



PUBLIC NOTICE

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DA 01-2323
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**PARTIES ASKED TO REFRESH RECORD REGARDING RECONSIDERATION OF
RULES ADOPTED IN *Preemption of Local Zoning Regulation of Satellite Earth Stations***

IB Docket No. 95-59

This Notice should be substituted for Public Notice DA 01-2299 released October 2, 2001. Note, this substitution is made before publication in the FCC Record and before publication in the Federal Register.

Pursuant to the Commission's rules governing petitions for reconsideration,¹ the Commission invites interested parties to update the record pertaining to petitions for reconsideration filed with respect to the rules governing satellite earth stations larger than one meter adopted by the Commission in the Report and Order in IB Docket No. 95-59 *Preemption of Local Zoning Regulation of Satellite Earth Stations*.²

In March of 1996, the Commission released the *1996 Antenna Order and Further Notice of Proposed Rulemaking*. In this Report and Order, the Commission, among other things, amended, Section 25.104, 47 C.F.R. § 25.104 by creating a rebuttable presumption that local regulations that impose restrictions affecting the installation, use and maintenance of satellite earth station antennas one meter or less in any area or two meters or less in commercial or industrial areas were unreasonable and would be preempted. Section 25.104 was subsequently further amended by the *OTARD Order* to eliminate provisions regarding satellite antennas that are one meter or smaller and used to receive video programming. Such antennas are covered by 47 C.F.R. § 1.4000 ("OTARD Rule").

¹ 47 C.F.R. § 1.106.

² *Preemption of Local Zoning Regulation of Satellite Earth Stations*, Report and Order and Further Notice of Proposed Rulemaking, IB Docket No. 95-59, 11 FCC Rcd 5809 (1996) ("*1996 Antenna Order*"), consolidated in part with *Preemption of Local Zoning Regulation of Satellite Earth Stations and Implementation of Section 207 of the Telecommunications Act of 1996, Restrictions on Over the Air Reception Devices*, Report and Order, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, IB Docket No. 95-59 and CS Docket No. 96-83, 11 FCC Rcd 19276 (1996) ("*OTARD Order*"). The OTARD Order resolved issues related to satellite antennas one meter or smaller in diagonal measurement that are used to receive video programming.

Nine petitions for reconsideration of the *1996 Antenna Order* were filed requesting that the Commission revise certain aspects of Section 25.104, 47 C.F.R. § 25.104. Because many of these petitions were filed some time ago, the passage of time and intervening developments may have rendered the records developed for those petitions stale. Moreover, some issues raised in petitions for reconsideration may have become moot or irrelevant in light of intervening events, including Commission amendment of Section 1.4000, 47 C.F.R. §1.4000, to apply to antennas used to transmit as well as receive both video and nonvideo services.³

For these reasons, the International Bureau requests that parties that filed petitions for reconsideration concerning Section 25.104 following the release of the *1996 Antenna Order* identify issues from that order that remain unresolved now and supplement those petitions, in writing, to indicate which findings and rules they still wish to be reconsidered. To the extent that intervening events have materially altered the circumstances surrounding filed petitions or the relief sought by filing parties, those entities may refresh the record with new information or arguments related to their original filings that they believe to be relevant to the issues. The previously filed petitions will be deemed withdrawn and will be dismissed if parties do not indicate in writing an intent to pursue their respective petitions for reconsideration. The refreshed record in the Section 25.104 proceeding will enable the Commission to undertake appropriate and expedited reconsideration of its rules. The OTARD Order and the OTARD Rule are not the subject of this Public Notice inviting petitions for reconsideration.

Interested parties may file supplemental comments updating their previously filed petitions for reconsideration no later than **30 days after this Public Notice appears in the Federal Register**, with the Secretary, FCC at 445 12th Street, SW, TW-A325, Washington, DC 20554. Oppositions or responses to these comments may be filed with the Secretary, FCC no later than **45 days after this Public Notice appears in the Federal Register**. All pleadings are to reference **IB Docket No. 95-59**. Interested parties should file an original and seven copies of all pleadings. An additional copy of all pleadings should also be sent to Selina Khan, International Bureau, FCC, Room 6-B459, 445 12th Street, SW, Washington, DC 20554. The original petitions for reconsideration that parties filed in 1996 are available for inspection and copying during normal business hours in the FCC's Reference Center, Room CY-A257, 445 12th Street, SW, TW-A325, Washington, DC 20554. Copies also can be obtained from Qualex International at 445 12th Street, SW, Room CY-B402, Washington, DC 20554 or by calling Qualex at (202) 863-2893 or faxing Qualex at (202) 863-2898.

Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/efcs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get

³ *Promotion of Competitive Networks in Local Telecommunications Markets*, Report and Order, 15 FCC Rcd 22983 (2000).

filing instructions for e-mail comments, commenters should send an e-mail to efcs@fcc.gov, and should include the following words in the body of the message, “get form <your e-mail address.” A sample form and directions will be sent in reply.

This proceeding is considered “permit, but disclose” for purposes of the Commission’s *ex parte* rules.⁴ Parties making oral *ex parte* presentations are reminded that memoranda summarizing the presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required.⁵ Other rules pertaining to oral and written presentations are set forth in section 1.1206(b) as well.

For further information, contact Rosalee Chiara at (20) 418-0754 or Selina Khan at (202) 418-7282.

⁴ See generally 47 C.F.R. §§ 1.1200-1.1216.

⁵ See 47 C.F.R. § 1.1206(b)(2).