

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matters of	)	
	)	
Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment	)	ET Docket No. 13-44 RM-11652
	)	
Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies	)	
	)	

**PETITION FOR CLARIFICATION AND PARTIAL RECONSIDERATION OF  
MOTOROLA SOLUTIONS INC.**

Motorola Solutions, Inc. (“Motorola Solutions”), pursuant to Section 1.429 of the Federal Communications Commission’s Rules,<sup>1</sup> hereby submits this Petition for Clarification and Partial Reconsideration of the Commission’s *Report and Order* updating its radiofrequency (“RF”) equipment authorization program.<sup>2</sup> As further detailed below, Motorola Solutions seeks clarification and partial reconsideration of new policies and rules relating to the accreditation of equipment testing laboratories that are part of the equipment authorization program.

**I. INTRODUCTION**

The Commission made substantial changes to its equipment authorization program in the *Report and Order*, including permitting Telecommunications Certification Bodies (“TCBs”) to process and grant all Certification applications, codifying and clarifying various procedures used by TCBs, and updating various references to industry standards and procedures. The

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<sup>1</sup> 47 C.F.R. § 1.429.

<sup>2</sup> Amendment of Parts 0, 1, 2, and 15 of the Commission’s Rules regarding Authorization of Radiofrequency Equipment; Amendment of Part 68 regarding Approval of Terminal Equipment by Telecommunications Certification Bodies, ET Docket No. 13-44, RM-11652, *Report and Order*, 29 FCC Rcd 16335 (2014) (“*Report and Order*”).

Commission also revised the rules related to the accreditation of equipment testing laboratories, which are the subject of this Petition. Specifically, the Commission terminated its practice of allowing test data to be submitted by unaccredited laboratories that register with the Commission and provide specified information regarding their test facilities (“Section 2.948-listed labs”).<sup>3</sup> Under the new rules, all testing laboratories that perform measurements in support of certification applications must be accredited by an FCC-recognized accreditation body.<sup>4</sup> Laboratories outside the United States must either be accredited by a foreign Designating Authority and recognized by the Commission under the terms of a government-to-government Mutual Recognition Agreement (“MRA”) or, if located in a country that does not have an MRA with the United States, be accredited by an organization recognized by the Commission for performing accreditation in that country.<sup>5</sup> To facilitate accreditation of testing laboratories in non-MRA countries, the Commission also adopted a rule allowing parties that seek to become a laboratory accreditation body to submit an application for recognition to the Chief of the FCC’s Office of Engineering and Technology (“OET”).<sup>6</sup>

A significant amount of the data used to support applications for equipment certification is generated by un-accredited testing laboratories. As the Commission recognized in the *Report and Order*, it is common for equipment manufacturers to conduct much of their testing in their own specialized engineering laboratories.<sup>7</sup> As the Telecommunications Industry Association (“TIA”) explained in its Comments in this proceeding, “engineering lab testing has a proven

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<sup>3</sup> *Report and Order* at ¶¶ 45-47.

<sup>4</sup> *Id.* at 51 (new Section 2.948(a)).

<sup>5</sup> *Id.* at 53 (new Section 2.948(f)).

<sup>6</sup> *Id.* at 53 (new Section 2.949).

<sup>7</sup> *Id.* at ¶ 43.

track record of contributing to Part 15 and Part 18 certifications in a streamlined and less expensive fashion” than using accredited labs, and the practical effect of the new rule will “be to require engineering labs to become accredited testing labs at significant expense to manufacturers.”<sup>8</sup>

Under the current testing regime, Motorola Solutions has had several of its internal facilities recognized as Section 2.948-listed testing laboratories for the purpose of submitting test data to TCBs. Motorola Solutions’ test facilities are used solely for its own internal use—the company does not provide lab testing services to other manufacturers—and all test activities are conducted pursuant to rigorous internal quality specifications and industry standards as a part of its global corporate testing program. In recent years, to shorten development times and promote efficiency in equipment design, approval, and marketing, Motorola Solutions has consolidated many of its equipment test activities to a wholly-owned and operated Motorola Solutions testing facility in Malaysia, a country without an MRA with the United States. To relocate these testing activities to Motorola Solutions’ U.S. facilities would cost the company millions, and could disrupt product development cycles. As such, the company is exploring options including seeking accreditation for its Malaysian test facilities.

The rules adopted in the *Report and Order* provide neither sufficient detail on the processes to be used in accrediting testing laboratories in non-MRA countries, nor adequate time for transitioning to the new accreditation rules. Therefore, Motorola Solutions respectfully requests that the Commission clarify the process and criteria that will be applied in evaluating applications for recognition as a test lab accreditation body. Additionally, Motorola Solutions respectfully requests that the Commission reconsider the transition periods adopted for the

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<sup>8</sup> Comments of the Telecommunications Industry Association at 13, ET Docket No. 13-44, RM-11652 (June 17, 2013) (“TIA Comments”).

expiration of current Section 2.948 testing laboratory listings, to allow sufficient time for implementation of and compliance with the Commission's new testing laboratory accreditation regime.

## **II. THE COMMISSION SHOULD CLARIFY THE NEW LABORATORY ACCREDITATION BODY RECOGNITION REGIME.**

The Commission should either adopt an Order clarifying the procedures and criteria that will be used to evaluate test lab accreditation bodies pursuant to new rule section 2.949 or instruct OET to articulate the relevant evaluation procedures and criteria through its Knowledge Database ("KDB") or other public notice mechanisms. New rule section 2.949 states that a party wishing to become a laboratory accreditation body recognized by OET must submit a written request to the Chief of OET requesting such recognition,<sup>9</sup> but the rule provides no clarity on the form or mechanism for that submission. For example, neither the rule nor the text of the *Report and Order* offers guidance on whether the submissions should be made electronically, through a Commission database, or on paper. Nor does the new rule specify the procedures OET shall use in evaluating the request. It is not clear whether the application will be made visible to the public, whether OET will issue a public notice announcing or seek comment on the application, or whether there are any timelines within which OET must act on a request. These matters are not trivial; without further certainty regarding the processing of these requests, potential applicants relatively unfamiliar with the logistics of Commission filings may not know whether they have made a complete and timely request, or whether the Commission is likely to act with sufficient time remaining in the transition period to complete testing laboratory accreditation processes.

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<sup>9</sup> *Report and Order* at 54 (new Section 2.949(a)).

The new rule also provides insufficient clarity regarding the substantive review of applications for recognition as accreditation bodies. The Commission sets out four showings that an applicant must make, but it declines to specify how these will be evaluated, or what further information should be provided.<sup>10</sup> While the Commission points to some specific industry standards in its new rule, it also includes more open-ended criteria such as “accreditation personnel/assessors with specific technical experience” on Commission rules, and “procedures and policies developed for the accreditation of testing laboratories.”<sup>11</sup> The Commission does not, however, make clear what level of detail is required in these showings, what types of evidence will be sufficient, or how these various criteria should be weighted by OET. Moreover, the Commission also states that “OET may request additional information, or showings, as needed, to determine the applicant’s credentials and qualifications,” but it provides no clear guidance to OET as to what sort of information might be requested or what level of credential and qualification should be required.<sup>12</sup>

Although Motorola Solutions understands the Commission’s desire to allow this process to develop and evolve, there is insufficient specificity in the new rule to facilitate the development of potential new accreditation bodies. Establishing a new accreditation body will be a complex undertaking requiring identifying and hiring staff with sufficient expertise, completing necessary training, and developing appropriate procedures and policies. It is challenging enough to build a complex structure without a complete blueprint. Here, the Commission’s rules provide barely a sketch from which to work. Particularly in non-MRA countries lacking established bodies ready to step up to this challenge, developing a new

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<sup>10</sup> *Id.* (new Section 2.949(b)).

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

accreditation body may be infeasible without further guidance on what ultimately will be required, even if there exist sufficient human and technical resources.

The Commission should, therefore, clarify in a subsequent order the process to be used for the submission and processing of applications for recognition by testing laboratory accreditation bodies in non-MRA countries, and the substantive criteria that will be applied in evaluating these applications. Should the Commission not want to codify further detailed evaluation criteria, in order to allow the regime to evolve with industry practices, it instead could instruct OET to publish additional guidance, including through the KDB and public notice processes, by a date certain. In any event, as discussed below, the Commission should not require accreditation of testing laboratories in non-MRA countries until well after it or OET provides further clarity on the accreditation body recognition process.

### **III. THE COMMISSION SHOULD RECONSIDER THE TRANSITION PERIODS ADOPTED IN SECTION 2.950(e).**

In light of the significant unanswered questions and the logistical challenges in implementing the new laboratory accreditation regime, as well as the time it will take to set up new accreditation bodies and to have labs approved for the first time by those bodies, the Commission should reconsider the transition periods adopted in Section 2.950(e). Under Section 2.950(e), laboratories that are listed by the Commission under the 2.948 process will see their listings expire no later than one year after the effective date of the rules, and must cease submitting test data in support of certification applications fifteen months after the effective date of the rules.<sup>13</sup> This one year transition period is too short in light of the new processes and requirements adopted in the *Report and Order*, and should be extended to a minimum of two years after clarified accreditation body recognition procedures are effective and a testing

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<sup>13</sup> *Report and Order* at 54-55 (new Section 2.950(e)).

laboratory accreditation body is recognized by the Commission in the jurisdiction of the testing facility.

A one year transition period for expiration of Section 2.948 listing of non-accredited labs is likely too short in any circumstance. Even in the United States or an MRA country with a functioning foreign Designating Authority, preparing the necessary showings for accreditation and application processing times easily could stretch longer than one year from the effective date of the rules, especially if there are multiple labs seeking accreditation for the first time. OET's database contains nearly seventy Section 2.948 listings for laboratories in the United States alone, out of a total of more than 570 labs listed in the database. Expecting even a significant portion of these labs to become accredited within a year is unrealistic.

However daunting the challenges of compliance will be in the United States, the impact of the new rules will be even more acute on facilities located in non-MRA countries. As described above, the Commission has delegated substantial authority to OET to develop procedures and standards for recognition of accreditation bodies. While Motorola Solutions believes it is feasible for the Commission and OET to develop and implement an effective application process, this likely will be a time-consuming and iterative process. Once sufficient procedures are in place, OET then will be tasked with evaluating what might be numerous applications for accreditation body recognition, each clamoring to be addressed well in advance of the 2.948-listing expiration date. Add to this situation the fact that in many non-MRA countries there may not be an established organization ready and qualified promptly to step into the role of an accreditation body, and it becomes clear that one year would be insufficient even to establish an accreditation body, let alone for that body to also process one or more testing laboratory accreditation applications.

Although the Commission understandably seeks to promote prompt adoption of its new testing regime through setting a clear timeline on expiration of the Section 2.948 listing for unaccredited laboratories, that timeline must be reasonable in light of the circumstances. The one year transition date for the expiration of Section 2.948 listings is insufficient for both domestic and foreign labs. Extending the transition period to two years will give the minimum time needed for any required certifications to be completed and applications to be processed.<sup>14</sup> Further, it is necessary to account for situations in non-MRA countries where an accreditation body must be established, funded, and staffed from scratch and then complete the application process for recognition by the Commission before a testing lab can even apply for accreditation. It would be unfair for the two year transition period to begin running before an accreditation body has been recognized by the Commission in the jurisdiction of the testing laboratory. Therefore, the two year transition period should begin after clarified procedures for the processing and evaluation of accreditation body recognition applications are adopted and an accreditation body is recognized in the jurisdiction of the testing lab. Basing the transition period on the recognition of an accreditation body will ensure that testing labs in other countries are treated fairly and not prejudiced as compared to testing labs in the United States and other countries where recognized accreditation bodies already exist. These revised timelines, along with the further clarification requested above, will better enable the Commission to ensure prompt compliance with its new testing regime with a minimum of unnecessary disruption to manufacturing processes.

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<sup>14</sup> In comments, TIA has posited that a two year transition period should be adequate for laboratories in the United States and in MRA countries with a Designating Authority (TIA Comments at 18).

#### IV. CONCLUSION

As a company with a long history of wireless communications technology innovation, Motorola Solutions appreciates the need for the Commission's equipment certification processes to be effective, efficient, and based upon reliable data. The changes adopted in the *Report and Order* are largely beneficial, however, as described above, Motorola Solutions respectfully requests clarification and reconsideration of two discrete aspects. Specifically, the Commission should clarify the procedures and substance of its new accreditation body recognition process, and it should extend the timelines for implementation of its new testing laboratory accreditation requirement.

/s/ Chuck Powers

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