

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

In the Matter of)	
)	
Superior Technologies, Inc.)	File No. 043856
)	
For Permanent Authorization for Additional)	
Facilities for Paging and Radiotelephone)	
Service Call Sign KNKD293 on the 152.84)	
MHz Channel at Baraga and Iron River,)	
Michigan)	

MEMORANDUM OPINION AND ORDER

Adopted: September 20, 2001

Released: September 21, 2001

By the Deputy Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. The Commercial Wireless Division (Division) of the Wireless Telecommunications Bureau (Bureau) has before it a Petition for Reconsideration (Petition) filed by Range Corporation on November 22, 1999. Range seeks reconsideration of the grant of the above-captioned application for additional facilities at Baraga and Iron River, Michigan, filed by Superior Technologies, Inc. (Superior) on November 3, 2000.¹ Range also argues that Superior's verbal request for special temporary authority to operate the Baraga and Iron River facilities was improper. For the reasons stated below, we dismiss Range's Petition as moot with respect to grant of the application and deny its challenge to the STA request.

2. In 1996, the Commission suspended acceptance of new paging applications because of the proposed transition from site-by-site licensing to geographic area licensing for all paging services licensed on an exclusive, non-nationwide basis.² The Commission continued to accept applications for fill-in sites.³ Range argues that the Baraga and Iron River sites exceeded

¹ Superior filed an Opposition to the Petition on December 7, 1999. Range filed a Reply on December 17, 1999 and an Erratum thereto on January 7, 2000. Superior filed a Motion to Accept Rebuttal Statement in Lieu of Motion to Strike on January 7, 2000. Range did not oppose this Motion. Although a reply to a reply is prohibited by Commission rules, we accept Superior's latter pleading as an informal request for Commission action. *See* 47 C.F.R. § 1.41.

² *See* In the Matter of Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems, WT Docket No. 96-18, and Implementation of Section 309 (j) of the Communications Act-Competitive Bidding, PP Docket No. 93-253, *Notice of Proposed Rulemaking*, 11 FCC Rcd. 3108 (1996).

³ Fill-in sites include modifications of existing transmitter sites or additions of new transmitter sites that do not increase the licensee's interference contour. *Id.* at ¶140.

Superior's composite interference contour (*i.e.*, they were not fill-in sites).⁴ Upon further review of Superior's November 2000 application, the Division determined that neither site was a permissible fill-in site because each extended beyond Superior's composite interference contour.⁵ The Division advised Superior accordingly. Superior responded by filing a modification application on June 19, 2001, which, as amended, confined the contours of the Baraga and Iron River sites to Superior's composite interference contour.⁶ The operating parameters of that application, which was granted on August 15, 2001, supercede those of the original application. Range's objection to the original application therefore is moot.⁷

3. Range also claims that Superior should have made a written, rather than a verbal, request for special temporary authority (STA) to operate the Baraga and Iron River facilities.⁸ Range argues that Section 1.931 of the Commission's rules permits verbal STA requests only in an emergency.⁹ Superior orally requested the STA on October 13, 1999. On October 14, 1999, Superior provided the Licensing and Technical Analysis Branch (Branch) a letter summarizing the salient terms and rationale for the STA.¹⁰ On October 18, 1999, the Branch confirmed grant of the orally requested STA by countersigning the October 14, 1999 letter. Based on the foregoing, we find that the Branch waived the written filing requirements of Section 1.931.¹¹

4. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i), 309(f), and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 309(f) and 405, and Sections 1.106, 1.925, and 1.931 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.925, and 1.931, the Petition for Reconsideration filed by Range Corporation on November 22, 1999 is dismissed in part as

⁴ Petition at 8.

⁵ See Revision of Part 22 and Part 90 of the Commission's Rules to Facilitate Future Development of Paging Systems and Implementation of Section 309(j) of the Communications Act – Competitive Bidding, *Memorandum Opinion and Order on Reconsideration and Third Report and Order*, 14 FCC Rcd. 10030, 10055 ¶ 35 (1999) (“an incumbent's valid composite interference contour does not include areas surrounded by the composite interior contour that is not part of the interference contours of the incumbent's individual sites”).

⁶ See *Public Notice*, “Wireless Telecommunications Bureau Site-by-Site Accepted for Filing,” Report No. 895 (June 27, 2001) (File No. 0000494731).

⁷ Range also argued that Superior's original application should have been coordinated with Canada. See 47 C.F.R. § 1.928 (coordination requirements). In its modification application, Superior requested Canadian coordination for the Baraga and Iron River sites, which the Commission obtained.

⁸ Petition at 5-6.

⁹ *Id.* at 5. See 47 C.F.R. § 1.931(b)(5) (citing 47 C.F.R. § 1.915(b)(1)).

¹⁰ See Letter dated October 14, 1999, from Timothy E. Welch, Esq., counsel to Superior, to Roger Noel, Chief, Licensing and Technical Analysis Branch.

¹¹ See 47 C.F.R. § 1.925 (“The Commission may waive specific requirements of the rules on its own motion or upon request.”). There is no basis in the record for Superior's assertion that the Branch implicitly waived the STA filing fee. Opposition at 3. Pursuant to Section 1.1116(b) of the Commission rules, 47 C.F.R. § 1.1116(b), the FCC has initiated the process to bill Superior the appropriate fee and late charge.

moot and otherwise denied as indicated above.

FEDERAL COMMUNICATIONS COMMISSION

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