

## **FCC makes 2.5 GHz Broadband Radio Service Available for Licensing in Gulf of Mexico**

On March 20, 2008, at the request of the Telecommunications Committee of the American Petroleum Institute (“API”), the Federal Communications Commission (“FCC” or “Commission”) announced that 66.5 MHz of spectrum in the 2.5 GHz Broadband Radio Service (“BRS”) would be made available for licensing in the Gulf of Mexico. The decision is expected to facilitate communications necessary for the safe and efficient exploration and production of oil and natural gas in the Gulf.

In adopting this order, the Commission found that making BRS spectrum available in the Gulf “could provide a means for meeting an important communications need in a critical area, as well as enhance emergency communications in the region.” In arriving at its decision, the Commission placed significant weight on two factors addressed by API.

First, in light of the devastation caused by Hurricanes Rita and Katrina, the Commission found that API’s members have re-evaluated their communications needs in the Gulf of Mexico. In particular, the oil and natural gas industry has placed increased importance on the use of rapidly deployable IP-enabled broadband services to support both permanent facilities and disaster recovery efforts. The Commission noted that a number of commercial entities currently provide telecommunications service in the Gulf of Mexico through wireless, wireline or satellite systems, but expressed concern that the Gulf of Mexico still may be an underserved. The Commission noted that some oil and gas facilities are too far from shore to receive services from land-based providers. Therefore, the Commission concluded that licensing the BRS in the Gulf may encourage service providers to explore and offer new services in the underserved Gulf region.

Second, the Commission found that API persuasively argued that the 2495-2690 MHz band is one of the few bands available and adequate to support communications at offshore oil and gas facilities. With respect to Industrial/Business licensees, the 1850-1990 MHz band, the 2130-2150/2180-2200 MHz band, and much of the spectrum previously available in the 2.4 GHz band, have been allocated by the Commission for other purposes. Although spectrum in the 900 MHz band may be available to support communications at relatively short distances, the next band above 900 MHz with a substantial amount of spectrum available for use in the Gulf is found at 6 GHz, which may not be suited for longer haul communications in marine environments such as the Gulf. While many energy companies and service providers have deployed systems in the low powered, “license exempt” Part 15 bands, these frequencies are secondary and are quickly becoming saturated and unsuitable for critical applications. Based on these facts, the Commission determined that licensing the BRS in the Gulf was in the public interest.

In addition to the spectrum allocation itself (66.5 MHz), the Commission announced that the Gulf of Mexico service area will be divided into three zones for licensing purposes. This, too, was at API’s request, so that the geographic areas of the licenses would fit more closely with the licensees’ actual operating and service territories.

The Commission rejected attempts by incumbent terrestrial users along the coast to impose more stringent technical standards on the use of this spectrum in the Gulf due to alleged "ducting." Instead, as API requested, BRS licensees in the Gulf will be subject to the same service and technical rules that apply to all other BRS licensees. To accommodate the allocation, API agreed with a proposal to establish the Gulf license boundary 12 nautical miles from the shore, which is consistent with other Commission allocations in the Gulf and will be incorporated into the rules.

As part of the same proceeding, the Commission is seeking further comment on whether and how to license the 2.5 GHz Education Broadband Service (EBS) spectrum in the Gulf (123.5 MHz). In making this proposal, the Commission noted that traditional educational institutions have no identifiable spectrum requirements in the Gulf, and that this spectrum, too, may be useful in facilitating oil and gas exploration and production in the area. Coupled with the recent BRS spectrum allocation, this new, potential allocation of EBS spectrum could substantially increase spectrum options for users in the Gulf.

***The Washington Report is prepared by Keller and Heckman LLP, 1001 G Street, NW, Washington, D.C. 20001. For further information, please contact Jack Richards, General Counsel of ENTELEC (Richards@khlaw.com; 202 434-4210). Keller and Heckman LLP also represents the Telecommunications Committee of the American Petroleum Institute.***