

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Amendment of Part 97 of the Commission's Rules	)	WT Docket No. 05-235
To Implement WRC-03 Regulations Applicable to	)	
Requirements for Operator Licenses in the	)	RM-10781, RM-10782, RM-10783,
Amateur Radio Service	)	RM-10784, RM-10785, RM-10786,
	)	RM-10787, RM-10805, RM-10806,
	)	RM-10807, RM-10808, RM-10809,
	)	RM-10810, RM-10811, RM-10867,
	)	RM-10868, RM-10869, RM-10870

**MEMORANDUM OPINION AND ORDER**

**Adopted: February 20, 2008**

**Released: February 27, 2008**

By the Commission:

**I. INTRODUCTION AND EXECUTIVE SUMMARY**

1. In the *Report and Order and Order on Reconsideration (Report and Order)* in WT Docket No. 05-235, the Commission amended the amateur radio service rules by, *inter alia*, eliminating the requirement that applicants for General Class or Amateur Extra Class amateur radio operator licenses demonstrate proficiency in Morse code telegraphy.<sup>1</sup> In this *Memorandum Opinion and Order*, we address two petitions for reconsideration of the *Report and Order*. As set forth below, we deny both petitions.

**II. BACKGROUND**

2. The international *Radio Regulations (Radio Regulations)* require that operators of amateur service stations be licensed.<sup>2</sup> Prior to 2003, the *Radio Regulations* required that any person seeking a license to operate an amateur radio station demonstrate proficiency in Morse code, but allowed administrations to waive this requirement for persons operating amateur radio stations using only frequencies above 30 MHz.<sup>3</sup> The International Telecommunication Union's 2003 World Radio

<sup>1</sup> See Amendment of Part 97 of the Commission's Rules to Implement WRC-03 Regulations Applicable to Requirements for Operator Licenses in the Amateur Radio Service, *Report and Order and Order on Reconsideration*, WT Docket No. 05-235, 21 FCC Rcd 14797, 14803 ¶ 14 (2006) (*Report and Order*).

<sup>2</sup> See *World Radiocommunication Conference Final Acts (Geneva, 2003) (WRC-03 Final Acts)*, Article 25.6. The *WRC-03 Final Acts* applicable to the amateur service became effective on July 5, 2003.

<sup>3</sup> See *Final Acts of the World Radiocommunication Conference (WRC-97)*, Geneva, Switzerland, 1997, and *Final Acts of the World Radiocommunication Conference, (WRC-00)*, Istanbul, 2000, *Radio Regulation 25.5*. This *Radio Regulation* stated: "Any person seeking a license to operate the apparatus of an amateur station shall prove that he is able to send correctly by hand and to receive correctly by ear texts in Morse code signals. The administration concerned may, however, waive this requirement in the case of stations making use exclusively of frequencies above 30 MHz."

Conference (WRC-03) revised the *Radio Regulations* by, among other things, amending Article 25 to allow each country to determine whether it would require a person seeking an amateur radio operator license to demonstrate the ability to send and receive texts in Morse code signals.<sup>4</sup>

3. In 2005, the Commission released the *Notice of Proposed Rule Making and Order (NPRM)* in this proceeding, seeking comment on whether to revise Section 97.501 of the Commission's Rules<sup>5</sup> to remove the telegraphy examination from the requirements for the General Class and Amateur Extra Class operator licenses.<sup>6</sup> Over 3900 comments and reply comments were filed.

4. In 2006, the Commission released the *Report and Order*. Based on its review of the record and consideration of the various comments, it amended Section 97.501 to remove the telegraphy requirement.<sup>7</sup> In reaching this decision, the Commission noted that one of the fundamental purposes underlying our Part 97 rules is to accommodate amateur radio operators' ability to contribute to the advancement of the radio art,<sup>8</sup> and that the Commission had previously concluded that an individual's ability to demonstrate Morse code proficiency is not necessarily indicative of his or her ability to contribute to the advancement of the radio art.<sup>9</sup> It also noted that another fundamental purpose underlying our Part 97 rules is to enhance the value of the amateur service to the public, particularly with respect to emergency communications,<sup>10</sup> and that the Commission had previously concluded that most emergency communication today is performed using voice, data, or video modes, because information can be exchanged much faster using modes of communication other than telegraphy.<sup>11</sup> The Commission therefore concluded that requiring an individual to demonstrate Morse code proficiency as a licensing requirement did not further the purposes of the Part 97 rules.<sup>12</sup> Finally, the Commission found that this reasoning applied equally to the General Class and the Amateur Extra Class, so it rejected suggestions that the Morse code requirement be eliminated for the General Class license but retained for the Amateur Extra Class license.<sup>13</sup>

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<sup>4</sup> This regulation states, "Administrations shall determine whether or not a person seeking a license to operate an amateur station shall demonstrate the ability to send and receive texts in Morse code signals." *WRC-03 Final Acts*, Article 25.5.

<sup>5</sup> 47 C.F.R. § 97.501.

<sup>6</sup> See Amendment of Part 97 of the Commission's Rules to Implement WRC-03 Regulations Applicable to Requirements for Operator Licenses in the Amateur Radio Service, *Notice of Proposed Rule Making and Order*, WT Docket No. 05-235, 20 FCC Rcd 13247, 13256 ¶¶ 17-18 (2005).

<sup>7</sup> See *Report and Order*, 21 FCC Rcd at 14803-06 ¶¶ 13-18.

<sup>8</sup> See *id.* at 14804 ¶ 15 (citing 47 C.F.R. § 97.1(b)).

<sup>9</sup> See *id.* (citing 1998 Biennial Regulatory Review – Amendment of Part 97 of the Commission's Amateur Service Rules, *Report and Order*, WT Docket No. 98-143, 15 FCC Rcd 315 (1999) (*License Restructure Report and Order*)).

<sup>10</sup> See *id.* at 14804 ¶ 16 (citing 47 C.F.R. § 97.1(a)).

<sup>11</sup> See *id.* at 14804-05 ¶ 16 (citing *License Restructure Report and Order*, 15 FCC Rcd at 334 ¶ 31).

<sup>12</sup> See *id.* at 14804-05 ¶¶ 15, 16.

<sup>13</sup> See *id.* at 14805-06 ¶ 18.

### III. DISCUSSION

5. We have before us two petitions for reconsideration of the *Report and Order*.<sup>14</sup> Anthony R. Gordon objects to eliminating the telegraphy examination element as an examination requirement for the Amateur Extra Class operator license. Russell D. Ward expresses concern, based on difficulty he experienced in submitting comments, that some comments submitted to the Commission's Electronic Comment Filing System (ECFS) may not have been received. We received approximately one hundred comments regarding the petitions. The commenters overwhelmingly oppose the petitions.

6. Mr. Gordon asserts that "the failure to keep the Morse code telegraphy requirement intact, at least as a required examination element for the Amateur Extra Class operator license, fails to take into consideration the significant national security implications that require retaining adequate examination safeguards to insure the viability that Morse code telegraphy provides, not only to the Amateur service, but the nation as well."<sup>15</sup> He argues that the requirement should be retained so that amateur operators can act as "a 'strategic reserve,'" because there is "no assurance that . . . voice or digital modes will even be operationally viable in future emergency communication environments."<sup>16</sup> We are not persuaded, however, that eliminating the telegraphy examination element will affect national security or emergency communications. We agree with the commenters who point out that requiring applicants to pass a one-time telegraphy examination did not and would not guarantee a supply of skilled telegraphy operators. Moreover, nothing in the Commission's decision prevents an interested amateur radio operator from pursuing Morse code proficiency.<sup>17</sup> We also reiterate the Commission's prior conclusion that an individual's ability to demonstrate Morse code proficiency does not further the underlying purposes of the Part 97 rules, *i.e.*, to accommodate individual contributions to the advancement of the radio art and to enhance the value of the amateur service to the public. Accordingly, we deny the petition.

7. Mr. Ward requests that we reconsider the decision in the proceeding for "strictly procedural" reasons.<sup>18</sup> He encountered difficulty in submitting his comments and reply comments to the *NPRM* electronically, and his filings were not posted on ECFS until after the filing deadlines. He asserts that there is no certainty that the Commission considered his comments and reply comments, that the late posting of his comments prevented others from replying to them, and that it is "quite likely that other comments were treated improperly."<sup>19</sup> As a result, he requests that we stay the proceeding, reopen the record, and reconsider the *NPRM* after the close of the extended comment period.<sup>20</sup> In fact, all comments in ECFS were considered before the Commission adopted the *Report and Order*, regardless of the how or when they were filed. Moreover, many of the 3900 comments and reply comments expressed the same view as Mr. Ward, so the substance of his views unquestionably was replied to and considered. Finally, he provides no evidence that ECFS mishandled other comments. No other party has complained that his

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<sup>14</sup> See Russell D. Ward, Petition for Reconsideration (filed Feb. 20, 2007) (Ward Petition); Anthony R. Gordon Petition for Partial Reconsideration (filed Feb. 23, 2007) (Gordon Petition).

<sup>15</sup> Gordon Petition at 2.

<sup>16</sup> *Id.* at 5.

<sup>17</sup> See *Report and Order*, 21 FCC Rcd at 14805 ¶ 18.

<sup>18</sup> Ward Petition at 1.

<sup>19</sup> *Id.* at 2-3.

<sup>20</sup> *Id.* at 4.

or her comments were not received. We conclude, therefore, that reopening the proceeding for additional comments is not justified, and we deny the petition.

#### IV. CONCLUSION AND ORDERING CLAUSES

8. In summary, neither petition asserts any grounds for reconsidering the Commission's decision in the *Report and Order*. We believe that the actions taken therein will allow amateur service licensees to better fulfill the purpose of the amateur service, and will enhance the usefulness of the amateur service to the public and licensees.

9. This document does not contain new or modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13. In addition, therefore, it does not contain any new or modified "information collection burden for small business concerns with fewer than 25 employees," pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107-198, *see* 44 U.S.C. 3506(c)(4).

10. Accordingly, IT IS ORDERED that, 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 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, the Petition for Reconsideration filed by Russell D. Ward on February 20, 2007 IS DENIED.

11. IT IS FURTHER ORDERED that, 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 1.429 of the Commission's Rules, 47 C.F.R. § 1.429, the Petition for Partial Reconsideration filed by Anthony R. Gordon on February 23, 2007 IS DENIED.

12. IT IS FURTHER ORDERED that the proceeding WT Docket No. 05-235 IS HEREBY TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary