

IEEE 802

Local and Metropolitan Area Network Standards Committee
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July 13, 2002

To: Ms. Marlene H. Dortch, Esq.
Secretary
Federal Communications Commission
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Washington, DC 20002

Reply to: Carl R. Stevenson
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From: Paul Nikolich,
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Dear Ms. Dortch:

Please find attached both a *Motion to Accept Late-filed Comments* and the *Comments in Response to the ARRL's Consolidated Reply to Oppositions to Petitions for Reconsideration.*"

Should you have any questions regarding this filing, please feel free to contact Mr. Carl R. Stevenson, the Chair of the IEEE 801.18 Radio Regulatory Technical Advisory Group ("TAG").

Respectfully submitted,

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

In the Matter of)
)
Amendment of Part 15 of the Commission's) ET Docket No. 98-156
Rules to Allow Certification of)
Equipment in the 24.05 to 24.25 GHz Band)
At Field Strengths up to 2500 mV/m)
)

MOTION TO ACCEPT LATE-FILED COMMENTS

On behalf of the IEEE 802.18 Radio Regulatory Technical Advisory Group, the IEEE 802.11, 802.15, and 802.16 Working Groups, and the IEEE 802 Local and Metropolitan Network Standards Committee, I respectfully request that the Commission accept the attached late-filed *Comments in Response to the Consolidated Reply to Oppositions to Petitions for Reconsideration*.

While we understand that the stated filing deadline for comments in this Proceeding was July 8, 2002, it was impossible for us to meet that deadline for the following reasons:

1. IEEE 802 held its plenary meeting from July 8-12, 2002 in Vancouver, BC, Canada
2. Under IEEE 802's operating rules, which are designed to assure that documents such as the attached comments represent the consensus views of a significant majority of our members, after a document such as this is prepared, it must be approved by the Working Groups and then by the IEEE 802 Sponsor Executive Committee ("SEC") before it can be presented on behalf of IEEE 802.
3. The attached document was drafted by a committee of designated experts during the plenary meeting week, but could only be approved by the Working Groups during their closing plenary sessions and then approved by the SEC at its closing meeting on the afternoon and evening of Friday, July 12, 2002.
4. After SEC approval, a modest amount of time was required for final formatting and preparation for submission.

Therefore, I again respectfully request that the Commission and its Spectrum Policy Task Force accept and consider the attached Comments in Response to the “*Consolidated Reply to Oppositions to Petitions for Reconsideration*”

Respectfully submitted,

/s/

Carl R. Stevenson
Chair, IEEE 802.18 Radio Regulatory Technical Advisory Group
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610-965-8799
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To: The Commission)

**COMMENTS IN RESPONSE TO THE ARRL'S "CONSOLIDATED REPLY TO
OPPOSITIONS TO PETITIONS FOR RECONSIDERATION"**

IEEE 802¹ hereby offers its Comments in Response to the "*Consolidated Reply to Oppositions to Petitions for Reconsideration*" filed by the American Radio Relay League (the "ARRL") in the above-captioned Proceeding.

IEEE 802 and its members that participate in the IEEE 802 standards process are interested parties in this proceeding because of the numerous wireless standards produced by IEEE 802 Working Groups that specify devices that operate in "Part 15 bands" that are shared with the Amateur Radio Service.

¹ The IEEE Local and Metropolitan Area Networks Standards Committee ("IEEE 802" or the "LMSC")

THE ARRL HAS PRESENTED NO NEW OR COMPELLING EVIDENCE, EITHER IN ITS PETITION FOR RECONSIDERATION OR IN ITS RESPONSE TO OPPOSITIONS THERETO TO JUSTIFY THE GRANT OF ITS PETITION FOR RECONSIDERATION BY THE COMMISSION

1. In its Petition for Reconsideration in the instant Proceeding, the ARRL presented no new or compelling evidence or arguments that the Commission erred in its decision in the Report and Order in this Proceeding, nor that the Commission had, as ARRL asserts, exceeded its Congressionally delegated authority.

2. We find the fact that the ARRL has made similar challenges to the Commission's authority, *vis a vis* the authorization of new types of Part 15 devices in several other proceedings, to be fundamentally in conflict with its assertion that its intent is not to challenge the Commission's authority *vis a vis* Part 15 in general.

3. It is the Commission's task, as the expert agency, with authority delegated by Congress through the Communications Act, as amended, to determine what technical parameters for Part 15 devices would preclude a reasonable risk of interference to licensed services.

4. While the ARRL like any other party is entitled to submit comments or petitions to the Commission on levels of interference, it is solely the responsibility of the Commission to make the final determination on these issues. Thus it is not for the ARRL to attempt to determine unilaterally, as they seem to seek to do, that a particular system, or set of technical parameters, presents an unacceptable risk of interference to licensed services, including the Amateur Radio Service.

5. We again assert that the Commission has exercised its discretion and authority wisely and appropriately in the instant Proceeding.

6. Finally, in its “*Consolidated Reply to Oppositions to Petitions for Reconsideration*,” in reference to the Opposition of IEEE 802, the ARRL makes an issue of the fact that the editor of IEEE 802’s filing happens to be an employee of one of the parties to another Opposition. The fact of the matter is that the two subject filings were drafted in complete isolation and the filing of IEEE 802 was reviewed and approved by the following bodies (in ascending order of hierarchy in the IEEE 802 organization): The IEEE 802.18 Radio Regulatory Technical Advisory Group, all three wireless Working Groups in IEEE 802 (802.11/.15/.16), and the IEEE 802 Sponsor Executive Committee, and is the official position of IEEE 802.

CONCLUSION AND RECOMMENDATIONS

7. In light of our belief that the Commission has acted entirely properly and has rendered a technically and legally sound decision in this Proceeding, we respectfully request that the ARRL’s Petition for Reconsideration be DENIED.

Respectfully submitted,

/s/
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