

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

In the Matter of)	
)	
ATLANTIC TELECOMMUNICATIONS, INC.)	FCC File No. A048068
)	
Application to Modify Private Land Mobile Radio)	
Station WPLR713, Brooming Grove, New York)	

ORDER ON RECONSIDERATION

Adopted: February 2, 2001

Released: February 6, 2001

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

I. INTRODUCTION

1. On March 30, 2000, Atlantic Telecommunications, Inc. (Atlantic Telecom) filed a Petition for Reconsideration (Petition)¹ of the March 2, 2000, grant of the captioned application by the Chief, Licensing and Technical Analysis Branch (Branch), Public Safety and Private Wireless Division.² Atlantic Telecom requests reconsideration of the March 2, 2000, grant because it considers the Branch's action to be a partial grant of the captioned application. For the reasons set forth below, we grant the Petition in part and otherwise deny it.

II. BACKGROUND

2. The license granted for Station WPLR713 authorized Atlantic Telecom to operate a conventional Industrial/Business Pool station in the 470-512 MHz "UHF-TV Sharing" band³ with a base station located in Brooming Grove, New York. On November 17, 1999, Atlantic Telecom submitted an application to the Personal Communications Industry Association (PCIA), a FCC-certified frequency coordinator for the Industrial/Business Pool, seeking to modify the license for Station WPLR713 to change the radio service from conventional (IG) to trunked (YG) and to add two base station sites in New Jersey, each with ninety associated mobiles.⁴

¹ Petition for Reconsideration filed by Atlantic Telecommunications, Inc. on March 30, 2000 (Petition).

² See Radio Station License, call sign WPLR713 issued March 2000 (Petition, Attachment 4).

³ Frequencies in the 470-512 MHz band, normally assigned to UHF television channels 14 through 20, were made available for land mobile use in eleven cities in the "UHF-TV Sharing" proceeding. See, e.g., Land Mobile Use of TV Channels 14 through 20, Docket No. 18261, *Report and Order*, 23 FCC 2d 325 (1970). Subpart L of Part 90 of the Commission's Rules governs applications and licensing of private land mobile stations in this band.

⁴ See, e.g., Petition at 1. The two additional sites proposed in the captioned application are in Bud Lake, New Jersey (Bud Lake Site) and Howell, New Jersey (Howell Site) (collectively, the "New Jersey sites"). *Id.*

3. On December 13, 1999, PCIA submitted the captioned application to the Commission along with a recommendation to grant a license for the two new sites; however, this recommendation did not reflect Atlantic Telecom's request for ninety additional mobiles at each of the two new sites.⁵ Subsequently, on December 20, 1999, PCIA filed a "request to modify" its recommendation to reflect that the loading should be ninety units at each of the three sites.⁶ On March 2, 2000, the Branch granted the captioned application and issued a modified license with all three base station sites and authority for ninety mobile units at the "original" New York site.

4. In its Petition, Atlantic Telecom suggests that the Branch partially granted the application because it did not associate the PCIA Letter with the captioned application.⁷ Atlantic Telecom asks us to supersede the March 2, 2000, grant to correct the loading figures on its license to those specified in Atlantic's application and in the PCIA Letter.⁸

III. DISCUSSION

5. We find that Atlantic Telecom timely petitioned for reconsideration of the Branch's March 2, 2000, action. On reconsideration, we must reverse the Branch's March 2, 2000, grant of a base station in Bud Lake, New Jersey (Bud Lake Site) because, as discussed in further detail below, that site is not in accordance with the Commission's Rules.⁹ In view of this action, we find that the Petition is moot as to whether the Branch should have granted ninety mobiles for the Bud Lake Site. Additionally, as discussed below, we find the Petition persuasive as to the Howell, New Jersey site (Howell Site).

6. *The Bud Lake Site.* Section 90.307(d) of the Commission's Rules requires a minimum distance of 145 km (90 mi) between base stations and adjacent channel television stations.¹⁰ In this case, the Bud Lake Site is located only 99.20 km (61.65 mi) from adjacent channel Television Station WNEP-TV in Luzerne, Pennsylvania. The Commission's Rules also provide maximum power emission standards to protect co-channel television stations from land mobile radio operations.¹¹ Specifically, Section 90.309 of the Rules requires that a television station be afforded 40 dB protection from land mobile radio operations.¹² In this case, the Bud Lake Site is located 158.5 km (99 mi) from co-channel Television Station WLYH-TV in Harrisburg, Pennsylvania, and is licensed for 217 watts. These values exceed the

⁵ See Petition at 1-2 citing Schedule G of the captioned application.

⁶ See Petition, Attachment 3 - Letter dated December 20, 1999, from Francine Langevine, PCIA, to Kelly Lawver, Chief, General Facilities Section, FCC (PCIA Letter).

⁷ See Petition at 2.

⁸ See *id.*

⁹ The Commission's Rules authorize us to reverse or modify the order from which reconsideration is sought and/or to remand the captioned application to the Branch for further processing. See 47 C.F.R. § 1.106(k).

¹⁰ 47 C.F.R. § 90.307(d). The Commission prohibits mobile station operation within 60 miles of an adjacent-channel television station located closer than the minimum mileage separation requirement. See Private Land Mobile Operations in the 470-512 MHz Band, *Public Notice*, Report No. 20291 (Oct. 22, 1991).

¹¹ 47 C.F.R. §§ 90.307(b), 309(a), (b)(Figure B).

¹² 47 C.F.R. § 90.309.

power for the antenna height above average terrain and co-channel separation criteria contained in Sections 90.307 and 90.309 of the Commission's Rules.¹³ Thus, we conclude that the Bud Lake Site is not in compliance with Sections 90.307 and 90.309 of the Commission's Rules. We further note that the captioned application included neither a request for waiver of the rules nor "short spacing" agreements with the two television stations. Therefore, we conclude that the Branch's grant of the Bud Lake Site was erroneous and we reverse it.

7. *The Howell Site.* Based on the record before us, we are persuaded that the captioned application requested ninety mobile units for each of three sites—the "original" New York site and the two new sites in New Jersey. We are also persuaded that PCIA's corrected recommendation certified this request and that the Branch may have only considered PCIA's initial, uncorrected recommendation when it processed the captioned application.¹⁴ As discussed above, the Petition is moot as to the Bud Lake Site. Accordingly, we are granting the Petition as to the Howell Site.

8. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405 and Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, the Petition for Reconsideration submitted by Atlantic Telecommunications, Inc. on March 30, 2000 IS GRANTED IN PART, to the extent indicated above, and IS OTHERWISE DENIED.

9. IT IS FURTHER ORDERED that the Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division, SHALL ISSUE a superseding license for Station WPLR713 that is consistent with the Commission's Rules and the instant Order.

10. 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

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹³ See 47 C.F.R. §§ 90.307, 90.309.

¹⁴ The PCIA Letter included the following reference line: "Request to Modify," which we read as PCIA's request to modify its initial recommendation under PCIA No. 99322053, which did not reflect mobiles at the New Jersey sites.