



Federal Communications Commission
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

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.

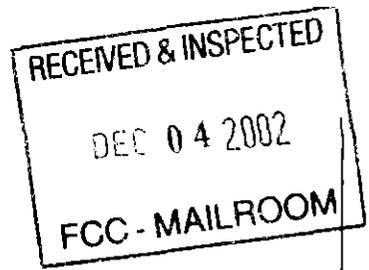
With respect to your request that we adopt licensing fees for certain CB Radio Service systems, we note that Congress has not given the Commission authority to collect a fee for processing a CB Radio Service station application. For this reason, the Commission could not adopt licensing fees as you request. 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



Before The
Federal Communications Commission
Washington, D.C. 20555

PETITION FOR RULE CHANGE

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

RM Docket Number _____

Requested change in Part 95 Citizen Band Radio:

The FCC made a mistake by not requiring CB radios stations to be licensed and regulated an effort to have the the commission re-visit this issue has been made, with out addressing the lost review that CB licensing could bring to offset the congressional mandate to collect user funds, and fee's the FCC is losing money every day no minor for of licensing and regulating CB operators To often when a illegal CB station is caught the fine of Thousands is too much The fines issued involving every day use of the all common forms communications are much to high, and unusual in form of punishment

A few years ago when the FCC changed the Marine Radios Service to a "Voluntary License" and a "Compulsory License" The commission should have addressed the C B or Citizen Band Radio Service This Requested Change would make a issue that the FCC at that time was on firm ground logic I suggest the following (3) options for Citizen Band Radio Licensing

- (A) Un Licensed with up to 10 portable or mobile radio allowed in a family household
- (B) "Voluntary License" with filling only via the U L S system allowing (2) Base stations, and up to 25 Mobile The Fee should start in the area of \$12 00 for five years
- (C) "Compulsory License" with filling only via the U L S system allowing up to (+25 Base Stations) and / or mobiles that exceed 25 radio units This License would require a minimum fee of \$65 00 with additional \$12 00 per base station over 25

Government Stations would not be exempted from the fees Land Transportation / Public Safety / Local Government / Business would receive a 10 year License

Any person - business - operations - agency - government agency that has had a serious FCC action would be required to pay a additional fee with the commission! This fee would not be refundable, however may be used to offset future fees if the persons have no serious fcc violations in the next 5 years The minimum fee should be around \$491 00 More funds may be required for the more past violation

The District EIC, The Regional Bureau Chief, Chief of Citizen Band Enforcement, or FCC A L J could issue a order upon that requires them to file for a Voluntary License or Compulsory License The order could only be appealed if the information the government has is wrong or incorrect The ALJ through fact finding may address this issue in a order if new information is raised and supported at a hearing only

The object is to get the CB stations on a data base for enforcement. Because a vast number of Enforcement issues come from Fixed Stations, or Base Stations the issue to still allow un-licensed mobile

stations operate is a prime issue not to require licensing of small unit stations

New Stations will normally operate mobile or portable at first. The object is to get a paper on the wall of CB stations that you are on a data base, and you can't hide from the government

The object in the license in large print should also read that the licensed CB stations has a [Hard] Copy of the Rules and Regulation

In reframing the sub parts of Part 95 is suggested that "Licensed" stations be given primary use of the frequencys. Un Licensed Stations would be required to yield to Licensed stations. Un-Licensed Stations would be given "secondary status only"

Respectfully Submitted,

Dale E Reich