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

In the Matter of	)	
	)	
Preemption of Local Zoning Regulation of Satellite Earth Stations	)	IB Docket No. 95-59
	)	
	)	

ORDER ON RECONSIDERATION

Adopted: June 4, 2002 **Released:** June 7, 2002

By the Commission:

1. With this Order, we dismiss the petitions for reconsideration of the Commission's *1996 Antenna Report and Order*[1] filed by those parties that have not indicated an intent to pursue their respective petitions.

2. In March of 1996, the Commission released the *1996 Antenna Report and Order and Further Notice of Proposed Rulemaking*. In this *Report and Order*, the Commission, among other things, amended, Section 25.104, 47 C.F.R. § 25.104, by creating a rebuttable presumption that local regulations that impose restrictions affecting the installation, use and maintenance of satellite earth station antennas one meter or less in any area or two meters or less in commercial or industrial areas, were unreasonable and would be preempted. Section 25.104 was subsequently further amended by the *OTARD Order* to eliminate provisions regarding satellite antennas that are one meter or smaller and used to receive video programming. Such antennas are covered by the Commission's *OTARD Rule*, Section 1.4000, 47 C.F.R. § 1.4000.

3. Nine petitions for reconsideration of the *1996 Antenna Report and Order* were filed. A list of the petitioners is included in the attached Appendix.

4. In October 2001, the International Bureau ("Bureau") released a public notice asking parties to refresh the record regarding petitions for reconsideration of the *1996 Antenna Report and Order*.[2] In the public notice, the Bureau noted that, since the release of the order, many of the issues raised in the petitions for reconsideration may have become moot or irrelevant in light of intervening events, including Commission amendment of Section 1.4000, 47 C.F.R. §1.4000, that apply to antennas

[1] *In the Matter of Local Zoning Regulation of Satellite Earth Stations*, Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 95-59, 11 FCC Rcd 5809, (1996) ("*1996 Antenna Report and Order*"), consolidated in part with *Preemption of Local Zoning Regulation of Satellite Earth Stations and Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over the Air Reception Devices*, Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, IB Docket No. 95-59 and CS Docket No. 96-83, 11 FCC Rcd 19276 (1996) ("*OTARD Order*").

[2] *Parties asked to Refresh Record Regarding Reconsideration of Rules Adopted in Preemption of Local Zoning Regulation of Satellite Earth Stations*, Public Notice, IB Docket No. 95-59, 16 FCC Rcd 17888 (2001) (rel. October 5, 2001)("*Preemption Public Notice*").

used to transmit as well as receive both video and non-video services.[3] For these reasons, the Bureau requested that parties that had filed petitions for reconsideration file a supplemental response indicating the issues in such petitions, if any, they still wished to have reconsidered. The Bureau stated that, to the extent that parties did not indicate an intent to pursue their respective petitions for reconsideration, the Commission would deem such petitions withdrawn and would dismiss such petitions.[4] This public notice was published in the Federal Register.[5] No petitioner filed in response to this public notice.

5. On February 1, 2002, the Bureau released a second public notice announcing the list of petitioners that did not respond to the October Public Notice.[6] This public notice granted petitioners a final opportunity to indicate an intent to pursue their respective petitions and was published in the Federal Register and mailed to all of the petitioners to the address stated in the file that was provided to the Commission by the petitioner and/or any petitioners' counsel.[7] No petitioner filed in response to the second public notice.

6. To the extent that parties have not indicated an intent to pursue their respective petitions for reconsideration of the *1996 Antenna Order* in response to the public notice, we deem such petitions withdrawn and dismiss these petitions.

7. Accordingly, IT IS ORDERED that, pursuant to the authority contained in Sections 1 and 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 1.151, 154(i), 154(j), and Sections 1.429 and 1.106 of the Commission's rules, 47 C.F.R. §1.429 and §1.106, the petitions for reconsideration of the *1996 Antenna Report and Order,* as listed in the attached Appendix, ARE DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

[3] *Promotion of Competitive Networks in Local Telecommunications Markets,* Report and Order, 15 FCC Rcd 22983 (2000).

[4] *See Preemption Public Notice* at 2.

[5] *See* 66 Fed. Reg. 53,417 (2001).

[6] *International Bureau Announces Final Opportunity for Parties to Refresh the Record Regarding Reconsiderations of Rules Adopted in the Preemption of Local Zoning Regulations of Satellite Earth Stations,* Public Notice, IB Docket No. 95-59, 17 FCC Rcd 1826 (rel. February 1, 2002).

[7] *See* 67 Fed.Reg.102,727 (2002).

APPENDIX

PETTITONS FOR RECONSIDERATION OF THE 1996 ANNTENNA ORDER

Petitions for Reconsideration/Clarification:

AlphaStar Television Network, Inc.
County of Boulder, State of Colorado
DIRECTV, Inc.
Florida League of Cities
Hughes Network Systems, Inc.
Local Communities (the "Cities of Dallas")[8]
Local Communities ("National League of Cities")[9]
Satellite Broadcasting And Communications Association of America ("SBCA")
United States Satellite Broadcasting Company, Inc. ("USSB")

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8 The Local Communities is composed of local governments nationally and local governments in Cities of Dallas, Texas; Arlington, Texas; Austin, Texas; Fort Worth Texas; Knoxville, Tennessee; the National Association of Counties and the United States Conference of Mayors.

9 The National League of Cities is composed of the following: the National Association of Telecommunications Officers and Advisors; the National Trust for Historic Preservation; League of Arizona Cities and Towns; League of California Cities; Colorado municipal League; Connecticut Conference of Municipalities; Delaware League of Local Governments; Florida League of Cities; Georgia Municipal Association; Association of Idaho Cities; Illinois Municipal League; Indiana Association of Cities and Towns; Iowa League of Cities; League of Kansas Municipalities; Kentucky League of Cities; Maine Municipal Association; Michigan Municipal Association; Michigan Municipal League; League of Minnesota Cities; Mississippi Municipal Association; League of Nebraska Municipalities; New Hampshire Municipal Association; New Jersey State League of Municipalities; New Mexico Municipal League; New York state Conference of Mayors and municipal Officials; North Carolina League of Municipalities; North Dakota League of Cities; Ohio Municipal League; Oklahoma Municipal League; League of Oregon Cities; Pennsylvania League of Cities and Municipalities; Municipal Association of South Carolina; Texas Municipal League; Vermont League of Cities and Towns; Virginia Municipal; League; Association of Washington Cities; and Wyoming Association of Municipalities.