

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C., 20554**

**In the Matter of** )  
 )  
**Amendment of Part 97 of the Commission’s** ) **WT Docket 05-235**  
**Rules To Implement WRC-03 Regulations** )  
**Applicable to Requirements for Operator Licenses** ) **Report and Order 06-178**  
**in the Amateur Radio Service** )

**Reply in OPPOSITION to the Petition For Reconsideration by Russell D. Ward**  
**Filed on 20 February 2007**

**GENERAL**

Mr. Ward’s Petition is little more than some aggrieved personal dispute with the Commission. I would not consider his “petition” to be of any worth in the complete dismissal of Docket 05-235 nor that of Report and Order 06-178. In the interests of fairness and formality, some of Mr. Ward’s “comments” are given following within quotes and rewritten in italics.

**Accusation of Flaws and “Disruptive Email Server [operation] at the Commission**

In Mr. Ward’s second paragraph, first page he writes:

*“During the thirty day comment period and the subsequent period of replies, FCC improperly deleted and suppressed comments received by the email system of FCC, ECFS. It is not in the public interest, convenience, or necessity for FCC to maintain a flawed and disruptive email server which mishandles citizen comments.”*

1. As a private citizen interested in Docket 05-235, I maintained a constant observation of the Docket for the entirety of its announcement to past the ending date of Replies to Comments. This time period is from 20 July 2005 to 14 November 2005. An **Exhibit** summary was filed by myself under Docket 05-235 on **25 November 2005** giving statistics on all Comments and Replies to Comments as they were visible on the Commission’s Electronic Comment Filing System (ECFS). While this was past the end date of all comments, the filing was done as an aid to anyone who might be interested in the eventual outcome of the Docket and to illustrate the general opinion grouping of all 3,786 respondents during the official Comment and Reply to Comments period.

2. At no time did this writer experience and problems with the Commission’s ECFS or its servers during the above time period. Due to other personal tasks, this writer could not maintain a strict access period to the ECFS and had to access at varying times of the day and night. No access was done during the regular and posted Commission servers’ downtime for maintenance. This writer has found the ECFS Comment Search and Upload menus and entry blocks to be logical and straightforward.

3. On 16 April 2007 this writer did another Search of the ECFS for Mr. Ward’s Comments on Docket 05-235 prior to his 20 February 2007 Petition. None were found for *Russell D Ward, Jr. W4NI, 901 Fifth Avenue North,*

*Nashville Tennessee 37243* as Mr. Ward signed his Petition on his page 4. A Search for just “Ward” in the respondent block turned up 65 documents, all of whom had “ward” as one of their names or parts of names. A second Search was done without names but with the city and state given as “Nashville, TN.” That second Search turned up only four documents, Mr. Ward’s Petition of 20 February 2007 and three others. Two of the remaining three had the name and postal address of *Russ Ward, 4224 Brush Hill Road, Nashville Tennessee 37216*, posted in the ECFS on 27 October 2005 and 22 November 2005.<sup>1</sup> The content of those *Russ Ward* Comments is consistent with Mr. Ward’s Petition comments, therefore it must be assumed that *Russ Ward* is the same as *Russell D Ward, Jr, W4NI*.

4. There seems to be some confusion as to Mr. Ward’s correct postal address. A check of the Commission’s Universal Licensing System (ULS) on 16 April 2007 indicates that the W4NI licensee can be contacted at 4224 Brush Hill Road, Nashville, Tennessee 37216, yet Mr. Ward’s Petition address is indicated as 901 Fifth Avenue North, Nashville, Tennessee 37243, both on his text and complete postal address given in the ECFS Search.

5. Between 1 August 2005 and 14 November 2005, this writer made a total 9 document entries into the Commission’s ECFS, 1 Comment plus 8 Replies to Comments. All 9 entries were done electronically and all appeared promptly in the ECFS the next day. This writer found no “problems.”

In Mr. Ward’s third paragraph, page 1, he writes:

*“I submitted a properly formatted comment to the email system of FCC on Thursday 27 October 2005, shortly before the close of the comment period for NPRM Docket 05-235. Only much later did I discover that FCC had failed to post that comment.”*

6. On this writer’s Search of the Commission’s ECFS, a *Russ Ward* Comment turned up for 27 October 2005. While that Search happened nearly a year and a half later than the claimed “failed post,” one cannot verify the veracity of Mr. Ward’s statement. It is obviously visible to any of the public now.

7. Viewing Mr. Ward’s 27 October 2005 Comment, it does not appear to be “properly formatted.” Instead it seems a jumble of text and so-called “control codes” between left- and right-arrows. Total file size is roughly ten times larger than if a text file of Mr. Ward’s text comments had been uploaded as an ASCII text file.<sup>2</sup> Prior to Docket 05-235 the Commission’s ECFS had the capability of uploading from a variety of popular personal computer file formats (e.g., PDF direct, MicroSoft Word, ASCII text format, etc.). In addition, the ECFS allows an “alternate” entry of direct text inputted while on-line.

Mr. Ward writes the following in his last paragraph, page 2:

*“Since both my comment and reply were eventually posted by FCC, was the NPRM process flawed? Yes, the NPRM process was flawed for four reasons.”*

8. As this writer has indicated preceding, no “flaws” were found in submitting comments to the ECFS **about** a specific Docket number. Improper **use** by individuals, such as entering the wrong Docket number, may appear to be

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<sup>1</sup> The name and postal address of the 22 November 2005 posting was given without capitalization.

<sup>2</sup> That is a rough estimate. It is based on observation and deleting “control codes” and extra white space. A numerically-correct translation is not possible without comparing Mr. Ward’s original upload. ECFS downloads are only in PDF and conversion from non-PDF to PDF might add or subtract content size dependent on the original format.

a flaw. Since all uploaded Comments are verified by a Confirmation of Posting prompt, a user can easily determine if they have made a mistake in entries to the ECFS form. All uploads to the ECFS should be checked the next day by submitters to verify their uploads; that is a **user** task and the Commission cannot be held responsible for user's mistakes.

9. Each file upload to the Commission's ECFS is confirmed by a return prompt message giving the date of the upload and a reference number (used by the Commission)...provided that the given Internet address is that of the file uploader. Given a false or improper Internet address is a "spam" action on the part of the uploader, not the Commission.<sup>3</sup>

On Mr. Ward's petition, page 3, top paragraph, he writes"

*"Third, since a lot of my time and energy were wasted in getting FCC to treat my comment correctly, my reply was necessarily restricted. In fact, my reply dealt only with the improper treatment of my comment by FCC, not with a substantive analysis of other comments."*

10. Mr. Ward has commented (beginning of second paragraph, page 2) that he sent a "reply comment" on 23 November 2005. According to the Commission's ECFS that was posted on 22 November, a day earlier. He should have been aware that the Reply to Comments period was officially over on 15 November 2005, a week before his posting of 22 November 2005. The total Comment and Replies to Comments period on Docket 05-235 was 3 ½ months. The majority of all comments was made prior to 31 August 2005.<sup>4</sup>

11. Mr. Ward should try to understand that the "NPRM process" (as he puts it) is **citizens commenting on a Notice of Proposed Rule Making**. It is not about having the equivalent of word fights over alleged, unreferenced mistreatment of him by the Commission and venting personal anguish over that. The Commission has, for a long time, made available a Comment period (specifically noted in the Federal Register) where all interested parties may comment on the NPRM. The NPRM and the changes so proposed to regulations, **not** to be used as some personal pet favorite subject commentary as found in newsgroups or weblogs ("blogs"). It is up to the individual citizen to be aware and informed of what their government does, proposes to do, and respond accordingly **on the subject** and in a timely fashion.

12. Arguments with the Commission in regards to alleged administrative mistreatment by the Commission can be done by **other communications**. Such is **not** a subject for the Commission and over 3,700 commenters to cancel, make null and void an NPRM and subsequent Report and Order because Mr. Ward is unhappy with his personal treatment by the Commission. Such also utterly wastes a considerable amount of effort that over 3,700 of us have already expended in a timely fashion and within the established, posted time limits.

## SUMMARY

It is my opinion that Mr. Ward's Petition for Reconsideration on FCC 06-178 Report and Order and to reconvene any commentary on Notice of Proposed Rule Making 05-235 be summarily dismissed without prejudice. The public has already had months to comment on the NPRM and the Commission has taken nearly a year to arrive at a decision and issue a Report and Order concerning the issue. That seems quite adequate in comparison to the Commission's actions on other NPRMs, not only about the Amateur Radio Service but other Radio Services under its aegis. A

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<sup>3</sup> See my Item 4 comment on Mr. Ward's use of two different Nashville, TN, postal addresses.

<sup>4</sup> See this writer's *Exhibit* of 25 November 2005 for a more precise tabulation.

decision has been made and it is time to stop re-arguing matters because a few did not get their desired answer.

I thank the Commission for doing its proper regulatory job for all citizens of the United States.

Very sincerely,

Leonard H. Anderson

Retired (from regular working hours) Electronics Design Engineer

Amateur Extra class Amateur Radio Service licensee

Life Member, Institute for Electrical and Electronic Engineers, a Professional Association

Member, American Radio Relay League

ex - Associated Editor and Contributor, HAM RADIO Magazine

ex - RA16408336, USA, Sergeant, Signal Corps, 1952 to Honorable Discharge in 1960