

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

In the Matter of)	
)	
Revision of Part 15 of the Commission's)	ET Docket No. 13-49
Rules to Permit Unlicensed National)	
Information Infrastructure (U-NII))	
Devices in the 5 GHz Band)	

COMMENTS OF WI-FI ALLIANCE

Pursuant to Section 1.429(f) of the Commission's rules,^{1/} Wi-Fi Alliance hereby submits this response to the Petition for Partial Reconsideration submitted by the Association of Global Automakers, Inc. ("AGA") in the above-referenced proceeding whereby the Commission, among other things, adopted rules to increase the utility of segments of the 5150-5925 MHz band (the "5 GHz Band") for unlicensed national information infrastructure ("U-NII") operations.^{2/} As detailed more fully below, Wi-Fi Alliance opposes the AGA Petition which untimely raises objections to decisions made long ago by the Commission.^{3/}

I. BACKGROUND

Wi-Fi Alliance has been an active participant in this proceeding and applauds the Commission's decisions in the *5 GHz Report and Order* which will increase the use of the 5

^{1/} 47 C.F.R. § 1.429(f).

^{2/} See Association of Global Automakers, Inc. Petition for Partial Reconsideration, ET Docket No. 13-49 (filed May 1, 2014) ("AGA Petition"); see also *Petitions for Reconsideration of Action in Rulemaking Proceedings*, Public Notice, Report No. 3004 (rel. July 14, 2014); *Petitions for Reconsideration of Action in Rulemaking Proceeding*, 79 Fed. Reg. 44150 (rel. July 30, 2014); *Revision of Part 15 of the Commission's Rules To Permit Unlicensed National Information Infrastructure (U-NII) Devices in the 5 GHz Band*, First Report and Order, 29 FCC Rcd. 4127 (2014) ("*5 GHz First Report and Order*").

^{3/} Wi-Fi Alliance takes no position in these comments on the other petitions for reconsideration filed in this proceeding.

GHz Band. Among other actions, the Commission extended the upper edge of the 5725-5825 MHz (“U-NII-3”) band to 5850 MHz. The FCC consolidated the regulation of digitally modulated devices operating in the newly expanded U-NII-3 band under the Section 15.407 U-NII rules, which incorporates many of the technical rules currently found under Section 15.247 but retains the more stringent out-of-band emissions (“OOBE”) limits in Section 15.407.^{4/} The Commission postponed any decisions to expand U-NII use in other parts of the 5 GHz Band, including the 5850-5925 MHz (“U-NII-4”) band, about which parties expressed concerns regarding the potential impact to Dedicated Short Range Communications (“DSRC”) services and other operations.^{5/}

II. THE COMMISSION SHOULD DENY AGA’S PETITION

AGA argues that the Commission “failed to explain how its decision to allow additional, high-powered, unlicensed ‘U-NII’ devices to operate in the 5 GHz band will not cause harmful interference to previously-authorized [Intelligent Transportation Systems (“ITS”)] operations”^{6/} and that, “[r]ather than assess and study this serious problem, the FCC concluded that ‘it disagrees’ with those assertions.”^{7/} The premise of the AGA Petition – that the Commission’s action has the potential to increase interference to DSRC and ITS operations – is wrong. The

^{4/} *5 GHz First Report and Order* ¶¶ 89-90, 114-120. The Commission will continue to authorize frequency hopping spread spectrum devices in the 5725-5850 MHz band under Section 15.247. *Id.* ¶ 123. It will also continue to authorize hybrid devices – *i.e.*, devices that can function as either spread spectrum or digitally modulated systems – under Section 15.247, but the digitally modulated portion of the hybrid device must meet the modified U-NII rules for the band. *Id.*

^{5/} *See id.* ¶ 10.

^{6/} AGA Petition at iii.

^{7/} *Id.* at 5-6 (citing *5 GHz First Report and Order* ¶ 94).

AGA Petition relies on arguments that have been fully considered and rejected by the Commission and should therefore be denied.^{8/}

As the Commission noted, unlicensed devices were already allowed to operate within the 5825-5850 MHz band under Section 15.247 – rules which permitted *higher* unwanted emission levels than were adopted for the new combined rules governing the operation of digitally modulated devices operating in the extended U-NII-3 band.^{9/} The Commission found that the expansion of the U-NII-3 band would not increase the potential for harmful interference because the 25 megahertz segment added to the U-NII-3 band was already available for use by devices certified under the Part 15 rules governing frequency hopping and digitally modulated devices – *i.e.*, Section 15.247.^{10/} Accordingly, the Commission specifically determined that consolidation of the technical provisions governing operation of digitally modulated devices in the 5725-5850 MHz band should “help *eliminate* potential harmful interference from unlicensed devices to other spectrum users.”^{11/} It found that by “simply consolidating the existing rules into a single rule section,” its actions would “decrease, not increase the risk of harmful interference to DSRC services.”^{12/} AGA offers no reason why the Commission’s analysis is incorrect.

AGA’s real argument appears to be that unlicensed devices should not be allowed to operate at all in the 5725-5850 MHz band that is adjacent to DSRC and ITS operations.

However, that request is grossly untimely. Unlicensed operations in the band have been

^{8/} See 47 C.F.R. § 1.429(1)(3) (stating that petitions for reconsideration of a Commission action “that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau(s) or office(s),” including petitions that “[r]ely on arguments that have been fully considered and rejected by the Commission within the same proceeding”).

^{9/} 5 GHz First Report and Order ¶¶ 94, 120.

^{10/} *Id.* ¶ 88.

^{11/} *Id.* ¶ 94 (emphasis added).

^{12/} *Id.* ¶ 120; *see also id.* ¶ 94.

permitted there for more than 10 years.^{13/} Indeed, as noted above, the Commission’s actions in the *5 GHz First Report and Order* act to *decrease* the potential for harmful interference from long-permitted adjacent band operations by requiring all digitally modulated devices to operate under more stringent OOB limits than had previously been permitted. Therefore, the Commission’s *new* rules reduce the likelihood for interference; any continued authorization of other devices under Section 15.247 is unchanged.

Nor are there other reasons to expect that use of the expanded U-NII-3 band would create a threat to DSRC and ITS. For example, AGA presents no facts that would demonstrate that there will be greater overall use of the U-NII-3 band.^{14/} Contrary to AGA’s suggestion, there is no evidence that extension of the U-NII-3 band will “multiply the number of unlicensed devices operating in bands adjacent to the 5.9 GHz band” that will in turn “negatively affect DSRC users and increase the potential for harmful interference.”^{15/} Instead, because the rules governing the U-NII-3 band will be more stringent than they are today, there may be even less impact on the use of the spectrum. Similarly, AGA offers no new technical analysis or other evidence to support its claims of harmful interference.^{16/} AGA also offers no support for its assertion that deployment of “high-powered” Wi-Fi devices adjacent to DSRC operations will cause harmful interference. To the contrary, the Commission incorporated the same 1 Watt power limit that

^{13/} See *Amendment of Part 15 of the Commission’s Rules Regarding Spread Spectrum Devices*, Second Report and Order, 17 FCC Rcd. 10755 (2002) (amending Section 15.247 of the Commission’s rules to allow new digital transmission technologies and direct sequence spread spectrum systems to operate under the same rules in the 902-928 MHz, 2400-2483.5 MHz, and 5725-5850 MHz bands).

^{14/} AGA argues that there will be “hundreds of thousands” of devices. See AGA Petition at 5-6; see also *id.* at 11 (stating that “[t]here is no obvious reason why there should be a rush to unleash tens of thousands of new Wi-Fi devices into the radio bands immediately adjacent to [] vehicular safety networks”).

^{15/} AGA Petition at 6-7.

^{16/} AGA cites to its May 28, 2013 Comments, which contain a technical analysis of potential DSRC interference. However, the Commission appropriately rejected that analysis in finding that use of the expanded U-NII-3 band will create no more – and in fact, less – risk of interference than exists today.

was already permitted under Section 15.247 into its rules governing digitally modulated devices in the expanded U-NII-3 band.^{17/}

III. CONCLUSION

For the foregoing reasons, Wi-Fi Alliance urges the Commission to *deny* the Petition for Partial Reconsideration filed by the Association of Global Automakers, Inc.

Respectfully submitted,



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August 14, 2014

^{17/} See 5 GHz First Report and Order ¶¶ 96-97.