



Federal Communications Commission  
Washington, D.C. 20554

June 9, 2016

DA 16-645

James Edwin Whedbee  
5816 NE Buttonwood Tree Ln.  
Gladstone, MO 64119-2236

Re: Petitions for Rulemaking filed November 12, 2015, and January 18, 2016

Dear Mr. Whedbee:

This is in response to the petitions for rulemaking that you filed on November 12, 2015, and January 18, 2016. In the first petition, you request that the Commission amend part 97 of its rules<sup>1</sup> to permit amateur radio operators to conduct low-power experiments on amateur frequencies without having to obtain an experimental license.<sup>2</sup> In the second petition, you request that the Commission amend section 0.201 of its rules<sup>3</sup> to delegate to the Chiefs of the Wireless Telecommunications Bureau (WTB) and the Office of Engineering and Technology (OET) authority to dispose of certain requests for exemptions, waivers, and rulemaking regarding new technologies or new application of existing technologies.<sup>4</sup> For the reasons set forth below, we conclude that the petitions present no evidence of an existing problem or other evidence meriting a rule change, and we dismiss the petitions.<sup>5</sup>

Both petitions' underlying premise is that the Commission's current processes for granting experimental licenses, rule waivers, and other authorizations for use of new technological developments are burdensome and impede innovation.<sup>6</sup> In neither petition, however, do you provide an example of an experiment or technology that was unduly delayed by the existing rules and would have been expedited by your proposed procedural changes. Nor do you demonstrate that your proposed changes would have a substantial effect.

The first petition proposes to permit amateur radio operators to conduct experiments on all amateur radio bands, subject to certain limits on duration, power, and bandwidth.<sup>7</sup> You do not

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<sup>1</sup> 47 CFR part 97.

<sup>2</sup> Petition of James Edwin Whedbee for Rulemaking (filed Nov. 12, 2015) (2015 Petition).

<sup>3</sup> 47 CFR § 0.201.

<sup>4</sup> Petition of James Edwin Whedbee for Rulemaking (filed Jan. 18, 2016) (2016 Petition).

<sup>5</sup> See, e.g., Bernard J. Parker, *Letter Order*, 26 FCC Rcd 10704, 10705 (WTB MD 2011).

<sup>6</sup> See 2015 Petition at 1 ("Given that one of the stated reasons for the amateur service's existence is experimentation in radio arts and sciences, requiring amateur radio operators to resort to obtaining experimental radio station licenses is needlessly duplicative and cumbersome."); 2016 Petition at 2 ("there is still far too long a delay in proceedings to keep up with rapid technological developments").

<sup>7</sup> See 2015 Petition at 2, 4. Depending on the band, the proposed power limits range from one to one hundred milliwatts effective radiated power, and the proposed bandwidth limits range from three kilohertz to twenty megahertz.

discuss whether those limits would constrain or prevent experimentation. Moreover, the Commission's rules contain numerous provisions for experimentation and development of new radio equipment and techniques.<sup>8</sup> The Experimental Radio Service (ERS) rules contained in part 5 permit a broad range of experiments, including in the amateur service, and prescribe the manner in which the radio spectrum may be made available to experiment with new radio technologies, equipment designs, characteristics of radio wave propagation, or service concepts related to the use of the radio spectrum.<sup>9</sup> The Commission recently revised and streamlined its ERS rules to provide additional flexibility to innovators,<sup>10</sup> but you do not discuss whether those rule changes address your concerns.

The second petition proposes to delegate to WTB and OET authority to dispose of requests for exemptions, waivers, and rulemaking for new technologies or new applications of existing technology where the anticipated aggregate financial impact is estimated to be less than fifty million dollars over ten years and public comments are favorable. The Commission has already delegated to WTB and OET authority to act on applications, waiver requests, petitions, and even some rulemaking matters, so long as they do not raise novel questions of law or policy which cannot be resolved under outstanding Commission precedents and guidelines.<sup>11</sup> It is not clear what proceedings would be included in your proposed delegation of authority that WTB and OET are not already authorized to resolve.

Accordingly, IT IS ORDERED, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and section 1.401(e) of the Commission's Rules, 47 CFR § 1.401(e), that the petitions for rulemaking filed November 12, 2015, and January 18, 2016, by James Edwin Whedbee ARE DISMISSED.

This action is taken under delegated authority pursuant to sections 0.131 and 0.331 of the Commission's Rules, 47 CFR §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau

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<sup>8</sup> *Promoting Expanded Opportunities for Radio Experimentation and Market Trials under Part 5 of the Commission's Rules and Streamlining Other Related Rules; 2006 Biennial Review of Telecommunications Regulations — Part 2 Administered by the Office of Engineering and Technology (OET)*, Report and Order, 28 FCC Rcd 758, 760, para. 3 (2013) (*ERS Report and Order*), modified, Order on Reconsideration, 28 FCC Rcd 8501 (2013), further modified, Memorandum Opinion and Order and Further Notice of Proposed Rulemaking, 30 FCC Rcd 7446 (2015).

<sup>9</sup> See, e.g., 47 CFR §§ 5.1, 5.3, 5.89.

<sup>10</sup> See *ERS Report and Order*, 28 FCC Rcd at 760, para. 5.

<sup>11</sup> See 47 CFR §§ 0.241, 0.331.