

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

In the Matter of	)	
	)	
REGIONET WIRELESS LICENSE, LLC	)	FCC File Nos. 852743 and 852745
	)	
Applications for Automated Maritime	)	
Telecommunications System Stations in	)	
Chicago, Illinois, and Lockport, Illinois	)	

**ORDER**

**Adopted: June 19, 2000**

**Released: June 21, 2000**

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

**I. INTRODUCTION**

1. On September 20, 1999, RegioNet Wireless License, LLC (RegioNet) filed applications for Automated Maritime Telecommunications System (AMTS) stations at Chicago, Illinois, and Lockport, Illinois.<sup>1</sup> On November 4, 1999, KM LPTV of Chicago-13, L.L.C. (KM), licensee of low power Station WOCK-LP, Channel 13, Chicago, Illinois (WOCK-LP), submitted petitions to deny the applications. For the reasons discussed below, we grant RegioNet’s application for Chicago, and deny its application for Lockport.

**II. BACKGROUND**

2. AMTS stations provide automated, integrated, interconnected ship-to-shore communications similar to a cellular phone system for tugs, barges, and other maritime vessels.<sup>2</sup> In establishing the rules permitting AMTS stations, the Commission considered the potential for interference to television reception, particularly Channels 10 and 13 because of the proximity of AMTS frequencies to these television channels, and conditioned the operation of AMTS coast stations on the requirement that no harmful interference be caused to television reception.<sup>3</sup> Under the Commission's Rules, an applicant proposing to locate an AMTS station within 169 kilometers (105 miles) of a Channel 13 television station must submit an engineering study demonstrating the means used to avoid interference within the television station's

<sup>1</sup> See *Public Notice*, Report No. 2061, Wireless Telecommunications Bureau Receipts and Disposals (rel. Oct. 5, 1999).

<sup>2</sup> See Amendment of Parts 2 and 80 of the Commission's Rules Applicable to Automated Maritime Telecommunications Systems (AMTS), *First Report and Order*, GEN Docket No. 88-732, 6 FCC Rcd 437, 437 ¶ 3 (1991) (*AMTS First Report and Order*).

<sup>3</sup> 47 C.F.R. § 80.215(h); Amendment of Parts 2, 81 and 83 of the Commission's Rules to Allocate Spectrum for an Automated Inland Waterways Communications System (IWCS) along the Mississippi River and Connecting Waterways, *Report and Order*, GEN Docket No. 80-1, 84 FCC 2d 875, 897-98 ¶ 81, *on recon.*, *Memorandum Opinion and Order*, GEN Docket No. 80-1, 88 FCC 2d 679 (1981).

Grade B contour.<sup>4</sup> In addition, any AMTS licensee that, despite these precautions, causes interference to television reception within the television station's Grade B contour must cure the problem within ninety days or cease operations, and must help resolve complaints of interference outside the television station's Grade B contour.<sup>5</sup>

3. RegioNet already is licensed to operate AMTS stations along lower Lake Michigan, at Milwaukee and Kenosha, Wisconsin; Michigan City, Indiana; and Muskegon, Michigan.<sup>6</sup> In addition, Paging Systems, Inc. (PSI) is licensed to operate an AMTS station at Chicago, Illinois<sup>7</sup> from the John Hancock Building, which is also where Station WOCK-LP transmits.<sup>8</sup> On October 23, 1998, Orion Telecom (Orion), RegioNet's predecessor in interest, filed an application for an AMTS station using an omnidirectional antenna at the Sears Tower in Chicago.<sup>9</sup> KM, in its petition to deny that application, argued that Orion had not satisfied the requirement in the AMTS rules that the proposed site be the only suitable location.<sup>10</sup> KM stated that the potential for interference to Station WOCK-LP would be minimized if Orion co-located its station with Station WOCK-LP's transmitter on the Hancock Building and utilized a directional antenna with the same orientation as Station WOCK-LP's antenna.<sup>11</sup> In reply to Orion's argument that a directional antenna so oriented would not provide coverage to all of the vessels Orion intended to serve with the proposed station, KM noted that co-locating even an omnidirectional antenna on the Hancock Building would diminish the potential for interference to Station WOCK-LP's operations.<sup>12</sup> Orion did not offer any reason why it could not use an omnidirectional antenna at that site.<sup>13</sup>

4. In a decision released March 10, 1999, we concluded that the Sears Tower was not the only suitable location for Orion's proposed station, because the Hancock Building was a suitable alternative site.<sup>14</sup> We also concluded that Orion's plan to control any interference its operations might cause within Station WOCK-LP's Grade B contour did not satisfy the rule requiring such a plan<sup>15</sup> because the same

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<sup>4</sup> 47 C.F.R. § 80.475(a)(1); *see AMTS First Report and Order*, 6 FCC Rcd at 437 ¶ 5.

<sup>5</sup> 47 C.F.R. § 80.215(h)(4); *see AMTS First Report and Order*, 6 FCC Rcd at 437 ¶ 5.

<sup>6</sup> *See* Fred Daniel d/b/a Orion Telecom, *Memorandum Opinion and Order*, 14 FCC Rcd 3909, 3910 ¶ 3 (WTB PSPWD 1999) (*Sears Tower MO&O*).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *See Public Notice*, Report No. 2014, Wireless Telecommunications Bureau Receipts and Disposals (rel. Nov. 10, 1998).

<sup>10</sup> *See Sears Tower MO&O*, 14 FCC Rcd at 3910-11 ¶¶ 4-5 (citing 47 C.F.R. § 80.215(h)(3)).

<sup>11</sup> *See id.* at 3911 ¶ 6.

<sup>12</sup> *Id.* at 3911 ¶ 6. The Sears Tower station was intended to supplement Orion's system's coverage to vessels in the Chicago area. *Id.* at 3910 ¶ 3.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.* We did, however, reject the other alternative sites proffered by KM because they would not improve the system's coverage in the manner intended by the proposed station. *See id.* at 3911 ¶ 5.

<sup>15</sup> 47 C.F.R. § 80.215(h)(3)(ii).

plan had been deemed sufficient only when the proposed AMTS station was co-located with the potentially affected television station.<sup>16</sup> Consequently, we denied Orion's Sears Tower application.<sup>17</sup>

5. RegioNet now proposes to add AMTS stations with omnidirectional antennas at the Hancock Building in Chicago,<sup>18</sup> and at Lockport.<sup>19</sup> The proposed stations are intended to provide service to a substantial number of vessels on Lake Michigan as components of RegioNet's Great Lakes AMTS system.<sup>20</sup> The record indicates that there are 2,140,515 people within both Station WOCK-LP's Grade B contour and the proposed Chicago station's predicted interference contour,<sup>21</sup> and 64,707 people within both Station WOCK-LP's Grade B contour and the proposed Lockport station's predicted interference contour.<sup>22</sup> The predicted interference contours are based on the assumption that the stations' effective radiated power (ERP) will be 1000 watts, but RegioNet states that it will limit the ERP for its Chicago station to 400 watts.<sup>23</sup>

### III. DISCUSSION

6. Where, as here, there are at least one hundred residences within both a proposed AMTS station's predicted interference contour and a Channel 13 television station's Grade B contour, the AMTS applicant must (1) show that the proposed site is the only suitable location, (2) develop a plan to control any interference its operations cause within the Grade B contour, and (3) agree to make any necessary adjustments to affected television receivers to eliminate such interference.<sup>24</sup>

7. *Chicago Application.* KM contends that RegioNet's Chicago application should be denied because RegioNet has not demonstrated that the Hancock Building is the only suitable location.<sup>25</sup> A party opposing the AMTS application on the grounds that the proposed site is not the only suitable location must come forward with evidence that one or more other specific locations are suitable.<sup>26</sup> KM suggests that LaPorte County, Indiana, or Berrien County, Michigan, would be suitable alternatives to the Hancock

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<sup>16</sup> *Sears Tower MO&O*, 14 FCC Rcd at 3912 ¶ 7.

<sup>17</sup> *Id.* at 3912-13 ¶ 9.

<sup>18</sup> FCC File No. 852743 (Chicago Application).

<sup>19</sup> FCC File No. 852745 (Lockport Application).

<sup>20</sup> Chicago Application at Public Interest Statement; Lockport Application at Public Interest Statement.

<sup>21</sup> Chicago Application, Analysis of Potential AMTS Interference, at 10.

<sup>22</sup> Petition to Deny Lockport Application at 3 (*citing* Engineering Statement of Cohen, Dippell and Everist, P.C. (Nov. 1999)). RegioNet's Lockport Application states that there is a population of "0" within the predicted interference area. Lockport Application, Analysis of Potential AMTS Interference, at 10. RegioNet states that this error in the application was unintentional. Opposition to Petition to Deny Lockport Application at 3.

<sup>23</sup> Chicago Application, Statement on Rule Section 80.215(h), at 1.

<sup>24</sup> 47 C.F.R. § 80.215(h)(3); *see, e.g., Sears Tower MO&O*, 14 FCC Rcd at 3910 ¶ 4.

<sup>25</sup> Petition to Deny Chicago Application at 6.

<sup>26</sup> *Sears Tower MO&O*, 14 FCC Rcd at 3911 ¶ 5.

Building.<sup>27</sup> KM made the same suggestion when Orion proposed to construct an AMTS station at the Sears Tower.<sup>28</sup> As we concluded in the *Sears Tower MO&O*, these locations do not constitute suitable alternative locations because they would merely duplicate the coverage of an existing station, rather than improve the coverage in the manner intended by the proposed station.<sup>29</sup> We believe that this is the appropriate conclusion even if the proffered alternative site's potential for interference to television reception is less than that of the proposed location.<sup>30</sup> We also believe that a county is not a sufficiently specific alternative location.<sup>31</sup>

8. KM also argues that co-locating the AMTS station at the Hancock Building will be effective in minimizing interference only if a directional antenna, rather than the proposed omnidirectional antenna, is used.<sup>32</sup> RegioNet states that the AMTS station's use of an antenna directed on the same azimuth as Station WOCK-LP will not provide Station WOCK-LP with any greater protection within its Grade B contour than it would receive if an omnidirectional antenna is used.<sup>33</sup> We do not believe that co-location is effective in minimizing interference only when a directional antenna is used. There are numerous examples of AMTS stations employing an omnidirectional antenna co-locating with television stations in order to reduce interference to television reception.<sup>34</sup> We are aware of no complaints regarding interference caused by any of these AMTS stations. Therefore, based on the record before us, we conclude that the Hancock Building represents a suitable location for RegioNet's proposed AMTS station.

9. KM further argues that RegioNet's plan to control interference and to make adjustments to affected television receivers in order to eliminate such interference is inadequate.<sup>35</sup> RegioNet plans to install channels in reverse order of frequency, installing the highest frequencies (*i.e.*, those farthest away from the Channel 13) first, and moving downward in frequency only as required by subscriber demand.<sup>36</sup> RegioNet will limit the Chicago station's ERP to 400 watts.<sup>37</sup> Prior to the commencement of service, RegioNet will place an advertisement in the local community newspaper and mail a notice to a sample of potentially

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<sup>27</sup> Petition to Deny Chicago Application at 6.

<sup>28</sup> See *Sears Tower MO&O*, 14 FCC Rcd at 3911 ¶ 5.

<sup>29</sup> *Id.*

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> Reply to Opposition to Petition to Deny Chicago Application at 3.

<sup>33</sup> Opposition to Petition to Deny Chicago Application at 4.

<sup>34</sup> For example, RegioNet has co-located AMTS stations which employ an omnidirectional antenna in Miami, Florida; Suffolk, Virginia; Baltimore, Maryland; New York, New York; Balm, Florida; and Raymond, Maine. PSI has co-located AMTS stations which employ an omnidirectional antenna in Miami, Suffolk, Baltimore, and Raymond.

<sup>35</sup> Petition to Deny Chicago Application at 3; Petition to Deny Lockport Application at 4.

<sup>36</sup> Chicago Application, Statement on Rule Section 80.215(h), at 2.

<sup>37</sup> *Id.* at 1.

affected residences.<sup>38</sup> We note that this plan to control interference is similar to, and in fact exceeds, a plan that we already have deemed sufficient when the proposed AMTS station is co-located with the potentially affected television station.<sup>39</sup> Finally, RegioNet states that it will investigate any viewer complaints, and make such adjustments to television receivers as may be necessary to eliminate interference caused by its operations at either the Chicago or Lockport location.<sup>40</sup> If the interference cannot be rectified, RegioNet states that it will comply with the Commission's requirements and cease the operations of the offending station.<sup>41</sup> Therefore, we believe that RegioNet's plan, in conjunction with the requirements in our Rules that AMTS operations not cause interference to television reception,<sup>42</sup> will provide adequate protection against potential harmful interference to Station WOCC-LP.

10. *Lockport Application.* RegioNet's proposed Lockport station would be located approximately four miles from an existing AMTS station, Call Sign WHG737, Lockport, Illinois, licensed to Waterway Communications System LLC (Watercom).<sup>43</sup> While the Commission's Rules do not specifically define a service area for AMTS stations,<sup>44</sup> we have no doubt that 4.14 miles is not sufficient separation in this case. RegioNet argues only that we should disregard this apparent lack of sufficient separation because Watercom did not object to RegioNet's Lockport application.<sup>45</sup> We do not find this argument to be persuasive. In this regard, we note that the Commission has an independent obligation not to license stations that will cause harmful interference to existing co-channel facilities, whether or not the incumbent

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<sup>38</sup> *Id.* at 2-3. RegioNet plans to send the notice to ten households. *Id.* at 3. KM argues that the notice should be sent to all of Station WOCC-LP's viewers and to at least eighty percent of the 2,140,515 people potentially subject to interference. Petition to Deny Chicago Application at 5; Reply to Opposition to Petition to Deny Chicago Application at 6-7. Because we find RegioNet's plan to control interference to be adequate as it is, we will not require it to mail notices to 1,712,412 people. We have no reason to believe, however, that RegioNet would not, if requested, select the households to be surveyed from a list of Station WOCC-LP viewers provided by KM. KM is, of course, free to contact other households on its own. In addition, though we will not require it, we see merit in KM's suggestion that RegioNet's notice advise viewers experiencing interference to contact KM as well as RegioNet. See Petition to Deny Chicago Application at 5.

<sup>39</sup> See Fred Daniel d/b/a Orion Telecom, *Memorandum Opinion and Order*, 11 FCC Rcd 5764, 5767 ¶ 15 (WTB PSPWD 1996); see also *Sears Tower MO&O*, 14 FCC Rcd at 3912 ¶ 7 (citing Fred Daniel d/b/a Orion Telecom, *Memorandum Opinion and Order*, 13 FCC Rcd 15446, 15451 ¶ 12 (WTB PSPWD 1998)).

<sup>40</sup> RegioNet states that the adjustments would include a reorientation of the viewer's television antenna, installation of a low pass filter on the VHF input to the installation of a high performance notch filter, replacement of the viewer's transmission line, and installation of shielding on the viewer's set. Chicago Application, Statement on Rule Section 80.215(h), at 3-4.

<sup>41</sup> *Id.* at 4.

<sup>42</sup> 47 C.F.R. § 80.215(h), (h)(4).

<sup>43</sup> Petition to Deny Lockport Application, Engineering Statement, at 2.

<sup>44</sup> Amendment of the Commission's Rules Concerning Maritime Communications, *Second Report and Order and Second Further Notice of Proposed Rule Making*, PR Docket No. 92-257, 12 FCC Rcd 16949, 17008 ¶ 117 (1997).

<sup>45</sup> Opposition to Petition to Deny Lockport Application at 6.

objects, in the absence of some agreement between the applicant and the affected incumbent(s).<sup>46</sup> Consequently, RegioNet's Lockport application must be denied.<sup>47</sup>

#### IV. CONCLUSION

11. After carefully reviewing RegioNet's Chicago application and the subsequent pleadings, we find that RegioNet has demonstrated that the Hancock Building is a suitable location. We also find that RegioNet's plan to control interference, in conjunction with the requirements in our Rules that AMTS operations not cause interference to television reception,<sup>48</sup> will provide adequate protection against potential harmful interference to WOCK-LP. Therefore, the Chicago application will be granted subject to the condition that the station's ERP not exceed 400 watts along any radial. On the other hand, we will deny RegioNet's application for an AMTS station in Lockport because we believe that it is likely to cause harmful interference to an existing AMTS station and there is no showing to the contrary in the record of this proceeding.

#### V. ORDERING CLAUSES

12. Accordingly, IT IS ORDERED that, pursuant to the authority of Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 1.962, 1.971, 80.215, and 80.475 of the Commission's Rules, 47 C.F.R. §§ 1.962, 1.971, 80.215, 80.475, the Petition to Deny Automated Maritime Telecommunications System application, Chicago, Illinois, filed by KM LPTV of Chicago-13, LLC on November 4, 1999, IS DENIED, and the application filed by RegioNet Wireless License, LLC, for authorization to construct and operate an Automated Maritime Telecommunications System station at Chicago, Illinois, on September 20, 1999, IS GRANTED ON THE CONDITION that the effective radiated power shall not exceed 400 watts along any radial.

13. IT IS FURTHER ORDERED that, pursuant to the authority of Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 1.958, 1.962, 80.215, and 80.475 of the Commission's Rules, 47 C.F.R. §§ 1.958, 1.962, 80.215, 80.475, the Petition to Deny Automated Maritime Telecommunications System application, Lockport, Illinois, filed by KM LPTV of Chicago-13, LLC on November 4, 1999, IS GRANTED, and the application filed by RegioNet Wireless License, LLC, for authorization to construct and operate an Automated Maritime Telecommunications System station at Lockport, Illinois, on September 20, 1999, IS DENIED.

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<sup>46</sup> 47 C.F.R. § 1.934(e)(2) (Commission may dismiss an application that requests spectrum because it cannot be assigned to the applicant without causing harmful interference).

<sup>47</sup> Moreover, we are not persuaded that RegioNet's plan to control interference is adequate for the proposed Lockport station. RegioNet proposes the same plan as for the proposed Chicago station, but, unlike that station, the proposed Lockport station would operate at full power and would not be co-located with a potentially affected television station.

<sup>48</sup> 47 C.F.R. § 80.215(h), (h)(4).

14. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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