Petition for Rulemaking

Petitioner: Leonard J. Umina, W7CCE
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Date: January 26, 2012

RE: PRB-1 Modification

Introduction

The petitioner is currently an Extra Class Commission licensee as W7CCE and has been formerly licensed as WT6G, K1LU, N1LU, WA1IOB, WN1IOB, J6LIY, and A35LU in this and other counties. He has been active in Amateur Radio since 1967 and is a Volunteer Examiner, ARRL member, and Citizen of the United States.

Executive Summary

The petitioner reviews the origin of CC&R and the current market penetration of communities restricted by them. The current state of American urbanization is presented. The information is then combined with rental statistics to draw conclusions regarding those served and un-served by PRB-1.

The petitioner discusses issues which emanate from the current structure of PRB1 to establish several classes of individuals that are not party to any restrictive contracts yet remain un-served by PRB-1, and alleges disparate impact, concluding PRB-1 creates an Equal Protection or Due Process Claim.

Petitioner claims the public (non licensees) are impacted by PRB-1 and are segmented by its failure to address issues relevant to the Amateur Service in their communities, concluding that communities geographically and economically can also demonstrate an Equal Protection or Due Process Claim.

Petitioner demonstrates that current Commission policy falls unequally upon minorities, the poor, and women, in violation of public policy and creating an Equal Protection or Due Process claim.

Petitioner demonstrates that current Commission policy encourages behavior by its licensees which is counter to public policy and various environmental objectives including the clean air initiative, global warming, and natural resource conservation.

Petitioner states there is no significant evidence to show voluntary compliance by HOA and Landlords with the Commission's request for accommodation without preemption.

Petitioner requests PRB-1 be modified to preempt restrictive contracts with language identical to that preempting state and local governments so licensees may utilize existing District Court decisions.

Petitioner also requests that the Commission's actions in response to this petition include the interest of Shortwave Listeners and the commercial shortwave market, whose concerns are closely aligned with those of Amateur Radio, and requests special accommodation for wire antennas.

Background

The Origin of CC&R

The practice of "Redlining" began with the passing of the National Housing Act of 1934. Congress passed the Fair Housing Act of 1968 to combat the process. That Congressional initiative was strengthened with the Community Reinvestment Act of 1977.

In response, those who enjoyed the benefits of redlining turned to "Restrictive Covenants" (CC&R), which had been used effectively for segregation (Jones-Correa, 2000-2001 (Winter)). These were quickly and almost unanimously adopted by the banking and construction industry.

Today nearly every housing development, apartment conversion, and condominium in the United States is subject to CC&R control and as of 2011, **62.3 Million residents occupy 314,200 restricted locations.** Source: American Housing Survey (AHS). This represents approximately **21% of the entire population,** but since it is unevenly distributed represents a much higher percentage in certain areas.

As of 2011, 75% of our population live in urban areas (Facts About Urbanization in the U.S.A.), or **about 210 Million people.** When central city residents are subtracted from urban residential areas the remainder living in **urban sprawl is approximately 112.5 Million persons.** Constructed over the last 30 years, this area contains the majority of HOA.

For argument, If we presume that HOA exist only in urban area sprawl. That would represent a **market penetration of 55.37%.**

Discounting urban HOA population by a full 25% (presuming rural housing units are equally penetrated by HOA), we calculate 46 Million urban dwellers outside the central city living in restricted areas, and can conclude that **HOA penetration is *at least* 41.5%.**

These numbers are staggering, but the situation is actually much worse.

Rental Agreements

Renter occupied housing in the United States comprises some 78,583,000 households, involving 207,291,000 people or **66% of the entire population.** (NMHC, 2011)

If 62.3 Million live in areas governed HOA, and 207.3 Million rent and the two are generally exclusive, then 267.6 Million persons live under the control of either CC&R or Rental Agreements.

The data suggests that almost 90% of the U.S. population lives under contracts which generally prohibit antennas that are not subject to OTARD preemption. Even with some overlap, the percentage remains staggering. Due to economic trends of the past three years, it is reasonable to assume that the actual renter numbers are higher than those used here (extracted from Census data), so the petitioner will use 90% vs. 10% to illustrate subsequent points despite some overlap.

Facts

1. The FCC in OTARD rule has preempted private contracts on a scale that involves every residential agreement in the United States due to the resulting penetration of Satellite reception and other devices. The OTARD rule permits tower structures as high as 12 feet above the roofline to support OTA antennas designed to receive UHF/VHF television.

2. The FCC was created (SEC. 1. [47 U.S.C. 151] "to regulate interstate and foreign commerce in communication to make it available, **so far as possible, to all the people of the United States** ....a rapid, efficient, Nationwide, **and world-wide wire and radio communication service** with adequate facilities at reasonable charges, for the purpose of the national defense, for the purpose of promoting safety of life and property, through the use of wire and radio communication..." (Emphasis added).

3. The provisions of SEC. 2. [47 U.S.C. 152] extends FCC Authority "to all interstate and foreign communications by wire or radio and all interstate and foreign transmission of energy by radio, which originates within the United States..."

4. In RM-8763 the Commission left open the possibility that at some time in the future[1] it may be necessary to preempt private contracts to further the interest of the petitioners, supporters, Federal priorities, and the public at large (FCC, 1999).

5. All structures which conform to the Uniform Building Code are by design and law presumed to be intrinsically safe, therefore no claim to the contrary related to a conforming structure has merit.

6. To prevail with an Equal Protection Claim the Plaintiff must establish the creation of a Class of persons who are treated differently at law for no legitimate purpose of the state.

7. Federal preemption of private contracts is a widespread practice, even within the FCC.

8. There is little or no evidence that the Commission's strategy to "strongly encourage associations of homeowners and private contracting parties" has achieved "reasonable accommodation" with regard to the issues raised in RM-8763. (FCC, 1999). Even so, "requests" do not rise to the protection of law for purposes of Equal Protection or Due Process.

9. Contracts limiting non-OTARD structures, including simple wire antennas, cover approximately 90% of the U.S. population, who receive no relief from PRB-1 for their desired antenna structures.

10. PRB-1 protects the wealthiest 10% of the population from unreasonable restrictions on their antenna structures – those lucky or productive enough to own their own homes outside the reach of restrictive private contracts.

11. It is unreasonable to presume that a legal document containing restrictions and often hundreds of pages long is understood by any lay person[2]. The majority of Amateurs are not attorneys.

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[1] See RM-8763 Page 3 Par. 6 "we see no reason....**at this time**". (Emphasis Added)

[2] In fact the Courts generally make this assumption for any legal document, most far less complex that a typical CC&R contract.

12. Acknowledgement of an opportunity for professional review is a placebo as few attorneys have any expertise in matters involving Amateur Radio. The majority of attorneys are not Amateurs and have passed no exams administered by the FCC to demonstrate even minimal technical competence.

13. Most citizens cannot afford true legal review of cumbersome legal documents at current professional rates and must forgo the opportunity to do so. This is especially true of minorities, female head of households, and the young persons.

14. Most (if not all) HOA Agreements incorporate language related to the "enjoyment of all" in raison d'etre. Any lay person is likely to interpret such language as including himself regardless of his status as an amateur radio operator.

15. It is logical to presume that most new Amateurs are licensed *after* residing in restricted areas.

16. It is logical to presume that a significant number of Amateurs affected by restrictive agreements are not head of household and have no control or input with regard to contract execution.

17. Many young Amateurs are born into situations affected by restrictive agreements. (78% of renters are of child bearing age, 42% are under 30 (NMHC, 2011)).

18. Minorities are disproportionately represented in central cities and disproportionally renters.

19. It is logical to presume that an interest by offspring in Amateur Radio cannot be predicted prior to birth or at any time until it appears.

20. Amateur Radio remains one of the best entry points for young people, minorities, and women to become associated with technology and to dialog with others who are in the field.

21. Amateur Radio is extremely effective at diverting the energy and focus of young people away from drugs, gangs, and mischief into productive and rewarding activities.

22. Amateur Radio remains one of the most significant public resources in times of emergency, including terrorist attacks, weather events, and natural disasters.

23. Amateur Radio is an essential component of positive international relations in a world that badly needs all of the goodwill that can be created between populations.

24. Failure to make appropriate accommodation for amateur antenna structures seriously compromises amateur activity from an international and inter regional perspective.

25. Failure to make appropriate accommodation for amateur antenna structures seriously hampers many important activities within amateur radio that are extremely attractive to young people, including competitive contesting, international communication, and various digital modes applicable primarily to shortwave frequencies.

26. Failure to make appropriate accommodation for amateur antenna structures seriously hampers experimentation by young persons who are enthusiastic about the application of computers to communications technology.

27. Most minority citizens are affected by the lack of full pre-emption in PRB-1.

28. PRB-1 encourages residency in locations generally removed from urban areas to obtain reasonable accommodation, encouraging violation of public policy by Commission licensees.

29. PRB-1 as written presumes that licensees have some ability to wish themselves into the top 10% of the economic strata and reside in areas that are not privately controlled to avail themselves of PRB-1 accommodation.

30. The general public receives tangible benefits from the presence of Amateur Radio in the community related to youth who are exposed thereto and subsequently use the service as an entry point to learn and benefit from technology.

31. The general public receives tangible benefits from international goodwill promulgated by the Amateur Radio Service worldwide.

32. The general public receives tangible benefits from the presence of Amateur Radio during times of emergency, including weather events, natural disasters, and terrorism, both locally, Internationally, and inter regionally.

33. The general public receives tangible benefits from Amateur Radio through the services it provides to the Red Cross, Salvation Army, NOAA, DOD, and other local, regional, and international aid services.

34. By promulgating policies which result in disparate receipt of services by the public from Amateur Radio in certain communities, the Commission creates otherwise identical classes within the general public who are served and un-served.

35. Many HOA agreements cannot be modified by a majority of those affected until management is surrendered by the developer to the community.

36. HOA restrictions enforced by a majority do not represent the wishes of the entire community who have an inalienable right to services and protection offered by the presence of Amateur Radio in the community.

37. All citizens have a right to serve their community as an Amateur Radio Operator regardless of their status as a renter or residency in an HOA in any activity permitted for the service which is in the public interest.

38. The right to serve ones community is inalienable and derived from common law.

Equal Protection (and Due Process)

The following are excerpts from the District Court as noted in the footnotes with emphasis added by the petitioner. The 14th Amendment applies to the federal government. This Amendment extended the Bill of Rights to the state governments as well. The 14th Amendment applies to rulings of the Commission. These Judicial extracts illustrate the basis upon with the petitioner develops his argument that PRB-1 stands in violation of the 14th Amendment and must be modified to achieve compliance[3].

The Fourteenth Amendment's Equal Protection Clause provides that no state shall " deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. XIV. The mandate of the Equal Protection Clause essentially is " that all persons similarly situated should be treated alike." *Cleburne v. Cleburne Living Ctr.,* 473 U.S. 432, 439, 105 S.Ct. 3249, 87 L.Ed.2d 313 (1985); *see also Ross v. Moffitt,* 417 U.S. 600, 609, 94 S.Ct. 2437, 41 L.Ed.2d 341 (1974) (" ' Equal Protection' ... emphasizes **disparity in treatment by a State between classes of individuals whose situations are arguably indistinguishable.** ").[4] (**bold emphasis** added by Petitioner)

Equal protection claims can be divided into three broad categories. See, J. Nowak, R. Rotunda & J. Young, Constitutional Law 600 (2d ed. 1983). The first and most common type is a claim that **a statute discriminates on its face.** In such a case, a **plaintiff can prevail by showing that there is no rational relationship between the statutory classification and a legitimate state goal.** Hooper, 472 U.S. at 618, 105 S.Ct. at 2866, Dandridge, 397 U.S. at 485-86, 90 S.Ct. at 1161-62. When the statute facially discriminates against certain groups or trenches upon certain fundamental interests, courts have required a closer connection between the statutory classification and the state purpose. See generally Plyler v. Doe, 457 U.S. 202, 216-18 & nn. 14-16, 102 S.Ct. 2382, 2394-95 & nn. 14-16, 72 L.Ed.2d 786 (1982) (plurality) (discussing "intermediate" and "strict" scrutiny).

The second type of equal protection claim **is that neutral application of a facially neutral statute has a disparate impact.** In such a case, a plaintiff must prove purposeful discrimination. See e.g., Personnel Administrator of Massachusetts v. Feeney, 442 U.S. 256, 99 S.Ct. 2282, 60 L.Ed.2d 870 (1979); Washington v. Davis, 426 U.S. 229, 96 S.Ct. 2040, 48 L.Ed.2d 597 (1976).

The third type of claim is that defendants are **unequally administering a facially neutral statute.** The equal protection standard applicable to a claim of unequal application of facially neutral legislation is materially different than that applicable to a challenge to classifications created on the face of the legislation[5]. (**bold emphasis bold** added by Petitioner)

The Petitioner will now define certain Classes of licensees needed to satisfy the requirement that certain individuals having equal claim and situations exist and have existed since PRB-1 was enacted. Additional Classes will be defined for later use.

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[3] Due Process claims may be developed from arguments similar to those made here. The Petitioner will forgo that effort unless it is needed to persuade the Commission later, and reserves the right to include these arguments on appeal.

[4] (HOPE FOR FAMILIES & COMMUNITY SERVICE, INC., et al., Plaintiffs, v. David WARREN, in his official capacity as the Sheriff of Mac [721 F.Supp.2d 1079])

[5] *E & T Realty v. Strickland,* 830 F.2d 1107 (11th Cir.1987)

Definition of Classes

Some number of persons will be born to citizens living under restrictive agreements. The young person did not sign, had no knowledge of, and could not influence the circumstances of their birth or the contract. When these youth become a Commission Licensee they form **Class 1.**

Some persons without an interest in Amateur Radio may develop such an interest after residing under a restrictive agreement. At the time the restrictive agreement was executed restrictions related to antennas were inconsequential. When these persons become a Commission Licensee they form **Class 2.**

Some persons living at the time of a restrictive agreement's execution may have no control over its execution, or even knowledge of the effect of the agreement. Persons without control of the agreement who are or become Commission Licensees form **Class 3.**

Certain demographic strata, in particular minorities and the poor, may have no choice but to sign restrictive agreements. In contrast to the assumption that execution of an agreement is "voluntary", these persons do not have the economic power to extricate themselves from the situation and "settle elsewhere". These persons whether or not Commission Licensees at the time of execution, whether or not they are a party to the agreement, if unable economically to reside elsewhere form **Class 4.**

The set of persons who do not live under restrictive agreements and therefore achieve reasonable accommodation from state and local preemption form **Class 5.**

Members of the public who benefit or may benefit from the close proximity of an amateur station during a time of emergency or otherwise form **Class 6.**

Members of the public who do not live in the close proximity of an amateur station and would be unable to benefit from its close proximity in an emergency or otherwise form **Class 7.**

Equal Protection for Commission Licensees

In PRB-1 the Commission addressed the problem of Commission Licensees who were being burdened by antenna regulations which interfered with the operation of their stations as desired. It preempted state and local regulations to address the problem, but refused to preempt restrictive private contracts as it had done in the OTARD rule, suggesting that Licensees entered into restrictive agreements voluntarily and that they had the ability to settle elsewhere. This action achieved reasonable accommodation by law for Class 5.

Classes 1, 2, and 3 Commission Licensees suffer from restrictive agreements through no choice of their own. These groups do not achieve reasonable accommodation at law under PRB-1.

The Commission failed to recognize that many Licensees with an identical need for preemption did not and do not have the economic resources to remove themselves from the reach of restrictive agreements. Members of Class 4 may not be able to do anything but rent for economic reasons, and they are more likely to rely on public transportation, or may suffer from medical ailments or disabilities that impact not only their finances but the location where they can reside. These persons do not receive reasonable accommodation under PRB-1.

Class 4 contains the poor, the working poor, disadvantaged minorities, disabled persons, the unemployed, and other low income groups.

The Petitioner argues that members of Class 1 through 4 have had and do have antenna accommodation issues which were not and are not addressed by PRB-1. Class 5 members either already lived in areas where PRB-1 provided relief by law, or had the option to move there due to their economic status[6].

The Petitioner argues that the disparity created by PRB-1 creates an Equal Protection claim for relief by members of Class 1-4.

Equal Protection for the Public

Because PRB-1 did not preempt private agreements as OTARD did, members of the public who reside in areas where heavy concentrations of rental units or HOA properties exist do not have access to Commission Licensees who through reasonable accommodation have constructed appropriate antenna systems. There are many benefits of living near a licensee. In time of emergency, communications can be vital and lifesaving. Young persons without a nearby Licensee fully enabled by accommodation may be unable to obtain help (an "Elmer") or acquire an interest in technology. They are also less likely to benefit from public service of the Service without fully active local amateurs. Class 7 members of the public and their children are denied these services by the current limitations of PRB-1.

Because PRB-1 was so successful with Class 5, members of Class 6 enjoy the proximity of an "Elmer" for their youth and the protection in an emergency of proximity to a fully accommodated station. They benefit from the public service provided by the Service and the presence of technologically astute citizens.

The disparity created between Class 6 and Class 7 creates a second potential claim for violation of Equal Protection and Due Process as regards PRB-1 currently.

Alternative Suggestions Not Generally Applicable to Classes 1 through 4

The Commission offered several "alternatives" for those who suffered from a lack of accommodation by PRB-1. **These alternatives are not equivalent to the relief obtained by Class 5 and cannot address an Equal Protection Claim,** moreover for members of Class 1-4 they are not generally available.

Mobile operation is not available to the young. Remote stations are not available to the poor. Radio clubs with external antennas are rare in most communities.

Assumptions in PRB-1 That Were Never Valid

PRB-1, Footnote 6 states, "We reiterate that our ruling herein does not reach restrictive covenants in private contractual agreements. Such agreements are voluntarily entered into by the buyer or **tenant** when the agreement is executed and **do not usually concern this Commission.**" (Emp. Added)

[6] The top 10% of the population generally are home owners. It is presumed that in most cases persons who can own property do own property removing themselves from the 66% who live under rental contracts, and that those in need of reasonable accommodation at this income level can in fact avail themselves of the privilege and live outside of CC&R as desired.

With all due respect the OTARD ruling modified private agreements covering nearly 90% of the U.S. population.

Commission actions involving cable, broadband, telecommunications, the internet and even BPL appear to routinely impact private contracts[7].

It was never a valid assumption that private contracts are executed by the licensees affected by them. Classes 1-3 for example have taken no voluntary action committing them to a restrictive contract.

The general public, which has an express interest in the Amateur Service as recognized by Congress, and whose interests is represented by the FCC, is not a party to these agreements, but is extraordinarily impacted, even though it may be unaware until disaster, terrorism, or other calamity occurs.

The general public is therefore a silent party to any agreement which changes the distribution of this resource within the community at large. They are essentially the "Silent Majority".

Assumptions in PRB-1 Prior Rulings No Longer Valid

The Commission's assumption of voluntary action may have been moderately correct in 1985. Changes in family structure, decreasing real income, a decreasing middle class, and higher real costs for fuel made it much less so almost 30 years later.

As more and more women and young persons have become licensed, it is incorrect to presume that a person executing a restrictive agreement that will affect a licensee is actually the licensee affected.

In 1985 one might have found property for which PRB-1 represented a full accommodation within a reasonable distance. That is no longer true. With urbanization of the United States, increased market penetration of HOA, and economic issues increasing the number of renters, obtaining accommodation from PRB-1 places a heavy burden on the licensee, if it is even possible (i.e. Classes 1-4)

In 1985 the "single breadwinner" model was more common than it is in this century. Today there are many other considerations such as the availability of spousal employment, day care, and residency requirements for certain public jobs that come into play.

Each set or subset of these situations, beset by the need for reasonable accommodation, creates additional problems related to the legality of PRB-1 as administered against the identified need outlined in 1985. Obtaining reasonable accommodation through PRB-1 often encourages Licensee actions which violate public policy[8].

In 1985 many of these public policies did not exist, and during that period the Petitioner commuted 40 miles each day to and from work to maintain a residence which offered PRB-1 accommodation. During

[7] A quick search of federal cases generated 78 published cases involving FCC and "private contract". Presumably, unpublished cases would extend this number.

[8] PRB-1 encourages commuting which results in additional air pollution, traffic congestion, global warming, and resource consumption.

my career I estimate my family and I needlessly burned approximately 32,000 gallons of fuel as a result. The assumption that "settle elsewhere" is an economically viable alternative or one consistent with public policy in 2012 is simply untrue.

False Information Supplied by Opponents of PRB-1 (FCC, 1999)

A review of the information in PRB-1 indicates that opponents to PRB-1 presented false information to the Commission in furtherance of their objectives. These include the following:

1. Amateur radio antenna installations "constitute a safety hazard"[9].
2. Amateur radio antenna installations "cause interference"[10].
3. Amateur radio antennas constitute "are eyesores and distract from the aesthetic and tasteful appearance of the housing development or apartment complex"[11].
4. The "settle elsewhere" argument presumes that only purchasers and lessees reside under the imposed restrictions[12].

Besides falsity some of these arguments border on superstition.

Commercial Shortwave Users

There is no doubt that commercial shortwave stations exist worldwide. Dependable shortwave reception requires antennas of moderate length placed outside the dwelling in most cases to decrease the interferences caused by the plethora of electronic devices now present in the average home. Signal strength due to variable ionospheric propagation is best handled by antennas cut to the frequency of interest.

A shortwave listener is a customer of commercial broadcast by any reasonable definition, and part of a commercial worldwide radio market. Restrictive agreements that forbid the construction of antennas which allow participation by a customer in this marketplace represent actions that run counter to commercial public policy and the public interest.

There is no reasonable way for the lay person to discern the difference between an antenna designed for shortwave listening and one designed for Amateur use at similar frequencies. In both cases they are generally center fed wires of slightly varying length.

By argument similar to above, the inaction of the Commission to preempt restrictive agreements creates additional Classes of individuals deprived of Equal Protection and Due Process but from a slightly

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[9] All potential installations of Amateur antennas must comply with the UBC and are therefore as safe as any other structure so compliant. It is preposterous to presume or even argue otherwise. Further a wire strung between a tree by a 12 year old to enjoy the excitement of radio communication is an activity as old as radio itself, yet this is a valid amateur antenna and consequently prohibited by all HOA documents examined.

[10] Antennas do not cause interference. This is the domain of transmitters, and regulation of transmitters is the exclusive domain of the Federal Communications Commission (FCC) as established in 1934.

[11] This is certainly a matter of opinion, not fact and as stated is therefore untrue. Many of us believe antenna installations are things of beauty, not only in architecture and design, but in what they mean in terms of public safety, good will, and technological innovation. Many children are curious and excited by the sight of an antenna installation and intrigued by its existence, sometimes becoming amateur radio operators as a result.

[12] See "Definition of Classes"

different perspective. In this case the Commission has created a class of "consumers" unprotected by law, unless they are members of Class 5.

There may be other federal rules available to shortwave listeners – restraint of trade, for example, but examination of alternatives is not necessarily part of this petition and hardly necessary when the simple action proposed would solve both problems, Amateur and SWL.

Finally, America is a country of immigrants, and a large number of our residents, citizens or not[13], use shortwave as a communications link to advise them of news and information related to their native homeland. By failing to protect these users, but not others (i.e. PRB-1) the Commission creates yet another instance of Equal Protection and Due Process exposure.

Summary

PRB-1, which fails to preempt private contracts (as in OTARD), violates public policy and the Equal Protection doctrine, protecting at law only a single segment of the population for no legitimate purpose of the state.

PRB-1 without preemption:

1. Hampers the use of Amateur Radio as a learning tool by many groups in our society.
2. Prevents large segments of our population from engaging in International communications and fostering goodwill, a key function of Amateur Radio.
3. Leaves large segments of our population without the intrinsic protection of Amateur Radio in an emergency.
4. Hampers the formation of inter-regional relationships that foster dialog within our society further isolating the poor and minorities.
5. Confers the right of regulation of interstate and international communication to single persons[14] or entities or majorities in an HOA, ignoring opposing minority and public interest.
6. Creates classes of individuals un-served by reasonable accommodation that are otherwise identical to those served under PRB-1.
7. Creates classes within the general public that are served and un-served unfairly due to geographic or economic stratification inherent in the administration of PRB-1.
8. Creates a burden that falls unequally upon the disenfranchised in society.
9. Encourages behavior inconsistent with current public policy by Licensees.

Requests of the Commission

In the interest of the Amateur Radio Service, public policy, Constitutional Law, environmental policy, and to remove discrimination against the poor, minorities, women, the young, and approximately 90% of the population which lives under restrictive agreements of one sort or another, Petitioner requests that PRB-1 be immediately extended to preempt all private contracts thereby requiring reasonable accommodation of Amateur Radio and SWL interests.

[13] Federal law extends the benefits and protection of our law to aliens regardless.
[14] i.e. Developers and Landlords

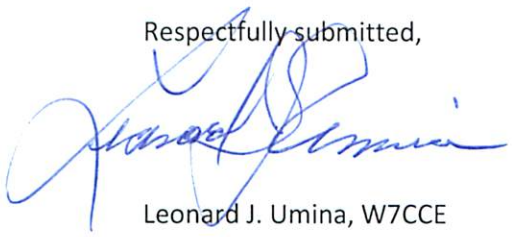
To accomplish this, petitioner requests that all aspects of PRB-1, *exactly as applied to state and local governments*, be extended to private contracts so as to allow Classes 1-4 to take advantage of various related Judicial actions exactly as they currently stand.

Beyond the extension of reasonable accommodation to private contracts, the petitioner requests simple, easy to understand[15], language be added by the Commission addressing simple wire antennas and suggests the following:

That all wire antennas strung between or from existing structures and trees or vegetation at a height of at least 16 feet[16] be granted unconditional preemption **from any restriction** so long as:

1. The supporting structures are not unreasonably modified or damaged to provide the necessary support;
2. The feed line does not obstruct passage by vehicular traffic when located above a vehicular pathway such as a parking lot or driveway or human traffic when located above areas where humans routinely traverse;
3. The antenna does not cross a public road or connect to a utility pole or signpost;
4. The use of the antenna does not violate current RF exposure rules when used for transmitting;
5. The antenna traverses property that its owner has a legal right to otherwise use for any purpose by virtue of an agreement with the controlling party.
6. The installation is supervised by a person of at least 18 years of age.
7. Insulators used to assemble the antenna must be made of plastic or other lightweight materials to decrease the possibility of injury or damage should the antenna fall.

Respectfully submitted,



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[15] This request is designed to make it possible for youth and others in need of simple rules to receive a basic level of accommodation without permits, litigation, or complication.

[16] Vehicle height restrictions are less than 14 feet.