

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of

Toggle Communications LLC)	File No. 0320-EX-CM-2023
Applications for Renewal and Modification of)	File No. 0671-EX-CR-2023
Experimental Radio License Call Sign WI2AJ)	

To: Office of Engineering and Technology

Response of Toggle Communications LLC to Informal Objection

Toggle Communications LLC (“Toggle”) hereby responds to the informal objection filed by competitor Skywave Networks LLC (“Skywave”). Skywave’s myriad of claims, most of which are cut and pasted from various other oppositions filed against similarly situated parties, are false, misleading, and not relevant to the decision to renew and modify Toggle’s license. Rather, the objection is part and parcel of Skywave’s ongoing campaign to attempt to discredit and undercut the regulatory activities of Toggle’s affiliate company and other parties who are seeking a rule change to allow for permanent licensing of high-frequency systems. Skywave offers no legitimate reason to deny Toggle’s application, which OET should grant straightway, consistent with normal procedures.

Toggle filed two applications that are subject to Skywave’s objection: A request for an additional two years to conduct testing, and a request to modify its license to remove two antenna locations which are no longer in use.¹ As Toggle explained, it requires additional time for testing in part because of the time that it takes to acquire and set up the very large antennas required for its experiments in high-frequency bands.² Toggle has set out legitimate reasons to

¹ File No. 0320-EX-CM-2023 and File No. 0671-EX-CR-2023.

² See Narrative, File No. 0320-EX-CM-2023.

continue testing.³ In terms of the modification request, Toggle is unclear why Skywave, or any party, would object to the removal of unused antennas from an experimental license.

While the specific reasons for Skywave's opposition are not all easy to discern, Skywave does claim, without any details or evidence in support of the claim, that Toggle is operating its experimental license for commercial use. Toggle finds it troublesome that Skywave would propret to know any information about Toggle's actual use of test data, given that it has filed FOIA requests seeking this information from OET. This complaint, which appears to be cut and pasted from objections filed against other parties, seems motivated to discredit potential competitors who are seeking a rule change with which Skywave disagrees.

Skywave also appears to object to Toggle's request to amend its license to test with wider bandwidths on the basis that this would be "spectrally inefficient" and "wasteful." These claims, of course, are not valid legal reasons to object to an FCC test license; there certainly is no requirement in the FCC's rules that experimental license licensees must test in a spectrally efficient manner.⁴ Furthermore, Skywave provides no technical analysis or reasoning to demonstrate why the proposed testing would be "spectrally inefficient," and does not allege any actual harm that could come from the use of wider bandwidths.

Skywave points to a case concerning a broadcast licensee, *Wilfredo G. Blanco-Pi*, as reason to deny Toggle's applications.⁵ The *Blanco* case does not support Skywave's position, as it concerns a completely unrelated situation where a broadcaster relied on a broadcast experimental license to add to its commercial broadcasting capacities.

³ *Id.*

⁴ *See* 47 C.F.R. Part 5.

⁵ *Wilfredo G. Blanco-Pi*, 32 FCC Rcd 3100 (2017).

Skywave additionally objects to renewal of Toggle's license in part because it claims - falsely - that Toggle's West Chicago operations were "obviously broken and transmitting interfering signals randomly" in August 2023. This could not have occurred from Toggle's West Chicago antennas because Toggle ceased operations of the antennas more than a year prior to that alleged incident, on June 30, 2022. Indeed, the lack of use of the antennas is one reason for Toggle's requested modification of its license, which seeks to remove them from the license. For this reason, the claim of interference is not only false, as there could not possibly have been an interfering signal sent from non-operational antennas, the claim is also irrelevant to the renewal application because the antennas will not be part of the new license.

Skywave also asserts that it was unable to contact Toggle through its Stop Buzzer contact. Toggle employs a "hunt list" telephone system whereby the Stop Buzzer phone number is forwarded through a series of numbers until it is answered. Toggle cannot say what occurred with Skywave's alleged call. However, Skywave has alternative contact information for both Toggle employees and its counsel. Had Skywave truly believed that Toggle was causing interference in August, it could have raised the issue at that time through these multiple contacts. Skywave chose not to do so, which belies the veracity of its claims that it believed that Toggle was operating a faulty transmitter and causing interference.

Finally, Skywave makes several additional vague assertions regarding plans "to transmit shortwave signals to Asia and South America" and an allegation of interference caused to a third party (Comcast) from some unknown party on the West Coast. Skywave relies on these odd claims in support of a suggestion that OET no longer waive the station identification rule for Toggle's license. Skywave has no standing to make this request as it has not asserted any actual

or potential harm against itself. Furthermore, its abstract claims about other parties do not support denial of this waiver, one which is commonly granted to many experimental licenses.

As detailed above, Skywave fails to set out any valid reasons to deny Toggle's applications. Skywave has not proffered any showing of actual harm or any valid legal reason for OET to deny Toggle's requests for renewal and modification of its experimental license. As such, OET should move forward with granting the applications as soon as possible.

Respectfully Submitted,

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