

UNITED STATES OF AMERICA

DEPARTMENT OF COMMERCE

NATIONAL TELECOMMUNICATIONS  
AND INFORMATION ADMINISTRATION

WASHINGTON, D.C.

Presidential )  
Spectrum Policy ) Docket 040127027-4027-01  
Initiative )

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FIRST SUPPLEMENTAL COMMENTS OF THE AMHERST ALLIANCE

In the Written Comments filed in this Docket by THE AMHERST ALLIANCE, we mentioned the adverse impact of Broadband Over Powerlines (BPL) on Federal Government communications, including national security and disaster response communications. We urged you to complete your ongoing study of BPL interference and to continue your advocacy of extreme caution in encouraging BPL technology.

We hereby submit for the record a February 29, 2004 letter to Congressional legislators on this subject. The letter was signed by 20 parties, including THE AMHERST ALLIANCE.

This letter should be treated as part of the public record for NTIA's Docket on implementation of the Presidential Spectrum Policy Initiative.

Respectfully submitted,

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Dated: \_\_\_\_\_

March 18, 2004

**NATIONAL ANTENNA CONSORTIUM**  
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February 29, 2004

Senator John McCain, R-AZ, Chairman,  
Committee on Commerce, Science & Transportation  
Senator Ernest Hollings, D-SC, Ranking Minority Member,  
Committee on Commerce, Science & Transportation  
Senator Conrad Burns, R-MT, Chairman,  
Subcommittee on Communications

Representative Joe Barton, R-TX, Chairman,  
Committee on Energy & Commerce  
Representative John Dingell, D-MI, Ranking Minority Member,  
Committee on Energy & Commerce  
Representative Fred Upton, R-MI, Chairman,  
Subcommittee on Telecommunications & The Internet  
Representative Michael Bilirakis, R-FL, Co-Chairman,  
Subcommittee on Telecommunications & The Internet  
Representative Edward Markey, D-MA, Ranking Minority Member,  
Subcommittee on Telecommunications & The Internet

Representative Greg Walden, R-OR

**RE: Proposed Rule On Broadband Over Powerlines (BPL),  
In FCC Docket 03-104**

Dear Congressional Legislators:

The undersigned parties are both organizations and individuals. Collectively, we are contacting you to express our deep concerns regarding the February 12 decision, by the Federal Communications Commission (FCC), to issue a proposed rule on Broadband Over Powerlines (BPL). The FCC has issued this proposed rule while 2 different technical studies, evaluating the crucial subject of BPL interference with other communications transmissions, are still awaiting completion this spring.

We ask you, as leaders of Congress on communications issues, to take the following action:

Contact the 5 FCC Commissioners to urge *an immediate "freeze" of action on the proposed rule* until 2 ongoing studies -- now being conducted by the NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA) and an independent consulting firm -- have been completed and their results fully assessed.

Specifically, we ask you to support the February 17, 2004 request to the FCC, by the NATIONAL ANTENNA CONSORTIUM (NAC) and THE AMHERST ALLIANCE, to extend the Written Comments deadline in Docket 04-37:

- (A) From 45 days after publication of the BPL proposed rule in the FEDERAL REGISTER [probably yielding a Written Comments deadline in April]
- (B) To 2 months after the completion and public release of both of the ongoing technical studies [probably yielding a Written Comments deadline in June]

We note that in January Representative Greg Walden (R-OR) publicly urged the FCC not to issue a proposed rule until the 2 technical studies had been completed and assessed. We also note that another party, Nickolaus Leggett of Virginia, filed on February 24 a Motion For Extension Of Time that would add 6 months to the current comment period.

The NAC/Amherst request and the Leggett request are both enclosed for your review.

In any event, permit us to introduce (or, in some cases, re-introduce) ourselves:

The NATIONAL ANTENNA CONSORTIUM (NAC) is a non-profit organization, founded in 2001, which represents those who own, use and/or build antennas and/or communications towers. NAC is concerned about BPL interference with Amateur Radio transmissions and other services related to public safety and/or national security.

THE AMHERST ALLIANCE is a nationwide citizens' advocacy group, founded in 1998, which supports Low Power Radio in particular and media reform in general. Amherst shares with NAC the same concerns about interference from BPL.

NORTH AMERICAN SHORTWAVE ASSOCIATION (NASWA) represents the rights and interests of shortwave listeners, in the United States and Canada, who choose to obtain information on international news and other cultures directly from the source -- unfiltered by domestic intermediaries and without subscription fees. NASWA Members tune in to frequencies, between 2 and 26 MHz, which are allocated by the International Telecommunications Union (ITU) but would be affected by American-based BPL.

CQ AMATEUR RADIO Magazine is a publication which reports on developments affecting the Amateur Radio Service. This magazine is concerned about BPL interference with Amateur Radio operations.

CQ COMMUNICATIONS is the publisher of CQ AMATEUR RADIO, as well as two other publications: CQ VHF and POPULAR COMMUNICATIONS. The firm is concerned about BPL interference with Amateur Radio operations and other communications as well.

The rest of us are advocacy groups, radio professionals, Amateur Radio operators and/or other citizens. All of us are concerned about *interference* generated by BPL.

Many of the signatories of this letter have made filings in FCC Docket 03-104: the Notice Of Inquiry on BPL which preceded the February 12 proposed rule.

We are pleased to say that the FCC, in drafting the proposed rule, has honored our requests to avoid any increase in the currently authored authorized power levels for BPL. These power levels are presently subject to -- and, under the proposed rule in FCC Docket 04-37, would remain subject to -- ceilings in the FCC's Part 15 FCC regulations.

Still, there is no guarantee that the FCC will not shift to higher power levels when it moves from the proposed rule to a possible final rule. There is also some evidence that BPL would cause serious interference even if it is held to Part 15 power levels.

Before it moves to a final rule, the FCC needs to receive and review the results of the 2 ongoing technical studies we have mentioned. The FCC needs to have more evidence regarding the extent of BPL interference under various scenarios -- at the Part 15 power levels, above the Part 15 power levels and even below the Part 15 power levels.

Equally important is the need for *commenting parties* to receive, review and evaluate -- and communicate to the FCC their conclusions about -- these 2 ongoing studies. The current Written Comments deadline in FCC Docket 04-37 will come due only days after, or possibly even *before*, the 2 studies have been made available to the public.

The 2 technical studies are as follows:

1. The NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION (NTIA) is now conducting a technical study to document and evaluate the likely impact of BPL on national security in general and government communications in particular.

2. The AMERICAN RADIO RELAY LEAGUE (ARRL), the Amateur Radio operators' organization that has conducted its own technical studies of BPL, has recently contracted with an independent consulting firm for an independent technical evaluation of BPL.

Both studies should be completed within the next few months. The NAC/Amherst request for an extension of the comment period -- in order to guarantee at least 2 full months for the FCC *and* commenting parties to review these ongoing technical studies -- would not be an unreasonable delay on the FCC's path to a final decision.

As the first of 2 final points, we stress that the pending information primarily concerns the impact of BPL on *national security* and civilian *emergency communications*.

The FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA), an arm of the United States Department of Homeland Security, has expressed to the FCC -- in Written Comments, filed in Docket 03-104 on December 4, 2003 -- its concern that BPL can jeopardize national security, by causing disruptive interference with both military communications and civilian emergency communications. Concern about the impact on "first responders" has also been expressed in December 22, 2003 Written Comments filed by the DISASTER EMERGENCY RELIEF ASSOCIATION (DERA).

As our second final point, we stress that *aircraft communications* are also subject to interference from BPL.

One of the signatories of this letter is W. Lee McVey of Florida. He is a P.E. -- Professional Engineer -- and also a Senior Member of the INSTITUTE FOR ELECTRICAL AND ELECTRONIC ENGINEERS. Mr. McVey submitted the following statement, regarding "disruption to commercial aviation communications", for inclusion in this letter to you:

"Overseas contact with aircraft is all HF [High Frequency], and would be obliterated if BPL systems were to operate near Stateside antenna locations. This has been stated in commentary to [FCC Docket] 03-104. The FAA and Aeronautical Radio, Inc. operate numerous sites, and operate over many HF frequencies, to maintain constant contact with aircraft. Talk about a compromise to safety .... !!"

In short:

The consequences of a misjudgment on BPL power levels could be very, very high.

Therefore:

We urge you to plead with the Commission to *wait for the facts*.

Respectfully submitted,

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