

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Petition for proposed changes in 47 CFR Part 97)
Section 97.301(a) and Section 97.305(c) to add the)
4-meter band)

ORDER

Adopted: September 17, 2014

Released: September 17, 2014

By the Chief, Office of Engineering and Technology:

1. In May 2014, Glen E. Zook (Zook) filed a petition for rulemaking that proposes changes to the Commission’s Amateur Radio Service rules (Part 97).¹ Specifically, Zook proposes that the Commission add a “4-meter” radio band (70.0-70.5 MHz) to the list of bands currently available to amateur radio operators in the United States and other areas in which the Commission has jurisdiction. For the reasons discussed below, we determine that the petition plainly does not warrant consideration and deny it pursuant to Section 1.401(e) of our rules.²

2. The 70.0-70.5 MHz band is not currently allocated for Amateur Radio use and is instead exclusively allocated for broadcasting within the United States. Specifically, VHF TV Channel 4 operates in the 66-72 MHz frequency band – which completely encompasses the 70.0-70.5 MHz band at issue here. The Zook Petition contends that “the recent migration of broadcast television stations to primarily UHF frequencies basically eliminates any probable interference to television channels 4 or 5 which otherwise might have occurred.”³ Because the Zook Petition is based on a faulty premise – that broadcasting use within the 70.0-70.5 MHz band will diminish or cease – its argument that amateur band users could operate without causing harmful interference to any existing service lacks sufficient support to warrant our further consideration.

3. Based on data compiled by the Commission’s Media Bureau, Channel 4 is currently populated by three full power TV stations, 110 low power television (LPTV) and TV translator stations,⁴

¹ Glen E. Zook Petition, filed May 12, 2014 (Zook Petition). The Zook Petition is dated January 27, 2010, but was recorded as received by the Commission on May 12, 2014.

² 47 C.F.R. §1.401(e).

³ Zook Petition at 1.

⁴ LPTV and TV translator stations operate on a secondary basis to full power TV stations and to any other primary spectrum users, such as low power Class A stations. This means that LPTV and TV translator stations must not cause interference to the reception of existing or future full power TV stations or to other primary users, and must accept interference from full power TV stations and other primary users. See 47 C.F.R. § 74.703.

and six Class A TV stations.⁵ The Commission also has an ongoing incentive auction proceeding that, among other things, will repurpose a portion of the TV band for broadband operations and repack the remaining TV stations into a smaller frequency range.⁶

4. The incentive auction proceeding does not eliminate the use of TV Channel 4, and envisions a number of voluntary options for full power and Class A TV stations – including relocation from a UHF channel to a VHF channel and relocation from a high VHF channel (Channels 7-13) to a low VHF channel (Channels 2-6).⁷ Under such circumstances, Channel 4 could become even more robustly used for broadcast purposes than it is now. Even if such an outcome is not realized, there is no reason to expect that full power, Class A, and LPTV stations will not continue to make use of an available television channel. The Zook Petition, in dismissing such continued broadcast use of TV Channel 4, fails to show how harmful interference to broadcast operations by new amateur users would be avoided.

5. Given the complexity of the incentive auction proceeding, we also conclude that it would not serve the public interest to further complicate that unique undertaking by proposing to introduce a new service into the broadcasting frequencies at this time.⁸ We note, in particular, that the Zook Petition does not address whether amateur use of the 70.0-70.5 MHz band would preclude the ability of LPTV and TV translator stations to operate on (or migrate to) TV Channel 4. There is no reason why we would want to introduce such uncertainty into the band.

6. The Zook Petition further claims that the anticipated amateur use would not cause harmful interference to adjacent channel operations – specifically, to fixed and mobile services that operate at 72-76 MHz and TV Channel 5 (76-82 MHz) – but offers no supporting analysis. As with Channel 4, TV Channel 5 will continue to be used for broadcast purposes. Fixed and mobile services will likewise continue to operate in the frequencies between the two television channels.

7. Because we are not proposing to add an amateur allocation, we will not evaluate Zook's claims regarding the benefits that amateurs would derive from use of the band,⁹ nor address his proposals regarding the adoption of service rules to govern use of the band (*e.g.* the appropriate amateur operator operating privileges, authorized output power and other technical rules, etc.).¹⁰

8. For all of the reasons discussed above, we deny the Zook Petition.

9. Accordingly, IT IS ORDERED that pursuant to the authority contained in Sections 4(i), 5(c), 303(c), and 303(f), of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 155(c), 303(c),

⁵ Class A TV stations are low power TV stations that operate on a primary basis because they have met certain requirements, such as broadcasting a minimum of 18 hours per day and broadcasting an average of at least three hours per week of locally produced programming each calendar quarter. *See* 47 C.F.R. § 73.6001.

⁶ *See* Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions, GN Docket No. 12-268, *Notice of Proposed Rulemaking (Incentive Auction NPRM)*, 27 FCC Rcd 12357 (2012); *Report and Order*, 29 FCC Rcd 6567 (2014); *Erratum*, released June 26, 2014.

⁷ *See* Broadcasting Incentive Auction 101 webinar, June 25, 26, & 27, 2014, at 6. This webinar is available at http://wireless.fcc.gov/incentiveauctions/learn-program/Broadcast_Incentive_Auction_101_slides.pdf.

⁸ *See Incentive Auction NPRM* at 12359, paras. 3-5. *See also* Middle Class Tax Relief and Job Creation Act of 2012, Pub. L. No. 112-96, § 6403 (2012).

⁹ For example, Zook observes that this band has been authorized for amateur radio use in a number of European and African nations, and argues that making it available domestically would be of great benefit to amateurs. Zook Petition at 1.

¹⁰ Zook Petition, at 1-2.

and 303(f), and Sections 0.241(e) and 1.401(e) of the Commission's Rules, 47 C.F.R. §§ 0.241(e) and 1.401(e), that the petition for rulemaking filed by Glen E. Zook on May 12, 2014 IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Julius Knapp, Chief
Office of Engineering and Technology