

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

In the Matter of)	
)	
Amendment of Sections 15.35 and 15.253 of the Commission’s Rules Regarding Operation of Radar Systems in the 76-77 GHz Band)	ET Docket No. 11-90 RM-11555
)	
Amendment of Section 15.253 of the Commission’s Rules to Permit Fixed Use of Radar in the 76-77 GHz Band)	ET Docket No. 10-28
)	

**OPPOSITION OF THE
ALLIANCE OF AUTOMOBILE MANUFACTURERS, INC. TO THE NAVTECH
RADAR PETITION FOR RECONSIDERATION**

The Alliance of Automobile Manufacturers, Inc. (“Alliance”)¹ hereby submits its Opposition in response to the Petition for Reconsideration (“Petition”) filed by Navtech Radar Ltd. (“Navtech” or “Petitioner”) with the Federal Communications Commission (“Commission”) in the above-captioned proceedings.² In its Petition, Navtech requests the Commission to reconsider its decision to limit the use of fixed radars in the 76-77 GHz band to airports.³ Navtech’s Petition should be denied on both substantive and procedural grounds. The Alliance urges the Commission to deny Navtech’s Petition because general fixed use of 76-77 GHz radars, particularly near public roads, could create a high risk of harmful interference to

¹ The Alliance is an association of twelve of the world’s leading car and light truck manufacturers, including BMW Group, Chrysler Group LLC, Ford Motor Company, General Motors Company, Jaguar Land Rover, Mazda, Mercedes-Benz USA, Mitsubishi Motors, Porsche, Toyota, Volkswagen Group of America, and Volvo Cars. Alliance members employ thousands of individuals in the United States and account for over 77 percent of all car and light truck sales. *See* Auto Alliance: Overview, at <http://www.autoalliance.org/about-the-alliance/overview>.

² Petition for Partial Reconsideration of FCC-12-72A1 of Navtech Radar Ltd. (filed Sept. 5, 2012) (“Petition”).

³ *Id.* at 1.

automobile radars. Additionally, the Commission should deny the Navtech Petition because the facts and arguments presented in the Petition do not satisfy the Commission's rules governing the grant of petitions for reconsideration.⁴

I. BACKGROUND

In 2011 the Commission sought comment on proposals to facilitate enhanced vehicular radar technologies in the 76-77 GHz band, including by modifying the applicable Section 15.253 emission limits, eliminating the requirement that vehicular radars decrease power when the vehicle on which the radar is mounted is not in motion, and authorizing the use of unlicensed 76-77 GHz band radars in fixed infrastructure systems.⁵ The Commission released its *Order* in 2012 and among other rule changes, modified Sections 15.35 and 15.253 of its rules to enable fixed radar technologies in the 76-77 GHz band at airport locations.⁶ The Commission explained that it had not received any support for 76-77 GHz fixed radar applications beyond airport locations.⁷

⁴ 47 C.F.R. §§ 1.429(b)(1)-(3) provides that “[a] petition for reconsideration which relies on facts or arguments which have not previously been presented to the Commission will be granted only” when:

“(1) The facts or arguments relied on relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; (2) The facts or arguments relied on were unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity; or (3) The Commission determines that consideration of the facts or arguments relied on is required in the public interest.”

⁵ *Amendment of Sections 15.35 and 15.253 of the Commission's Rules Regarding Operation of Radar Systems in the 76-77 GHz Band*, ET Docket No. 11-90, RM-11555, *Amendment of Section 15.253 of the Commission's Rules to Permit Fixed Use of Radar in the 76-77 GHz Band*, ET Docket No. 10-28, Notice of Proposed Rulemaking, 26 FCC Rcd 8107 (2011) (“*NPRM*”).

⁶ *Amendment of Sections 15.35 and 15.253 of the Commission's Rules Regarding Operation of Radar Systems in the 76-77 GHz Band*, ET Docket No. 11-90, RM-11555, *Amendment of Section 15.253 of the Commission's Rules to Permit Fixed Use of Radar in the 76-77 GHz Band*, ET Docket No. 10-28, Report and Order, 27 FCC Rcd 7880 ¶¶ 1, 24 (2012) (“*Order*”).

⁷ *Id.* ¶ 26.

II. THE COMMISSION SHOULD DENY THE PETITION FOR RECONSIDERATION

The Commission should deny the Navtech Petition for Reconsideration on both substantive and procedural grounds. Navtech's Petition does not address the potential incongruence and interference issues between automotive radars and fixed radars in the 76-77 GHz band and thus fails to demonstrate any deficiency in the Commission's underlying decision to limit fixed 76-77 GHz radar applications to airport locations. The Navtech Petition also fails to satisfy the Commission's standards for granting petitions for reconsideration.

A. Interference issues raised in the Commission's rulemaking proceeding remain

The Alliance urges the Commission to deny the Navtech Petition because the wider use of fixed radars proposed therein would increase significantly the likelihood of interference between automotive radars and fixed radars in the 76-77 GHz band at a time when interference avoidance or mitigation techniques have not yet been devised and tested. Noting these same concerns, numerous parties opposed the Commission's initial proposal to permit widespread operation of fixed radars in the 76-77 GHz band.⁸ Bosch explained that automotive radar safety systems play an increasingly vital role on crowded roads in the U.S.⁹ The Strategic Automotive Frequency Allocation Group ("SARA") explained that the Commission's 2002 prediction that automotive radar would "become as essential to passenger safety as air bags for motor vehicles" has proven correct, as automotive radar technologies are now routinely reducing traffic

⁸ See Comments of Autoliv, at 3 (July 18, 2011); Comments of BMW Group (July 18, 2011); Comments of Robert Bosch, GmbH, at 1 (July 15, 2011); Comments of Delphi Automotive Systems, at 2 (July 14, 2011); Comments of the Strategic Automotive Radar Frequency Allocation Group, at 5 (July 18, 2011) ("Comments of SARA"); Comments of the Toyota Motor Corporation, at 8 (July 18, 2011).

⁹ Comments of Robert Bosch, GmbH, at 6.

accidents, injuries, and fatalities.¹⁰ These safety improvements could be sacrificed, however, if the reliability of automotive radars is compromised on account of interference from nearby fixed radars. As Toyota noted in the underlying proceeding, interference with automotive radars would create serious safety concerns for motorists.¹¹

To investigate and alleviate potential interference issues that could endanger motorists, the More Safety for All by Radar Interference Mitigation (“MOSARIM”) project is studying compatibility amongst automotive radars and between automotive radars and fixed roadside radars in the 76-77 GHz band.¹² Given the pendency of the MOSARIM study, many parties in the underlying proceeding urged the Commission to refrain from taking action on fixed use radars in the 76-77 GHz band until MOSARIM is able to conclude its research and analyze the results.¹³

In its *Order*, the Commission noted that “commenters overwhelmingly opposed the use of fixed radar applications in the 76-77 GHz band cit[ing] increased interference potential to vehicular radars and a lack of technical analysis and study for fixed radar use in the 76-77 GHz band” and remarked on the commenters’ argument that the Commission should await the MOSARIM findings on inter-radar interference before authorizing fixed radar operations in the band.¹⁴ While the Commission went on to say that it believes that automotive radars should be

¹⁰ See Notice of *Ex Parte* Presentation of the Strategic Automotive Radar Frequency Allocation Group at 3-4 (Jan. 2, 2012) (citing *Revision of Part 15 of the Commission’s Rules Regarding Ultra-Wideband Transmission Systems*, ET Docket No. 98-153, First Report and Order, 17 FCC Rcd 7435 ¶ 18 (2002); National Highway Traffic Safety Administration, “Evaluation of an Automotive Rear-End Collision Avoidance System, DOT HS 810 569 (March 2006) available at <http://www.nhtsa.gov/DOT/NHTSA/NRD/Multimedia/PDFs/Crash%20Avoidance/2006/HS910569.pdf>; Schittenhelm, Dr. Helmut, *Design of Effective Collision Mitigation Systems and Prediction of Their Statistical Efficiency to Avoid or Mitigate Real World Accidents* (Daimler, AG) (Sept. 14, 2008)).

¹¹ Comments of the Toyota Motor Corporation, at 8.

¹² See MOSARIM, <http://www.mosarim.edu>.

¹³ See Comments of Robert Bosch, GmbH, at 7; Comments of SARA, at 7; Comments of Toyota Motor Corporation, at 9.

¹⁴ *Order*, 27 FCC Rcd at 7887 ¶¶ 21, 22.

able to share the band with fixed radars, it presented no evidence or data to support its assertion and ultimately declined to allow unlicensed fixed radar operations outside of airports.¹⁵

Navtech argues that the Commission should allow fixed radar operations in the 76-77 GHz band and points to the Commission's statement that automotive and fixed radars should be able to share the band; however, it fails to provide any data to support the claim that there is no consequential interference.¹⁶ As SARA noted in its Comments, MOSARIM is in the process of studying interference issues between fixed and automotive radars and expects to conclude its work in December 2012.¹⁷ The Alliance urges the Commission to at a minimum await the results of the MOSARIM study before addressing whether additional fixed radar operations should be allowed in the 76-77 GHz band. The Commission has no data or analysis on which to base a decision to allow wider fixed radar operations in the band, and the Navtech Petition does not supply any actionable evidence. Therefore, the Commission should deny the Navtech Petition.

B. The Petition fails to comply with the Commission's Petition for Reconsideration rule

The Commission should also deny the Navtech Petition because it fails to meet the requirements established by Section 1.429(b) of the Commission's rules. That provision states that a petition for reconsideration that relies on facts or arguments that have not been previously presented to the Commission will only be granted in cases where those facts or arguments relate to circumstances or occurrences that have changed since the last opportunity to present such matters to the Commission, the facts or arguments were unknown to the petitioner until after the last opportunity to present such matters to the Commission and the petitioner could not have

¹⁵ *Id.* ¶ 26.

¹⁶ Petition, at 1-2.

¹⁷ Comments of SARA, at 6.

learned of them prior to that time through the exercise of ordinary diligence, or the Commission determines that consideration of the facts or arguments is required in the public interest.¹⁸

In asserting the rationale for its Petition, Navtech points to the *Order*'s explanation that “no parties have come forward to support fixed radar applications beyond airport locations in this band. Therefore, in absence of a clear demand, we are not adopting provisions for unlicensed fixed radar operations outside of airport locations in the 76-77 GHz band at this time.”¹⁹ Navtech states that it “wish[es] to be seen to be ‘coming forward’” in response to the Commission’s statement, and asks that the Commission reconsider the *Order* based on its filing.²⁰

Navtech’s Petition for Reconsideration does not satisfy the requirements of Section 1.429(b). As Navtech makes clear, it purports to present facts and evidence that were not presented to the Commission during the rulemaking process. However, the facts and arguments it presents are not based on changing circumstances or occurrences since the Commission issued its *Order* in July 2012. Further, none of the examples presented in Navtech’s Petition are so recent that they would not have been known to a petitioner exercising ordinary diligence during the course of the underlying rulemaking proceeding.²¹ Thus, under Sections 1.429(b)(1)-(2) of the Commission’s rules, the Commission must deny the Navtech Petition.

Section 1.429(b)(3) allows the Commission to grant a petition for reconsideration if consideration of the facts and arguments presented is required by the public interest.²² In this case, however, the Commission should not find that consideration of the Navtech Petition is in the public interest because the Petition fails to present any recent facts, data, or analysis that

¹⁸ 47 C.F.R. §§ 1.429(b)(1)-(3).

¹⁹ Petition, at 4 (quoting *Order*, 27 FCC Rcd at 7889 ¶ 26).

²⁰ *Id.* at 5.

²¹ Petitioners cite use of fixed radar operations dating to 2007, fixed radar operations in Brisbane, Australia dating to 2005, and data from crane-ship collision studies in 2006 and 2007. *See* Petition, at 5-6, 14.

²² 47 C.F.R. § 1.429(b)(3).

alleviate concerns previously expressed by numerous parties in this docket regarding interference between automotive radars and more widely deployed fixed radar operations.

III. CONCLUSION

The Commission should reject the Navtech Petition because Navtech has failed to present any substantive facts, data, or analysis that refute concerns expressed previously in this docket regarding the potential for harmful interference to automotive radar operations if fixed radar applications are allowed to operate more ubiquitously than currently permitted in the 76-77 GHz band. Disrupting 76-77 GHz automotive radar could have serious negative implications for automobile safety, and the Commission should have iron clad assurances that interference can be avoided before taking any action to liberalize its 76-77 GHz fixed radar rules. Further, the Commission should deny the Navtech Petition because it fails to meet the basic requirements for petitions relying on previously un-presented facts and arguments as set forth in the Commission's rules.

Respectfully submitted,

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December 3, 2012

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