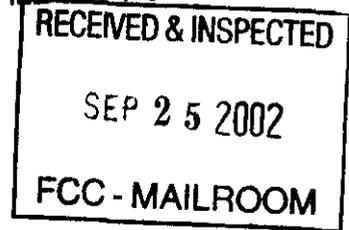


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August 27, 2002

Office of the Secretary
Federal Communications Commission
TW-A325
445 12th Street SW
Washington, DC 20554

Re: COMMENT IN OPPOSITION

RM-10521

Title: Amendment of the CFR Part 97 Amateur Radio Service and/or Amendment of the 47 CFR Part 95 Subpart B Family Radio Service to permit Non-Amateur Non-United States Resident Foreign Nationals Access to the 446.0-446.1 MHz Band.

Enclosed please find an original and four (4) copies of the comments in opposition to the referenced petition, which have been prepared by the undersigned.

A copy of these comments has been placed in the US Mail to the petitioner at his last known address.

Sincerely,

A handwritten signature in cursive script that reads "Kenton E. Sturdevant".

Kenton E. Sturdevant
814 Sundance Street
Eugene, Or. 97405

No. of Copies rec'd 074
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Before the
Federal Communications Commission
Washington, D.C.



In the Matter of)
)
Amendment of the 47 CFR Part 97)
Amateur Radio Service and/or)
Amendment of the 47 CFR Part 95)
Subpart B Family Radio Service)
to Permit Non-Amateur Non-United States)
Resident Foreign Nationals Access to the)
446.0-446.1 MHz Band)

RM-10521

OPPOSITION TO PETITION

Submitted by:

**Kenton E. Sturdevant
814 Sundance St.
Eugene, Or. 97405**

The following are comments of Kenton E. Sturdevant a Licensed Amateur Radio Operator (N7LXA) thereby establishing a standing in the instant proceeding which proposes a change in the Rules that would impact the Amateur Radio Service. I am also a former licensee in the General Mobile Radio Service, a current licensee of a Private Land

Mobile Radio system, currently possesses a FCC General Class Radio Telephone Operators License, have over 15 years of technical and managerial experience in the broadcast industry, have been employed for over 20 years by a FCC Certified Land Mobile Radio Frequency Coordination Agency and thus I am intimately familiar with FCC Rules and Regulations.

BACKGROUND

In his petition, Dr. Trahos requests the Commission to allow Non Citizen, Non Licensed individuals be allowed to operate in the Amateur Radio Spectrum, specifically 446.000-446.100 MHz. The Petitioner cites a single instance of Non-Citizens operating low power Family Radio Service type radio units which they brought from overseas and were using at a theme park.¹ These radio units are specifically referred to in the petition as PMR 446.² These devices are chanelized for ITU Region use in the 446.00-446.100 MHz band and are not authorized for use in ITU Region 2. He further alleges that the Commission is unable or unwilling to enforce the prohibition on this type of use.³ It is apparently for only this reason that he cites the need to modify the Rules to accommodate radio equipped tourists.

¹ Petition at 9

² Petition at 7

³ Petition at 10

THE PETITION IS DEFECTIVE

The Commission Rules are quite clear in setting the requirements to be met in filing a Petition for Rule Making. Among these is the requirement to be impacted by the proposed Rule change and to inform the Commission of the impact on the petitioner. ⁴

The petition fails to state how the petitioner shall be affected. This important aspect is missing because, by the nature of the proposed change, the petitioner could not be affected in any manner. In short the proposed Rule change would not have any effect on his person or business, since it would only apply to non-licensed, non-citizen visitors. It is obvious by the Petitioner's statements in establishing his credentials that he would not be able to claim status in either category. ⁵

The Petition also fails to provide required facts and data on how the proposed Rule change would impact the licensed Amateur Radio operations on the band segment between 446.000 and 446.100 MHz. The Petition establishes no harm, nor proves how the Rule change would provide relief.

⁴ CFR 47 1.401 (c) "*The petition shall set forth the text or substance of the proposed rule, amendment, or rule to be repealed, together with all facts, views, arguments and data deemed to support the action requested and shall indicate how the interest of the petitioner will be affected.*" **emphasis added.**

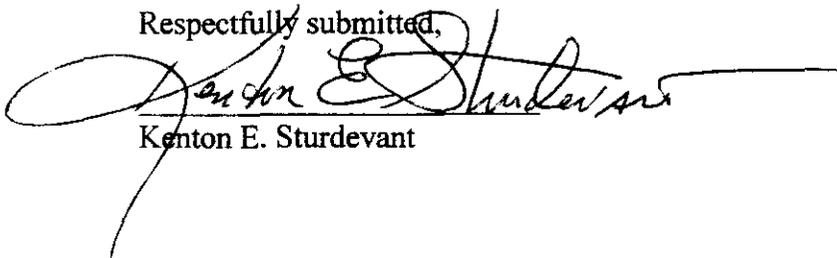
⁵ Petition at 4, 5 citing numerous FCC licenses only available to US Citizens and obviously establishing himself as a United States resident by nature of his business and other involvement's or activities.

Additionally, Section 1.401 (e) allows the Commission to dismiss without prejudice those petitions which are frivolous.⁶ To allege that the Commission lacks the capacity or willingness to enforce an existing Rule and use this allegation as the only basis to eliminate that Rule is frivolity. It is akin to stating that since the building inspector did not catch me wiring my house improperly, portions of the National Electrical Code should be repealed.

CONCLUSION

The Commission should dismiss the Petition without action for the following reasons. The Petitioner fails to show how he would be affected. Coupled with the fact that the proposed Rule change would have no bearing on any of his licensed activities, contrary to his statements, the Petitioner actually has no standing in the matter. The petition lacks facts and data regarding the impact on licensed users. The petition is frivolous and serves no beneficial purpose. Therefore the Petition is defective on several important counts and the only option available to the Commission is to dismiss it.

Respectfully submitted,



Kenton E. Sturdevant

Copy: Dr. Michael C. Trahos
4600 King Street
Suite 6k
Alexandria, VA 22302-1249

⁶ CFR 47 1.401 (e) "*Petitions which are moot, premature, repetitive, frivolous, or which plainly do not warrant consideration by the Commission may be denied or dismissed without prejudice to the petitioner.*"