

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

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WASHINGTON, D.C. 20554

In the Matter of)
)
Amendment of Parts 2, 15, 18 and Other)
Parts of the Commission's Rules to Simplify)
and Streamline the Equipment Authorization)
Process for Radio Frequency Equipment)
)

ET Docket No. 97-94

Comments of Ericsson Inc.

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July 21, 1997

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Summary

Ericsson fully supports the goals sought to be achieved by the Commission's proposal to streamline the equipment authorization rules. In addition to the proposals (1) to implement electronic filing; (2) to eliminate the need for equipment authorizations for certain types of devices; (3) to reduce the number of equipment authorizations which are required; and (4) to change the assignment and transfer procedures of the equipment authorization rules, Ericsson believes the Commission should undertake a two-step zero-based substantive analysis of the existing equipment authorization rules and requirements to ensure they provide the Commission staff with the information it needs to determine if a particular device meets the rules. Rules which are not relevant to a determination of whether a device meets the appropriate technical requirements should be eliminated. Rules which are deemed necessary should be evaluated to see if there is a means by which the information submitted to the Commission by an equipment authorization applicant can be reduced to streamline the evaluation process for the staff and reduce the regulatory burden on the applicant.

Electronic filing procedures should be implemented. However, to the extent the existing filing requirements are maintained, equipment authorization applicants in some instances may have to submit electronic files to the Commission which are as large as 60 Mb. Submission of files of that magnitude are too large to result in an efficient electronic filing system. Transmission of the data alone could take as much as 13 hours based on typical transmission speeds in use today.

The FCC should deregulate certain types of devices which have a proven record of compliance with the Commission's standards and where the test procedures are well

known and understood. Among others, analog base stations operated under Parts 22 and 90 of the Commission's rules should be subject to verification and analog mobile and portable devices operated under Parts 22 and 90 should be subject to the Declaration of Conformity.

Rules related to the assignment and/or transfer of equipment authorizations should be changed to reflect existing commercial practices. Specifically, assignments and/or transfers should be allowed and the assignee/transferee should be obligated to notify the Commission of the change in grantee within 60 days after the assignment or transfer has occurred.

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Comments of Ericsson Inc.

Ericsson Inc., ("Ericsson") by its attorney, hereby submits its comments in the *Notice of Proposed Rule Making* in the above-captioned matter.¹ In support of its comments, Ericsson states as follows:

Ericsson is a manufacturer of telecommunications systems and equipment including numerous radio frequency devices manufactured for CMRS and PMRS licensees under Parts 22, 24, and 90 of the Commission's rules. In addition, Ericsson manufactures equipment authorized under Parts 74, 80, 95, 101 and unlicensed radio frequency devices operated pursuant to Part 15 of the Commission's rules. Annually, Ericsson prepares hundreds of applications for radio frequency equipment authorizations. Due to the fact that Ericsson's manufacturing operations are subject to the rules and regulations in Parts 2, 15 and 18, Ericsson is vitally interested in the NPRM.

The proposals made in the NPRM are designed to "...greatly reduce the complexity and burden of the Commission's equipment authorization requirements.

¹ *In the Matter of Amendments of Parts 2, 15, 18 and Other Parts of the Commission's Rules to Simplify and Streamline the Equipment Authorization Process for Radio Frequency Equipment, Notice of Proposed Rule Making*, 62 FR 24383, ET Docket No. 97-94, FCC 97-84, ___ FCC Rcd ___, (released March 27, 1997) (hereinafter "NPRM").

Further, these [proposed] steps will improve the efficiency of the equipment authorization process so that products can be introduced to the market more rapidly.² These are goals with which Ericsson wholeheartedly agrees. In today's competitive environment, it is critical to deploy new technology in the marketplace at the earliest possible time consistent with the overarching goal that interference from electronic devices is minimized consistent with the public interest. Notwithstanding its general support for the three primary goals of the proceeding (streamlining the equipment authorization process, elimination of the need for various equipment authorizations and implementation of electronic filing of equipment authorization applications), Ericsson believes some modifications to the proposals made in the NPRM will enhance the goals of this proceeding.

I. Streamlining the Equipment Authorization Process

The goal of streamlining the equipment authorization process is a laudable goal and should be encouraged. The *NPRM* proposes to accomplish this in part by simplifying the equipment authorization process; by deregulating equipment authorization requirements for certain types of equipment; and by providing for electronic filing of equipment authorization applications. Each of the proposals will, to some extent, streamline the equipment authorization process. Ericsson will discuss each of these proposals in more detail below. However, as a company which submits hundreds of equipment authorization applications a year, Ericsson believes the single most important action that could be taken to streamline the equipment authorization process would be to undertake a thorough analysis and review of all of the current equipment authorization application requirements to ensure that each item required in an application for equipment

² *NPRM*, para. 1.

authorization is absolutely necessary to accomplish the desired regulatory result. In effect, Ericsson proposes that the Commission and industry engage in a “zero-based” analysis of the current equipment authorization rules.³

The zero-based review should embody a two-step analysis. First, an analysis should be undertaken to determine if each requirement is necessary and relevant to a demonstration of compliance with appropriate technical rules. If the information or data is not necessary for the staff to evaluate compliance of the device with the rules, it should be eliminated. Second, even if the zero-based review concludes that it is necessary for an applicant to provide a specific piece of information or data in furtherance of the FCC’s task of evaluating whether the device in question meets appropriate technical standards, the FCC should consider whether there is a less onerous manner of providing the information to the staff.

For example, Ericsson believes the requirement to submit photographs and operating manuals to the level required today, is not only burdensome for manufacturers and those processing equipment authorization applications, but does not lead directly to an analysis of whether the device in question meets the technical requirements of the Commission’s rules. This requirement should be eliminated.

Similarly, proposed Section 2.1033(b)(5) requires an applicant to submit “[a] block diagram showing the frequency of all oscillators in the device. The signal path and frequency shall be indicated at each block. The tuning range(s) and intermediate frequency(ies) shall be indicated at each block.” Section 2.1033(c)(vii) requires applicants

³ This process is consistent with efforts the Commission has taken to “reinvent government” as expressed in the report to the Commission from Special Counsel to the FCC on reinventing government, *Report On Creating an FCC For The Information Age*.

to provide “[a] description of all circuitry and devices for determining and stabilizing frequency, for suppression of spurious radiation, for limiting modulation, and for limiting power.” It appears the requirements of these two rule sections ask for the same or substantially similar information, albeit in alternative modes. Section 2.1033(b)(v) requests a graphic depiction of certain information relative to oscillators and Section 2.1033(c)(vii) requires similar information to be provided in text. Ericsson submits that the information should be required to be submitted in only one mode.

Based on the foregoing, Ericsson submits that (1) a thorough analysis of all rules in Part 2 should be conducted to evaluate whether the rules are necessary to demonstrate that equipment meets appropriate standards, and (2) to the extent they are necessary, the FCC should consider alternative ways in which more useful information can be provided to the Commission staff while at the same time reducing burdens on parties filing equipment authorization applications.⁴ Reductions in the amount of unnecessary information which is required to be submitted in an equipment authorization application will reduce the burden to prepare an application and, most importantly, the time it takes to review the application.

II. Deregulation of Equipment Authorizations for Certain Types of Equipment

Ericsson agrees with the Commission’s conclusion that it is not necessary to submit equipment authorization applications for certain RF devices because technical requirements are met with little difficulty and industry has demonstrated an excellent

⁴ The instant NPRM does not ask for comments on all the equipment authorization rules. Ericsson believes a zero-based analysis is needed. It should be specifically undertaken as part of this proceeding or in a separate, second phase of this proceeding so as not to delay the implementation of streamlining processes that inure to the benefit of the manufacturing community and the public.

record of compliance.⁵ Ericsson asserts, however, that additional categories of equipment should be afforded similar treatment based on the fact that technical requirements are met with little difficulty, the test methods are widely understood, interpretive questions arise infrequently and there has been an excellent record of compliance.

Specifically, Ericsson suggests that analog mobile/portable devices and associated base stations used in Part 22 cellular services as well as Part 90 PMRS services should be exempt from type acceptance/certification and notification procedures. Analog equipment in these services has been deployed for many years. AMPS technology for example has been in use for almost 15 years pursuant to a well understood technical standard. Test procedures are widely known and the equipment has demonstrated an excellent record of compliance with appropriate technical regulations. Use of verification for Part 90 and Part 22 analog base stations and use of the Declaration of Conformity for Part 90 and Part 22 analog mobile and portable devices, rather than type acceptance/certification or notification, will ensure that measurements are taken and the equipment complies with all appropriate technical standards (including those related to RF hazards) before it can be marketed. Moreover, use of the verification or DoC procedure will enable manufacturers to deploy Part 22 and Part 90 analog equipment in the marketplace more rapidly than is the case today.

III. Electronic Filing of Equipment Authorization Applications

Ericsson supports the Commission's proposal to require equipment authorization applications to be submitted electronically to the extent that any filing requirements adopted result in rules which (1) are no more burdensome than procedures that are in

⁵ NPRM, para 18.

place today and (2) assure that processing times are substantially reduced compared to typical processing times that exist today. In this regard, Ericsson has substantial concerns that the proposals in the NPRM will result in more burdensome requirements being imposed on manufacturers which will result in longer processing times.

A. Amount of Information to be Transmitted. Assuming that the Commission does not reduce the amount of information that must be submitted to the Commission in an application for type acceptance/certification, Ericsson has estimated that a typical type acceptance application would require the electronic transmission of almost 60 Megabytes of information. The core filing data, including application forms, ASCII text and other measurement data would result in the transmission of approximately 3.5 Mb of information; installation and instructional manuals with required schematic diagrams would result in the transmission of approximately 9 Mb of information; and ten 8 x10 photographs typically required in such applications would result in the transmission of some 45 Mb of information, resulting in 57.5 Mb of information being transmitted to the Commission in a typical type acceptance application.

Based on the average transmission speed of approximately 10 kb per second, Ericsson estimates that it could take 13 hours to electronically transmit a typical type acceptance/certification application to the Commission. Thirteen hours per application is a time period which is clearly too long to be useful. Given the fact that the Commission estimates some 3500 equipment applications are tendered per year, it could take more than 5 years of continuous transmission time to tender to the Commission 3500 applications which are transmitted to the FCC today in only one year. This does not take

into consideration a number of additional negative factors that could have an adverse impact on the time it takes to transmit data files as large as 57.5 Mb.

For example, the time estimate does not take into consideration that some companies might have to transmit electronic applications 24 hour per day, 7 days per week to ensure that applications are tendered to the FCC on as timely a basis as possible. That could result in a dramatic increase in the hiring of personnel simply to perform electronic filing. These resource costs would ultimately be passed on to the consumer in the form of higher prices for RF equipment. Similarly, to the extent there was a transmission problem on the FCC or industry end of the electronic filing path, many hours could be wasted before errors were discovered and transmissions re-started. Once applications were submitted to the Commission, and to the extent they would have to be transferred from one FCC office to another, additional transmission periods would be encountered exacerbating the amount of time it takes for an electronic application to reach its final destination prior to processing.

B. Confidentiality. Under regulations in effect today, no equipment authorization application is available to the public until it is granted. Furthermore, to the extent information in an equipment authorization application contains trade secrets and/or other confidential information, applicants can request that the Commission treat such information as confidential, which requests are often granted. Ericsson has concerns that the Commission's proposal for electronic filing of equipment authorization applications do not contain sufficient safeguards to ensure that confidentiality is maintained. For example, if confidentiality is requested and subsequently granted, the NPRM does not provide any information on how confidentiality of electronic information can be

guaranteed. This is an especially important point since it is considerably more difficult to protect electronically-transmitted information than is the case where information can be withheld physically from public view.

C. Filing Fees. In today's equipment authorization application process, filing fees are physically submitted to the Mellon Bank lockbox along with the equipment authorization application. Though the Commission has expressed the view that filing fee payments will be received in Washington, D.C. contemporaneous with the physical delivery of the application to the appropriate FCC Bureau responsible for the application, Ericsson has found that not to be the case. It has found that there is often a "disconnect" between the transmission of the filing fees and applications from Mellon Bank to the FCC resulting in delay in the processing of applications.

Based on its experience, Ericsson fears that the bifurcation of electronic applications being filed at one location and filing fee checks being submitted to an entirely different location will result in disconnects of information which will cause delays in processing applications greater than currently exist for equipment authorization applications.

D. Ad Hoc Requests for Information. One factor which results in the delay in processing of equipment authorization applications today is the increasing number of ad hoc requests for information from the Commission staff seeking information which is not explicitly required by the Commission's rules. Ericsson realizes that a certain number of such requests are necessary to accommodate the unknowns of new technology. Nonetheless, the discrepancy between what information is required in the Commission's rules and what information is requested by ad hoc inquiries of Commission staff, and the

lack of consistency thereof, interferes with the efficient processing of equipment authorization applications. Ad hoc requests for information regarding electronically-filed equipment authorization applications may result in longer delays in application processing than exist at the present time.

E. Recommendations. Notwithstanding the concerns expressed above, Ericsson supports the Commission's proposal to require electronic filing since it does in fact have the potential to substantially reduce application processing time. However, because electronic filing must not result in more burdensome regulations than exist at the present time and must ensure that overall processing times are reduced compared to present filing procedures, certain changes must be made to the proposals described in the NPRM. The recommendations proposed below should make the electronic filing process as efficient as possible:

1. Electronically filed applications should be able to be transmitted to the Commission within one hour based on current transmission speeds of 28.8 kb/second. The one hour recommendation is based on the transmission of a file no larger than approximately 2 Mb of data. This will allow an applicant to transmit a file in approximately 30 minutes with a margin of time error of 100% to the extent errors in the data transmission occur.

2. The Commission must ensure it has sufficient technical capacity to handle the quantity of electronically filed applications anticipated. This includes the FCC's ability to receive electronically filed applications 24 hours per day, 7 days per week.

3. In order to reduce the data requirements for electronically filed applications to no more than 2 Mb, the FCC should re-visit each of its current equipment authorization

rules to determine if the data required to be submitted is absolutely necessary and relevant to an evaluation of whether the device in question meets appropriate FCC technical requirements.⁶ Any existing rule which is found not to be relevant should be eliminated. Those rules and regulations not eliminated should be analyzed to determine if less information can be provided.

4. New mechanisms for submission of filing fees should be adopted to eliminate problems associated with the submission of filing fees. For example, applicants should be allowed to establish a deposit account with an appropriate institution (Mellon Bank) or other agency (FCC) against which equipment authorization application filing fees are drawn. This suggestion will ensure that the FCC receives the appropriate filing fee without causing processing delays that result from inadvertent, minor procedural errors in the transmission of fees. The proposal for new payment methods is consistent with the elimination of paper filings and human handling of the processing of applications. There is ample authority for the Commission to establish deposit accounts. In the context of competitive bidding, the FCC already debits the “upfront” payment accounts of successful bidders against the amount of funds due to be tendered to the Commission after an auction is conducted. Similarly, the Government Printing Office allows entities to establish “deposit accounts” against which funds are automatically drawn when it provides copies of new volumes of the Code of Federal Regulations to subscribers to that service.

⁶ Manufacturers could be required to retain certain items of information in their files which could be made available to the Commission upon request. For example, photographs currently required to be submitted, make data files exceedingly large. For purposes of streamlining the equipment authorization rules, it might be prudent to require photographs to be maintained at the manufacturers location until requested by the Commission staff.

5. Whether or not the Commission establishes electronic filing, it should, at a minimum, establish greater consistency in terms of the information that must be submitted in an equipment authorization application. Ad hoc requests for information should be eliminated to the extent possible. Also, to the extent the Commission changes established policy on what information is required in an application, it should be the subject of a Public Notice which serves as constructive notice that a change in policy has been made. That way, manufacturers will know in advance that certain information not contained in the rules will henceforth be required in equipment authorization applications. This will result in less need for ad hoc informal requests for additional information and a concomitant reduction in the amount of time it takes to process applications.

IV. Verification and Declaration of Conformity

The NPRM proposes to keep both the Declaration of Conformity (“DoC”) and verification as equipment authorizations, though the Commission poses the question if DoC can be used in lieu of verification, provided that the accredited lab requirement is waived for certain types of authorizations. Ericsson submits that the FCC should keep both the DoC and verification as legitimate equipment authorizations. Furthermore, to the extent the Commission sees fit to reduce the filing requirement for certain types of equipment not currently subject to DoC requirements, the verification process should be used.

As the Commission noted in the NPRM, the DoC has only recently been adopted and changes to the procedure at this point in time might be premature. Furthermore, even if the Commission used DoC for devices not subject to certification or notification with the proviso that the use of accredited labs was not necessary, Ericsson believes the DoC

rules would become overly complicated. This could result in confusion in the marketplace which, if possible, should be eliminated.

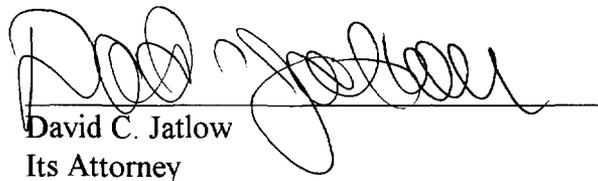
V. Assignment and Transfer Procedures

The FCC asks for comment on whether it should change its procedures related to the assignment of equipment authorizations and/or the transfer of such authorizations when mergers and consolidations take place. Ericsson believes the existing procedures should be changed since they are inconsistent with commercial practices today. Rather than requiring the filing of new applications when a sale of a company takes place or a merger or consolidation occurs (whether a pro forma internal transaction or non-pro forma transaction), Ericsson submits that equipment authorization grantees should be required simply to notify the Commission within 60 days that a change in the equipment authorization has occurred. One notice for all authorizations to be held by a new grantee should be required and the Commission should thereupon change its database to reflect new ownership of the grantee. This change is important since the number of devices which are subject to equipment authorization rules is increasing. New versions of equipment are produced constantly, especially digital devices used pursuant to Parts 22, 24 and 90 of the Commission's rules. It is simply burdensome to require new applications

for equipment authorizations to be filed when grantees of such authorization merge, consolidate, reorganize or otherwise change corporate structure or ownership.

Respectfully submitted,

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