



Federal Communications Commission
Washington, D.C. 20554

August 22, 2003

In Reply Refer to
2000F/WTC
2003003027

Mr. Dale E. Reich
141 North Center St.
Seville, Ohio 44273

Re Petition for Rulemaking
Requesting Change in Part 95 Citizens Band Radio Rules
(filed Dec. 4, 2002)

Dear Mr Reich:

This letter is in response to your Petition for Rule Making ("Petition") received December 4, 2002, requesting that the Commission amend its rules to again require licensing of Citizens Band (CB) Radio Service stations. Petition at 1. Specifically, you request that the Rules be amended to allow use of up to ten portable or mobile CB units in a family household without licensing, to allow voluntary licensing of CB Radio Service systems that have two base stations and up to twenty-five mobile units, and to require licensing of CB Radio Service systems that have up to twenty-five base stations or more than twenty-five base and mobile units combined. *Id.* For the reasons stated below, we conclude that a rulemaking proceeding on this issue is not warranted under the circumstances presented. Therefore, we dismiss the Petition.

In support of your proposal, you state that this proposal, if adopted, would result in CB Radio Service stations being on a database for enforcement purposes *Id.* You also state that this CB licensing would raise revenue for the Commission. *Id.*

As an initial matter, we note that the Commission decided in 1983 to regulate the CB Radio Service through equipment certification and operating rules, rather than by licensing functions. *See* Amendment of Parts 1 and 95 of the Commission's Rules to Eliminate Individual Station Licenses in the Radio Control and Citizens Band (CB) Radio Service, *Report and Order*, PR Docket No 82-799, 48 Fed. Reg. 24884 (1983) In reaching its decision, the Commission very carefully considered the impact that eliminating individual station licenses in the CB Radio Service would have on compliance with the CB service rules. It ultimately concluded that continued licensing would not promote compliance with the rules. *Id.* The Commission concluded that its licensing database was not a valuable enforcement tool, because CB violators generally fail to identify their communications, so the Commission's field offices must use other means to determine the location and identity of a violator. *Id.* The Commission also concluded that its forfeiture authority, rather than licensing, constituted the primary deterrence to would-be violators. *Id.* In this regard, we note that operators of CB stations are still required to comply with the Communications Act of 1934, as amended, and with the Part 95, Subpart D of Commission's Rules, 47 C.F.R. §§ 95.401-95.428

The Petition does not raise any issues not considered by the Commission in 1983, and does not present any evidence that the Commission's 1983 conclusions were incorrect or that circumstances have changed. Additionally, we note that by exempting from licensing up to ten portable or mobile CB units in a family household, your proposal excludes the majority of CB users. Thus, it appears that the proposed approach would severely limit the usefulness of licensing database for enforcement purposes, which you state is the primary purpose of your proposal. Also, you have not shown that systems that have up to twenty-five base stations, or more than twenty-five base and mobile units combined, are more likely than other CB stations or systems to violate the rules or that these systems warrant unique licensing standards. Finally, we note that since the CB Radio Service was de-licensed, other radio services licensed by rule, such as the Family Radio Service and the Multi-Use Radio Service, have become available to meet the personal communications needs of individuals. Thus, individuals have alternatives to the CB Radio Service.

With respect to your request that we adopt licensing fees for certain CB Radio Service systems, we note that Congress has not given the Commission authority to collect a fee for processing a CB Radio Service station application. For this reason, the Commission could not adopt licensing fees as you request. With regard to your claim that this proposal would raise revenue for the Commission, we note that fees collected from license applicants are remitted to the General Fund of the Treasury rather than held by the Commission.

On the basis of the above, we conclude that no changes to the Commission's rules in response to the request in the referenced petition for rulemaking are necessary at this time. As a result, we do not believe that the rulemaking petition warrants further consideration at this time.

ACCORDINGLY, pursuant to Sections 4(i) and (j) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), (j), 303(r), and Section 1.401(e) of the Commission's Rules, 47 C.F.R. § 1.401(e), the petition for rule making filed on December 4, 2002 by Dale E. Reich IS DISMISSED WITHOUT PREJUDICE. This action is taken pursuant to delegated authority granted under the provisions of Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION


for D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunication Bureau