



Federal Communications Commission
Washington, D.C. 20554

March 17, 2009

Mr. Howard Melamed
CEO, CellAntenna Corporation
12453 NW 44th Street
Coral Springs, FL 33065

DA 09-622
WT Docket No. 09-30

Dear Mr. Melamed:

The Commission has received your letter, dated March 3, 2009, requesting special temporary authorization for CellAntenna Corporation (“CellAntenna”) to conduct a demonstration of equipment designed to block unauthorized wireless telephone calls by prisoners at the Pine Prairie Correctional Center in Pine Prairie, Louisiana (“Pine Prairie”).¹ For the reasons set forth below, we must deny the request.

CellAntenna states that the demonstration will take place on March 20, 2009, and will last no longer than 15 minutes.² CellAntenna also states that the operator of the Pine Prairie Correctional Center, LCS Corrections Services, Inc. (“LCS”), is under contract with the federal government to house federal inmates.³ In addition, CellAntenna indicates that the demonstration will use “directional jamming that can be operated so that its impact is limited to a jail or prison, without interfering with other cellular phones or lines of communication beyond the walls of the correctional facility, or otherwise outside the established test area.”⁴

¹ Letter from Howard Melamed, CEO, CellAntenna Corporation, to Marlene H. Dortch, Secretary, Federal Communications Commission at 1 (Mar. 3, 2009) (“STA Request”).

² *Id.*

³ *Id.* at 3.

⁴ *Id.* at 2. On March 10, 2009, the Wireless Telecommunications Bureau (“Bureau”) released a Public Notice informing the public that it had received the STA Request, making the request available for public inspection, and designating the proceeding as “permit-but-disclose” in accordance with the Commission’s *ex parte* rules. Wireless Telecommunications Bureau Receives Request from CellAntenna Corporation for Special Temporary Authority to Demonstrate Radio Frequency Jamming Equipment, *Public Notice*, WT Docket No. 09-30, DA 09-570 (WTB Mar. 10, 2009). The Commission has received submissions from a number of parties arguing that the proposed demonstration is prohibited by Section 333 and requesting that the STA Request be denied. See Comments of Jack Daniel (filed Mar. 13, 2009); *Ex Parte* Letter from Christopher Guttman-McCabe, CTIA, to Marlene H. Dortch, Secretary, Federal Communications Commission (Mar. 11, 2009); Comments of the Association of Public Safety Communications Officials-International, Inc. (filed Mar. 13, 2009) (arguing that the proposed demonstration would be illegal and expressing concern that cell jamming could block legitimate 911 calls and potentially interfere with public safety communications in adjacent bands); see also Comments of Wayne Cornick (filed Mar. 13, 2009) (arguing that approval of STA Request will lead to widespread use of poorly made jamming devices); Comments of Edward Kerley (filed Mar. 17, 2009) (arguing that the STA Request should be denied); Comments of D. Maples (filed Mar. 13, 2009) (same); Comments of Nick Ruark (filed Mar. 16, 2009) (same); Comments of John C. Swift (filed Mar. 13, 2009) (noting that use of cell jammers will cause interference to public safety communications); Comments of National Emergency Numbering Association

On March 13, 2009, CTIA – The Wireless Association (“CTIA”) filed a petition to deny the STA Request.⁵ CTIA argues, *inter alia*, that the proposed demonstration is prohibited by Section 333 of the Communications Act.⁶ On March 16, 2009, the South Carolina Department of Corrections (“SCDC”) filed comments arguing, *inter alia*, that the legislative history of Section 333 indicates that Congress never intended to prohibit the Commission from authorizing jamming in all circumstances.⁷

On February 18, 2009, the Bureau issued a letter denying a similar request from the District of Columbia Department of Corrections (“DCDOC”) for authorization to host a demonstration of jamming equipment designed to block wireless telephone calls by prisoners.⁸ The Bureau found that the proposed jamming demonstration would violate the prohibition in Section 333 of the Communications Act of 1934, as amended (“Communications Act”), against willful or malicious interference with “any radio communications of any station licensed or authorized by or under th[e] Act or operated by the United States Government.”⁹ In addition, the Bureau found that the proposed jamming would violate Section 302 of the Communications Act and Section 2.803(a) of our rules which prohibit the manufacture, importation, marketing, sale, or operation of devices deliberately designed to jam or disrupt wireless communications.¹⁰ The Bureau also noted that its denial of DCDOC’s request was consistent with past actions by the Bureau, the Office of Engineering and Technology, and the Enforcement Bureau.¹¹

CellAntenna argues that the Bureau’s reasoning in the *DCDOC Request Letter* is inapposite because LCS, the operator of Pine Prairie, is under contract with the federal government to house federal inmates and thus LCS and CellAntenna would fall within the

(filed March 17, 2009) (in particular, expressing concern over the potential of wireless jamming technology for the blocking of 9-1-1 calls). We have also received comments from one party asserting that Section 333 would not necessarily prohibit the demonstration, and requesting that action on the STA Request be deferred pending further examination of Section 333 and CellAntenna’s submission of additional technical information. Comments of the South Carolina Department of Corrections (filed Mar. 16, 2009).

⁵ Petition to Deny of CTIA – The Wireless Association (dated Mar. 13, 2009) (“CTIA Petition to Deny”).

⁶ *Id.* at 3-6. CTIA also requests that the Commission initiate an investigation and enforcement action against CellAntenna for alleged violations of the Communications Act. *Id.* at 11-19. Such a request is not properly raised in the context of the CellAntenna’s STA Request and we do not address it here.

⁷ Comments of the South Carolina Department of Corrections at 3.

⁸ Letter from James D. Schlichting, Acting Chief, Wireless Telecommunications Bureau, Federal Communications Commission, to Devon Brown, Director, District of Columbia Department of Corrections, 24 FCC Rcd 2060 (Feb. 18, 2009) (“*DCDOC Request Letter*”).

⁹ *Id.* at 1 (citing 47 U.S.C. § 333).

¹⁰ *Id.* at 1-2 (citing 47 U.S.C. § 302a(b); 47 C.F.R. §2.803(a)).

¹¹ *Id.* at 2; *see also* Sale or Use of Transmitters Designed to Prevent, Jam or Interfere with Cell Phone Communications is Prohibited in the United States, *Public Notice*, 20 FCC Rcd 11134 (EB, OET, WTB 2005); Office of Engineering and Technology and Compliance and Information Bureau Warn Against the Manufacture, Importation, Marketing or Operation of Transmitters Designed to Prevent or Otherwise Interfere with Cellular Radio Communications, *Public Notice*, 15 FCC Rcd 6997 (OET, CIB 1999); Letter from Kathryn Berthot, Chief, Spectrum Enforcement Division, Enforcement Bureau, to Monty Henry, DPL Surveillance Equipment, File No. EB-08-SE-203, DA 08-1202 at 3 (May 27, 2008) (issuing a citation to a company for marketing jamming equipment).

explicit federal exemption from application of Section 302.¹² CellAntenna further argues that lawful acquisition of jamming equipment by a federal entity “would be meaningless if deployment of the equipment was barred by Section 333, [and thus] that provision cannot preclude the demonstration.”¹³ We disagree. It is undisputed that the party seeking the STA in order to conduct the test of jamming equipment, CellAntenna, is not a federal entity subject to any statutory exemption.¹⁴ Further, publicly available records indicate that LCS is a privately held company¹⁵ and has represented itself before the Commission in license applications as a private corporation.¹⁶ Moreover, the Louisiana Department of Public Safety and Corrections lists Pine Prairie as a “local facility”¹⁷ and LCS houses state prisoners from other jurisdictions (*e.g.*, Alabama Department of Corrections) at the Pine Prairie facility.¹⁸

We are cognizant of the substantial threat to public safety posed by the use of contraband mobile phones by inmates in prisons and other correctional facilities. We also note that members of Congress have expressed an interest in modifying the Communications Act to authorize the Commission to consider petitions for waiver to permit the installation of devices “for the sole purpose of preventing, jamming, or interfering with wireless communications within the geographic boundaries of a specified prison, penitentiary, or correctional facility.”¹⁹ However, based on the information provided in the STA Request,²⁰ we find that our holding in the *DCDOC Request Letter* is equally applicable here – the proposed jamming at the Pine Prairie Correctional

¹² STA Request at 2-3. Section 302 states that it “shall not be applicable...to devices...and systems for use by the Government of the United States or any agency thereof.” 47 U.S.C. § 302a(c).

¹³ STA Request at 3.

¹⁴ See also CTIA Petition to Deny at 5 (noting that CellAntenna, the entity requesting special temporary authority and holding the demonstration is a private corporation, and thus would not be subject to a statutory exemption).

¹⁵ See *LCS Corrections wins Bureau of Prisons Pact*, Baton Rouge Advocate, Feb. 1, 2007 (noting that LCS is the nation's fifth-largest privately owned and operated corrections company).

¹⁶ According to the Commission’s licensing records, there are several Part 90 (Industrial/Business Pool) licenses held in some form of the name “LCS.” In particular, WPPC577 is held by LCS Corrections Services, Inc. and includes authorization for a transmitter site at 1133 Hampton Dupre Road, Pine Prairie, Louisiana, which corresponds to the address of Pine Prairie Correctional Center.

¹⁷ See Louisiana Department of Public Safety and Corrections, Corrections Services, Local Facilities, available at <http://www.doc.louisiana.gov/view.php?cat=3&id=15> (last visited Mar. 13, 2009) (“*LA DPSC Local Facilities*”).

¹⁸ See ADOC continues inmate transfers to Louisiana, *Press Release*, Mar. 17, 2006, available at <http://www.doc.state.al.us/archivenews.asp?year=2006> (last visited Mar. 13, 2009) (indicating that the Alabama Department of Corrections is transferring additional inmates to the Pine Prairie Correctional Center in Pine Prairie, Louisiana).

¹⁹ Safe Prisons Communications Act, S. 251, 111th Cong., § 2(b)(1)(a) (2009); see also Safe Prisons Communications Act, H.R. 560, 111th Cong., § 2(b)(1)(a) (2009).

²⁰ We note that it was recently reported that the proposed demonstration would take place at a correctional facility run by LCS in Basile, Louisiana (Southern Louisiana Correctional Center), not at Pine Prairie. See Paul Kirby, *South Carolina Calls CTIA, APCO Filings on Cellphone Jamming “Misleading”*, TR Daily, Mar. 17, 2009. Southern Louisiana Correctional Center is listed as a “Local Facility” on the Louisiana Department of Public Safety and Corrections’ website and is listed as an “Out of State Facility” on the Alabama Department of Corrections’ website. See *LA DPSC Local Facilities*; Alabama Department of Corrections, ADOC Addresses, available at <http://www.doc.state.al.us/facaddr.asp> (last visited Mar. 17, 2009).

Center would be inconsistent with both the Communications Act and the Commission's rules.²¹ Accordingly, we deny the STA Request.

In addition, the Petition to Deny of CTIA – The Wireless Association, filed on March 13, 2009, is granted to the extent discussed herein. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

Sincerely,

James D. Schlichting
Acting Chief
Wireless Telecommunications Bureau

²¹ In this regard, we find SCDC's comments unpersuasive given the statutory language itself. We also note that although CellAntenna provides some technical information regarding the parameters of its proposed demonstration, its showing falls short of the requirements set forth in our rules. *See* 47 C.F.R. § 1.931.