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Before The
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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DA 92-1488

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In the Matter of)
)
Petitions for Redesignation of)
the Common Carrier Point-to-)
Point Microwave Radio Service)
Frequency Band 27.5 GHz -)
29.5 GHz)

RM-7722, RM-7872 ✓

ORDER

Adopted: October 28, 1992

Released: October 29, 1992

By the Chief, Common Carrier Bureau:

1. Pending before the Commission are several petitions for rulemaking (RM 7722, Public Notice Report No. 1845, released May 15, 1991; RM 7872, (two petitions), Public Notice Report No. 21049, released December 16, 1991) concerning use of the 27.5 - 29.5 GHz band (28 GHz band) which is designated for common carrier point-to-point microwave radio use. The petitions request that the Commission redesignate the 28 GHz band for a variety of different services and they conflict in some areas. The existing rules governing the point-to-point use of the 28 GHz band do not address the new services proposed. Each petition suggests specific rule changes to support its proposed use of the spectrum. Thus, any one of the petitions for rulemaking, if granted, would require new application processing and technical rules for this frequency band.

2. Notwithstanding the issues raised by the pending rulemaking petitions, several hundred applications accompanied by petitions for waiver of the current rules have been filed. The increasing number of applications constitutes a burden on the Commission's scarce resources. Moreover, waiver applications will not necessarily be in conformance with application and technical requirements which may be developed for the 28 GHz band if any of the rulemaking petitions is granted. For these reasons, we find that the public interest will be served by not accepting any further applications for this frequency band, pending Commission action on the rulemaking petitions. Accordingly, effective upon the release date of this Order, no applications of any kind in the Common Carrier Point-to-Point Microwave Radio Service for the

28 GHz band will be accepted for filing.¹ Any such applications received on or after this date will be returned as unacceptable for filing.

3. WHEREFORE, as discussed herein, IT IS HEREBY ORDERED that effective upon the release date of this Order, no applications will be accepted for filing for the 27.5 GHz - 29.5 GHz frequency band in the Common Carrier Point-to-Point Microwave Radio Service. This ban will continue until the Commission makes an announcement that such application acceptance will resume.

FEDERAL COMMUNICATIONS COMMISSION



Cheryl A. Tritt
Chief, Common Carrier Bureau

¹ The Commission's decision to impose this freeze is procedural in nature and therefore the freeze is not subject to the notice and comment and effective date requirements of the Administrative Procedure Act. See 5 U.S.C. §553(b)(A), (d); *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963). Moreover, there is good cause for the Commission's not using notice and comment procedures in this case, or making the freeze effective 30 days after publication in the Federal Register, because to do so would be impractical, unnecessary, and contrary to the public interest because compliance would undercut the purposes of the freeze. See 5 U.S.C. §553(b)(B), (d)(3).