

Reply to Petitioners' Comments
In the matter of Petition for Rulemaking RM-11306

To The Commission:

The following are Reply Comments to those of American Radio Relay League, Incorporated (hereinafter "the Petitioners") in the matter of Petition for Rulemaking RM-11306 (hereinafter "the Petition").

1. In review of the Petitioners' reply comments (hereinafter, "The Comments") regarding the overwhelming and voluminous rejection of the Petition, in multiple parts and as a whole, I am "shocked and awed" to see the same lack of consideration, substantiation, or even assertion of any factual datum or data that was presented in the Petition itself. Moreover, I find the Petitioners' condescending and patronizing attitude towards the Amateur Radio Service, its licensees, and even The Commission itself, to be simply reprehensible.

2. Rather than consider the comments and arguments in this proceeding on their actual merit, the Petitioners prefer to attach patronizing labels to them in a most disingenuous manner. The Petitioners even go so far as to suggest that the wholesale rejection of the Petition is good cause for adopting the Petition in a Notice of Proposed Rule Making (NPRM).

3. There are specific passages in the Petitioners' comments which are particularly disturbing. For example, "[t]here were more than 900 comments filed in response to the ARRL Petition. This is inordinately large response to a petition for rule making was expected by ARRL. It is gratifying and is entirely appropriate, given the magnitude of the proposal set forth in the ARRL Petition. The response illustrates that ARRL's extensive publicity surrounding its proposal since the concept was first developed in 2002 was successful"¹. This assertion, besides being unabashedly self-promoting, is fundamentally flawed, as evidenced by the later statement "[w]hile many of the comments reveal some misunderstanding about the specific proposals in the ARRL Petition, the high interest of the Amateur Radio community is well-taken"². If the Petitioners "extensive publication" was such a success, as the Petitioners assert, "many of the comments" would not "reveal some misunderstanding" about the Petition, nor would the rejection of the Amateur community be so widespread and steadfast.

4. Particularly insulting to all participants in this proceeding is the Petitioners liberal characterization of rejection commentary as products of fear or cowardice. This reflects the same patronizing attitude as was present in the Petition itself. Furthermore, unless the Petitioners can show evidence of clairvoyant or telepathic abilities, inflammatory statements such as "[t]hey

¹ The Comments, at 1

² The Comments, at 2

believe...”, “[t]hey are comfortable with the *status quo*”, and “[t]hey fear...”³ have *absolutely no place* in these proceedings. It is *not* the prerogative of the Petitioners to tell The Commission or myself what I, or any other licensed Amateur, think, believe, or fear. Moreover, the underlying “you’re all just chicken” tactic employed by the Petitioners throughout their comments one best left to children, and certainly does not speak highly to the maturity of the Petitioners, as a collective or as individuals.

5. Regarding the Petitioners’ apparent confusion regarding the “dichotomy in the comments regarding double sideband amplitude modulation”⁴, the Petitioners should not be at all surprised that many AM operators have felt betrayed by them for years, given how vociferous the “extensive publication” of that feeling of betrayal has been. The dichotomy they perceive in the cited comments is far less interesting than the dichotomy they presented in the special case regulations of the Petition regarding AM operation, and have still failed to adequately address.

6. As if that wasn’t enough, the most amazing display of hubris by the Petitioners appears in the statement “ARRL would suggest that these rather polarized arguments validate the ARRL Petition, because they indicate that ARRL’s Petition is a reasonable middle ground in a difficult regulatory

³ Multiple sentences in The Comments, at 3

⁴ The Comments, at 4

area”⁵. This line of reasoning is patently defective. The suggestion that regulations should be enacted *because* they have been overwhelmingly opposed is the exact opposite of how the United States functions as a country and as a government; and, if enacted, would work *against* the public interest, which would counter The Commission’s congressional mandate to regulate in accordance with the public interest.⁶

7. One concern raised in other comments in this proceeding, including my own, is that the primary onus of enforcement of the regulatory scheme presented in the Petition would invariably fall directly on The Commission itself, and that the Amateur Service would no longer be capable of self-policing, as was always the intent. Not only have the Petitioners failed to address this concern, they have reinforced it in statements such as “[t]he current level of enforcement in the Amateur Service is quite adequate, thanks to the stellar performance of the Commission’s Special Counsel for Amateur Radio Enforcement, and there is no reason to believe that the level of voluntary cooperation in the use of shared allocations, which is now better than in virtually all other radio services, will markedly deteriorate, necessitating increased enforcement, if the ARRL proposal is adopted”⁷.

While I, too, am satisfied with Mr. Hollingsworth’s efforts, this statement nonetheless concedes that the ARRL has given no consideration to issues of

⁵ The Comments, at 6

⁶ 47 USC § 303 (g)

⁷ The Comments, at 6

enforcement, particularly the delicate nuances surrounding enforcement of bandwidth. Instead, this statement suggests that the Petitioners assume The Commission will and should bear the full burden of enforcing the regulations they propose. This, too, would constitute regulation contrary to the public interest. Parenthetically, for the Petitioners to assume this kind of position in the matter of enforcement raises serious questions about their ability and qualifications to remain the sole coordinator of the Official Observer program, the Amateur Auxiliary, and their role in enforcement in general.

8. The Petitioners' statement that "[t]he suggestion in some of the comments that the ARRL Petition was not adequately vetted to the Amateur community is not well-taken"⁸ is yet another absurd assertion. Throughout the Comments at 8, the Petitioners refer to reports and board minutes published on their website and published in their members-only "QST" publication. Non-members have little if any interest in the Petitioners' website, and only members receive "QST". The Petitioners also refer to a few discussions on Amateur-oriented bulletin boards as "voluminous publicity", footnoting that "[n]otably, the ARRL proposal was actively discussed in a variety of other Amateur Radio media...", yet failed to provide references. For something so notable, there's no actual notation.

⁸ The Comments, at 8

10. The Petitioners, throughout the Petition and the Comments, repeatedly state that the current regulatory framework is a limiting factor for digital experiments. In spite of repeated calls to provide *examples* of such limitations, the Petitioners simply continue to make the assertion, unsupported and uncorroborated.

11. Finally, the Commission should not consider any petition with respect to Amateur Service regulation by any group or individual which may have a substantial pecuniary interest in the outcome of that proceeding. The Petitioners have not been able to state, for the public record, that no amount of money has changed or will change hands as a result of the outcome of this proceeding (other than legal fees for Mr. Imlay, which are far outside the scope of a single proceeding).

It is for these reasons I respectfully submit these reply comments, and again request The Commission DENY the Petition, with or without prejudice, in conclusion of these proceedings.

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