduced to at least 20 dB below the Part 15 limit.³

Accordingly, you are directed to take actions intended to address Mr. Agnew's specific claim of harmful interference. If you are not able to resolve this specific claim, you are directed to reduce the emissions level in the area described by Mr. Agnew on the pertinent frequencies to at least 20 dB below the Part 15 limit.

Resolution and additional filing required. You are directed to address, as explained above, Mr. Agnew's complaint alleging harmful interference to his mobile operations.⁴ This should be done as soon as practicable. A detailed report on the actions you have taken and the progress you have made in resolving the interference complaint or reducing the emissions in the area referenced in Mr. Agnew's complaint to 20 dB below the Part 15 limit, as well as the specific steps you will take to inform customers of a cessation of services in the event you are directed to cease operations, either in part or system-wide, as discussed below, must be filed within twenty (20) days from the date of this letter. You are also directed to take the necessary actions to bring the BPL system into compliance with the applicable emission requirements. A detailed report on actions you have taken to bring and maintain system compliance with the Commission's emission requirements must be filed within thirty (30) days from the date of this letter. Correspondence concerning this matter should be sent by first class mail to: Katherine Power, Esq., Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 7-B555, Washington DC 20554. COMTek and the City of Manassas shall serve Mr. Agnew with copies of any Commission filings made in response to this letter.

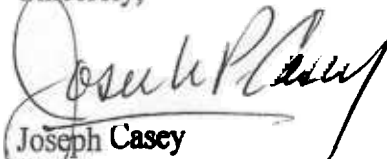
Procedures for Cessation of Operations. Finally, in light of the apparent ongoing interference to Mr. Agnew's authorized transmissions and the insufficiency of data reported to the Commission, you are requested to provide a description of what steps you will take to inform customers of a cessation of services, including the number of customers who would be affected by such cessation should you be directed to cease operations, either in part or system-wide. In doing so, you should address procedures

³ You have indicated that you expect the emissions will be reduced to 20 dB below the Part 15 limit, once you install new second generation BPL equipment along the Route 234 corridor, which you expect to complete by the end of July, 2006. We note that a failure to respond until the end of July to any complaint alleging harmful interference in an effort to determine if the new equipment resolves the matter is not sufficient.

⁴ Under separate cover, you are being sent additional complaints concerning other BPL interference issues in Manassas.

for giving advance notice as necessary to ensure adequate time for existing customers to make arrangements with alternate providers in the event that a shut-down is ordered.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph Casey", written over a horizontal line.

Joseph Casey
Chief, Spectrum Enforcement Division
Enforcement Bureau

cc: Mr. Dwight Agnew
9335 King George Drive
Manassas, VA 20109