

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

In re Applications of)	
)	
Various Subsidiaries and Affiliates of	)	File Nos. 0000013318
GEOTEK COMMUNICATIONS, INC.,	)	0000013319
Debtor-In-Possession,	)	0000013321
Assignors,	)	0000013499
	)	0000013499
and	)	0000013504
	)	0000014139
WILMINGTON TRUST COMPANY or	)	911823
HUGHES ELECTRONICS CORPORATION,	)	911825
Assignees,	)	911827
)	
)	
In re Applications of)	
)	
WILMINGTON TRUST COMPANY or	)	File Nos. 911830
HUGHES ELECTRONICS CORPORATION,	)	911831
Assignors,	)	911832
	)	911833
and)	
)	
FCI 900, INC.)	
Assignee,)	
)	
)	
For Consent to Assignment of 900 MHz)	
Specialized Mobile Radio Licenses)	

ORDER ON RECONSIDERATION

Adopted: January 8, 2001

Released: January 9, 2001

By the Chief, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. We have before us two petitions for reconsideration, one filed by the Alliance for Radio Competition (“ARC”),¹ and the other by Hugh P. Taylor (“Taylor”)² (together, “the Petitions”). The Petitions request that the Wireless Telecommunications Bureau (“Bureau”) reconsider its January 14, 2000 decision to grant applications for consent to (1) assign licenses from Geotek Communications, Inc. (“Geotek”) to Geotek’s primary secured creditors (the “Creditors”), and (2) further assign certain of those licenses from the Creditors to FCI 900 Inc. (“FCI”), a subsidiary of Nextel Communications, Inc. (“Nextel”).³ For the reasons discussed below, we deny the Petitions.

II. BACKGROUND

2. Geotek, formerly a holder of 900 MHz Specialized Mobile Radio (“SMR”) licenses, filed for bankruptcy in June 1998. Pursuant to a private auction held by the bankruptcy court in February 1999, Geotek, the Creditors, and Nextel entered into agreements providing that Geotek would assign the licenses to the Creditors, and the Creditors would then assign the licenses to Nextel.⁴ In March 1999, pursuant to section 310(d) of the Communications Act of 1934, as amended (the “Act”),⁵ the parties filed applications seeking Commission consent to (1) assign Geotek’s licenses to the Creditors, and (2) further assign these licenses from the Creditors to FCI 900.⁶

3. In response to the May 1999 public notice accepting these applications for filing,⁷ six petitions to deny and one set of comments were filed. Four of those petitioners argued that we should deny the assignment of the licenses from Geotek to the Creditors,⁸ and four of the petitioners and the

¹ Petition for Reconsideration of the Alliance for Radio Competition (filed Feb. 14, 2000) (“ARC Petition for Reconsideration”). Mobex Communications, Inc. (“Mobex”) has withdrawn from ARC and therefore has withdrawn its participation from the ARC Petition for Reconsideration. See Letter from John Reardon, President and CEO of Mobex, to Lauren Kravetz, Attorney Advisor, Federal Communications Commission, Wireless Telecommunications Bureau, Commercial Wireless Division (Jan. 4, 2001).

² Petition for Reconsideration of Hugh P. Taylor (filed Feb. 14, 2000) (“Taylor Petition for Reconsideration”).

³ *Geotek Communications, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 790 (WTB 2000) (“MO&O”).

⁴ *Id.* at 792, ¶ 2. A more detailed background is contained in the MO&O. *Id.* at 792-793, ¶¶ 2-5.

⁵ 47 U.S.C. § 310(d).

⁶ MO&O, 15 FCC Rcd at 792, ¶ 2.

⁷ See *Geotek Communications Inc. Seeks FCC consent to Assign 900 MHz SMR Licenses, Public Notice*, DA 99-1027 (rel. May 28, 1999).

⁸ See Petition to Deny, filed June 28, 1999, by Alliance for Radio Competition (“ARC Petition to Deny”); Petition to Deny, filed June 28, 1999 by Southern Communications Services, Inc. (“Southern Petition to Deny”); Petition to Deny, filed June 28, 1999, by Mobex Communications, Inc. (“Mobex Petition to Deny”); Petition to Deny, file June 28, 1999, by Hugh P. Taylor (“Taylor Petition to Deny”).

one commenting party argued that we should deny the ultimate assignment of the licenses to Nextel.⁹

4. On January 14, 2000, the Bureau released an MO&O in which it (1) granted all of the applications for consent to assign licenses from Geotek to the Creditors; (2) granted the applications for consent to assign from the Creditors to FCI 900 those licenses in markets not covered by a 1995 agreement between Nextel, Motorola, Inc., and the United States Department of Justice prohibiting Nextel from acquiring 900 MHz licenses in fifteen major markets (the "Consent Decree");¹⁰ and (3) accepted FCI 900's request to withdraw the applications seeking consent to assign from the Creditors to FCI 900 those licenses in markets covered by the Consent Decree.¹¹

5. On February 14, 2000, ARC and Taylor filed the Petitions. ARC argues that the assignment of licenses to FCI 900 would substantially decrease competition in the dispatch market,¹² and therefore requests that the Bureau reconsider and reverse its consent to assign licenses from the Creditors to FCI 900.¹³ Taylor argues that Geotek was not qualified to hold Commission licenses, and therefore requests that the Bureau reconsider and reverse its consent to assign licenses from Geotek to the Creditors or, in the alternative, designate the matter for hearing.¹⁴

III. DISCUSSION

6. Reconsideration is appropriate only where the petitioner either shows a material error or omission in the original order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.¹⁵ A petition for reconsideration that simply

⁹ See ARC Petition to Deny; Mobex Petition to Deny; Southern Petition to Deny; Petition to Deny, filed June 28, 1999, by Chadmoore Wireless Group, Inc.; Comments of Radio Communications Systems, Inc., filed June 28, 1999.

¹⁰ See *United States v. Motorola, Inc. and Nextel Communications, Inc.*, 1995 WL 866794 *3 (D.D.C. July 25, 1995) ("*United States v. Motorola*"). Specifically, the Consent Decree enjoined Nextel, *inter alia*, from holding or acquiring licenses for more than thirty 900 MHz channels in Boston, Massachusetts; Chicago, Illinois; Dallas and Houston, Texas; Denver, Colorado; Los Angeles and San Francisco, California; Miami and Orlando, Florida; New York, New York; Philadelphia, Pennsylvania; and Washington, D.C. In addition, Nextel was enjoined from holding or acquiring licenses for more than ten 900 MHz channels in Detroit, Michigan and Seattle, Washington, and from acquiring additional channels in Atlanta, Georgia. Further, Nextel was prohibited from holding or acquiring, either directly or indirectly, more than a five percent ownership interest in any corporation or entity that owns, controls, or manages, directly or indirectly, 900 MHz channels in these cities and from entering into new management agreements for 900 MHz channels in these cities. *Id.* Pursuant to a modification entered December 16, 1999, the Consent Decree terminated in October 2000. See *United States v. Motorola*, Case No. I-94CV02331 (TFH) (D.D.C. Dec. 16, 1999).

¹¹ In August 2000, the Bureau granted consent to assign those licenses covered by the Consent Decree from the Creditors to Neoworld License Holdings, Inc. See *In re Applications of Neoworld Holdings, Inc.*, Memorandum Opinion & Order, DA 00-1765 (WTB, rel. Aug. 4, 2000).

¹² See ARC Petition for Reconsideration at 4-10.

¹³ *Id.* at 9.

¹⁴ See Taylor Petition for Reconsideration at 17-18.

¹⁵ 47 C.F.R. § 1.106; *LMDS Communications, Inc.*, Order on Reconsideration, DA 00-2674, at ¶ 6 (WTB, rel. Nov. 30,

reiterates arguments previously considered and rejected will be denied.¹⁶

7. Based on our review of the Petitions, we conclude that reversal or modification of our decision is not warranted. Specifically, neither ARC nor Taylor has shown a material error or omission in the original decision or raised new facts that were not considered in the Bureau's earlier decision. Indeed, as explained below, both petitions reiterate arguments previously considered and rejected.

8. The ARC Petition for Reconsideration repeats ARC's arguments in its petition to deny that Nextel has a heavily concentrated hold on spectrum suitable for dispatch in non-Consent Decree markets, and that an alternative provider should be given the opportunity to offer dispatch service.¹⁷ These arguments were previously considered by the Bureau and addressed in the MO&O.¹⁸ As we explained in more detail in the MO&O, after careful review of the data, we determined that the transaction was not likely to result in competitive harms, and would likely have pro-competitive effects, in relevant mobile voice markets.¹⁹ Furthermore, as we also explained, arguments that another provider might offer greater public interest benefits are not relevant to our analysis under section 310(d) of the Act.²⁰

9. Likewise, Taylor's Petition for Reconsideration presents no new challenges to the basic qualifications of Geotek that were not laid out in detail in his petition to deny.²¹ The same arguments were considered by the Bureau and addressed at length in the MO&O.²² As we read Taylor's petition for reconsideration, his chief complaint is that the Bureau did not address in detail each specific point raised in his petition to deny.²³ The Bureau adequately explained the basis for its determination, however, and resolution of Taylor's allegations did not require

addressing each of his sub-arguments in detail. Taylor has not provided an appropriate basis for reconsideration.²⁴

2000) (citing *WWIZ, Inc.*, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)).

¹⁶ 47 C.F.R. § 1.106; *LMDS Communications*, DA 00-2674, at ¶ 6 (citing *WWIZ, Inc.*, 37 FCC at 686; *Gaines, Bennett Gilbert*, 8 FCC Rcd 3986 (Rev. Bd. 1993)).

¹⁷ ARC Petition for Reconsideration at 6-9; *see also* ARC Petition to Deny at ¶¶ 14-22.

¹⁸ *See* MO&O, 15 FCC Rcd at 801-811, ¶¶ 23-50.

¹⁹ *Id.*

²⁰ *Id.* at 810-811, ¶ 48. *See also* 47 U.S.C. § 310(d).

²¹ *See* Taylor Petition to Deny.

²² *See* MO&O, 15 FCC Rcd at 796-798, ¶¶ 11-15.

²³ *See* Taylor Petition for Reconsideration at 17.

²⁴ *See* 47 C.F.R. § 1.106; *see also BellSouth Corp. v. F.C.C.*, 162 F.3d 1215, 1224 (D.C. Cir. 1999) (Commission was

10. In sum, we fully considered the arguments raised by ARC and Taylor in the MO&O, and determined that the assignments at issue were in the public interest. The Petitions have failed to persuade us otherwise.

IV. ORDERING CLAUSES

11. ACCORDINGLY, IT IS ORDERED, pursuant to sections 4(i) and (j), 309, and 310(d) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 154(j), 309, and 310(d), that the Petition for Reconsideration filed on February 14, 2000, by Hugh P. Taylor and the Petition for Reconsideration filed on February 14, 2000, by the Alliance for Radio Competition and the supporting pleadings of each in this matter ARE DENIED.

12. This Order is taken on delegated authority under section 0.331 of the Commission's rules, 47 C.F.R. § 0.331. Applications for review under section 1.115 of the Commission's rules, 47 C.F.R. § 1.115, may be filed within thirty days of the date of the public notice of this Order.

FEDERAL COMMUNICATIONS COMMISSION

James D. Schlichting
Deputy Chief, Wireless Telecommunications Bureau

"not required to author an essay" in denying a waiver request, so long as basis for decision was apparent).

APPENDIX A

Parties Filing Petitions for Reconsideration

Alliance for Radio Competition
Hugh P. Taylor, Esq.

Parties Filing Oppositions

Geotek Communications, Inc.
Nextel Communications, Inc.
Hughes Network Systems and Wilmington Trust Company (jointly)

Parties Filing Replies or Responses

Hugh P. Taylor, Esq.