



6712-01

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[DA 14-1507]

Unlicensed Personal Communications Services Devices in the 1920-1930 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission revises its rules. The practical effect of this decision is that applicants for certification of Unlicensed Personal Communications Service (UPCS) devices will no longer be required to be members of UTAM, Inc. (UTAM).

DATES: Effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Order adopted October 20, 2014, and released October 20, 2014, DA 14-1507. The full text of this document is available on the Commission's Internet site at www.fcc.gov. It is also available for inspection and copying during regular business hours in the FCC Reference Center (Room CY-A257), 445 12th Street, SW, Washington, DC 20554. The full text of this document also may be purchased from the Commission's duplication contractor, Best Copy and Printing Inc., Portals II, 445 12th St., SW, Room CY-B402, Washington, DC 20554; telephone (202) 488-5300; fax (202) 488-5563; e-mail FCC@BCPIWEB.COM.

Summary of the Order

1. The Order revises part 15 subpart D of the Commission's rules to remove and reserve § 15.307. As a result of this decision, applicants for certification of Unlicensed Personal

Communications Service (UPCS) devices will no longer be required to be members of UTAM, Inc. (UTAM). The Commission took the action to eliminate the rule without notice and comment procedures pursuant to section 553(b)(b) of the Administrative Procedures Act (5 U.S.C 553(b)(B)).

2. Section 15.307 has served, along with other Commission actions, to ensure that UTAM is reimbursed for the costs it incurred in clearing the 1910-1930 MHz band of incumbent microwave licensees. In a letter submitted to the Commission, UTAM indicated that this objective had been met. The Commission agreed, and concluded that the rule no longer served its intended purpose. Moreover, because UTAM's board of directors had proposed to its membership a plan of dissolution and cessation of all corporate activities, the Commission anticipated that it would soon become impossible for UPCS device manufacturers to satisfy §15.307's membership requirement.

3. In 1993, the Commission reallocated the 1910-1930 MHz band from the Private Operational Fixed Microwave Service (POFS) to UPCS use. As part of this reallocation, the Commission designated UTAM to manage the transition of the 1910-1930 MHz band from POFS to UPCS use. Under the relocation funding plan approved by the Commission, UTAM would pay to relocate or agree to share the costs to relocate incumbent services in the band, and future UPCS device manufacturers would reimburse UTAM for their share of the incurred costs. The UPCS device manufacturers would reimburse UTAM via a fee for each device sold (which UTAM subsequently eliminated), as well as a membership fee set by UTAM. To ensure that UTAM received this reimbursement, the Commission required – via § 15.307 – that each application for certification of UPCS equipment be accompanied by an affidavit from UTAM certifying that the applicant was a member of UTAM.

4. In 2004, the Commission re-designated the 1910-1915 MHz and 1915-1920 MHz bands from UPCS use to Broadband PCS and Advanced Wireless Service (AWS) operations, respectively. As part of the 1910-1915 MHz band re-designation, the Commission determined that UTAM was entitled to a reimbursement from Nextel Communications, Inc. (the 1910-1915 MHz band licensee) for 25 percent – on a pro rata basis – of the total relocation costs it had incurred in clearing the 1910-1930 MHz band of incumbent microwave stations. In 2007, Sprint Nextel Corp. (successor to Nextel), reimbursed UTAM for these costs.

5. Similarly, as part of the 1915-1920 MHz band re-designation, the Commission determined that UTAM was entitled to a reimbursement from the future AWS licensee(s) in the 1915-1920 MHz AWS-2 band for 25 percent – on a pro rata basis – of the total relocation costs it had incurred in clearing the 1910-1930 MHz band of incumbent microwave stations. On May 29, 2014, DISH, the sole licensee in the 1915-1920 MHz band, reimbursed UTAM for these costs.

6. Based on the reimbursements paid by Sprint and DISH, as well as the membership and device fees that had been paid by UPCS device manufacturers, UTAM determined that it could satisfy all of its financial obligations associated with clearing the entire 1910-1930 MHz band. Accordingly, it prepared a plan of dissolution and cessation of all corporate activities. It also asked the Commission to suspend enforcement of § 15.307 pending administrative action to eliminate the rule in its entirety.

7. The Commission found that there was good cause to eliminate the rule in its entirety. UTAM no longer needed the reimbursement funds that § 15.307 was designed to provide, continued application of the rule would impose an unnecessary financial burden on UPCS device manufacturers who may seek to develop new and innovative products, and it would no longer be possible to comply with the rule once UTAM dissolved. The Commission further determined

that it could take action to eliminate the rule without notice and comment rulemaking procedures, pursuant to section 553(b)(B) of the Administrative Procedure Act. Among other things, section 553(b)(B) establishes an exception to the notice-and-comment requirement for cases in which the Commission finds good cause for concluding that notice and comment are “unnecessary.” The Commission found that because § 15.307 no longer had any purpose now that the relocation reimbursement obligations have been satisfied and UTAM would be disbanding, the provisions of section 553(b)(B) were applicable to this situation.

8. The Commission removed and reserved § 15.307, effective upon publication of the Order in the Federal Register. Until that time, and effective immediately, the Commission stayed the effectiveness of the rule. The Commission took these actions under the delegated authority granted to the Office of Engineering and Technology. Thus, upon release of the Order, it was no longer necessary for applicants for equipment certification of UPCS devices to obtain and submit to the Commission certification of membership in UTAM pursuant to § 15.307 of our rules.

Congressional Review Act

9. Because the Order was adopted without notice and comment, the Regulatory Flexibility Act does not apply, see 5 U.S.C. 601, et seq. The Commission will not send a copy of the Order pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A), because the rules are of a particular applicability.

Paperwork Reduction Analysis

10. This document does not contain any new or modified information collections subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104-13.

ORDERING CLAUSES

11. Pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), the Order is hereby adopted and part 15 of the Commission's rules is amended as set forth in the Final Rules effective upon publication in the Federal Register.

List of Subjects in 47 CFR Part 15

Communications equipment, Radio, Reporting, and recordkeeping.

FEDERAL COMMUNICATIONS COMMISSION.

Julius P. Knapp
Chief, Office of Engineering and Technology.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 15 as follows:

PART 15 – RADIO FREQUENCY DEVICES

1. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, 304, 307, 336, and 544a.

§ 15.307 [Removed and Reserved]

2. Section 15.307 is removed and reserved.

[FR Doc. 2014-26429 Filed 11/06/2014 at 8:45 am; Publication Date: 11/07/2014]