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December 5, 1995

VIA HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W. - Room 222
Washington, D.C. 20554

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Re: RM-8553

Dear Mr. Caton:

An original and seven (7) copies of the attached is forwarded for filing on behalf of and for the convenience of the Fixed Point-to-Point Section of the Telecommunications Industry Association.

If there are any questions, do not hesitate to contact the undersigned at (703) 812-0400

Respectfully submitted,

FLETCHER, HEALD & HILDRETH, P.L.C.

Leonard Robert Raish
Leonard Robert Raish

LRR:cej
Enclosures

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BEFORE THE

Federal Communications Commission

WASHINGTON, D.C. 20554

In the matter of)
Amendment of the Commission's) RM-8553
Rules to Establish a Channel Plan)
and Technical rules for the)
37.0-38.6 GHz Band and 38.6-)
40 GHz bands.)

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EX PARTE COMMENTS ON
PETITION FOR RULEMAKING

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On September 9, 1994, the Fixed Point-to-Point Section of the
Telecommunications Industry Association (the "Section") filed a petition for
rulemaking (the "Petition") requesting amendments of the Commission's Rules to
establish a channel plan for the 37.0-38.6 GHz band.1 The Petition also contained a
limited discussion of technical standards affecting operations in a broader bloc of
spectrum that includes the 38.6-40.0 GHz band (the "39 GHz band"). By this filing,
the Section is supplementing the record to provide additional input reflecting new
developments since the Petition and the amendment were submitted. In particular,
the Section wishes to provide comments concerning issues relating to ongoing
licensing and system implementation in the 39 GHz band.2

1See, RM-8553, Public Notice Report No. 2044 (released December 1, 1994);
amended, May 4, 1995.

2The Petition did not raise issues directly relating to licensing in the 39 GHz
band. Nevertheless, it has recently become apparent to the Section that the
Commission plans to address, at least in some form, issues affecting 39 GHz
licensing in its upcoming Notice of Proposed Rulemaking. See Order Re: Petition for
Amendment of the Commission's Rules Regarding the 37.0-38.6 GHz and 38.6-40.0
GHz Bands, DA 95-2341 (released November 13, 1995).

VIEWS ON 39 GHz BAND APPLICATIONS NOW PENDING

Since the Petition was filed in 1994, the Section and its member companies have made it a point to follow closely the applications and plans of those companies seeking to develop 39 GHz point-to-point networks in numerous metropolitan areas across the country. The Section believes there is a clear and immediate need for the services those companies are offering. The Section would observe that a vast majority of 39 GHz companies appear to have substantial backing and technical expertise. This is evidenced in part by investments of money, time, and expertise in prosecution of their 39 GHz applications and efforts to move forward with implementation of system.

Furthermore, over the last two years, these same companies have done a commendable job of resolving, on a purely voluntary basis, the vast majority of the existing cases of mutual exclusivity among their 39 GHz applications. These efforts only can be interpreted as an indicator of technical competence among these companies, as well as a confirmation of a willingness to speed the implementation of systems, the creation of new jobs, and the delivery of innovative new services to the public. As a result, it is only fair that these companies be awarded the requested 39 GHz authorizations. These authorizations are central to their business plans, and will result in the earliest possible availability to the public of new local wireless broadband services.

**EXISTING 39 GHz APPLICATIONS ON FILE
SHOULD BE PROCESSED RATHER THAN BEING
DELAYED PENDING FURTHER RULEMAKING**

The Commission's November 13, 1995, Order indicates "over 2100 applications for 39 GHz licenses have been filed since January 1995." In this regard, the Section is concerned that so few of these applications have been processed and granted, especially considering the fact that hundreds are currently uncontested and subject to grant under the Commission's Rules. The vast majority of the applicants have deep roots in the wireless industry, and have seemingly exhibited both patience and foresight. The Section therefore suggests the public interest will be well served if the Commission expedites the processing of all currently pending 39 GHz applications. Additionally, the Section believes that 39 GHz applicants should be allowed to continue implementing engineering solutions to resolve the few remaining mutual exclusivity conflicts among pending 39 GHz applications.

**CURRENT SYSTEM CONSTRUCTION
REQUIREMENTS APPEAR TO BE SUFFICIENT**

Note should be taken that 39 GHz frequencies are ideal for a sweep of applications broader than PCS backhaul. This is evidenced by the diverse range of new local distribution services that are being introduced by 39 GHz service providers.

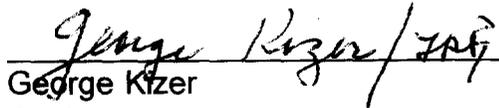
In light of the foregoing, the Section also urges the Commission to take into account the realities facing applicants as regards arrangements for capital support and construction schedules. Unpredictable delays can reflect adversely on the financial and future customer relations aspects. In this regard, the Commission should reserve judgement and allow the marketplace to define system construction requirements for 39 GHz operators.

CONCLUSION

In conclusion, the Section appreciates greatly the consideration being accorded RM-8553. The Commission is urged to process those 39 GHz applications on file as they were filed in good faith pursuant to Rules now in effect. Any delay by the Commission to process pending 39 GHz applications and grant the licenses due, or any uncertainty as to the ability of licensees to implement their system injected into the marketplace as a result of a later rulemaking, can produce serious adverse consequences for the 39 GHz industry and would clearly contravene the public interest.

Respectfully submitted,

FIXED POINT-TO-POINT SECTION OF
THE TELECOMMUNICATIONS INDUSTRY
ASSOCIATION



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Date: December 5, 1995

cej/lrr/r#4/37GHz.plead

CERTIFICATE OF SERVICE

I, Chellestine Johnson, a secretary in the law firm of Fletcher, Healed & Hildreth, P.L.C., do hereby certify that copies of the foregoing "Ex Parte Comments on Petition for Rulemaking" were sent this 5th day of December, 1995, by hand delivery and first-class United States mail, postage prepaid, to:

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