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

In the Matter of Application of	)	
	)	
AMTS CONSORTIUM, LLC	)	FCC File No. 0002147762
	)	
To Partially Assign License for Station WQCP810	)	
to Northeast Utilities Service Company	)	

ORDER ON RECONSIDERATION

Adopted: January 29, 2007 **Released: January 30, 2007**

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* On December 8, 2005, Paging Systems, Inc. (PSI) requested reconsideration of a November 9, 2005, *Order* by the Public Safety and Critical Infrastructure Division[1] (Division) that denied PSI's petition to deny the above-captioned application and waiver request filed on May 4, 2005 by AMTS Consortium, LLC (ACL) to assign Automated Maritime Telecommunications System (AMTS) frequencies to Northeast Utilities Service Company (NUSCO);[2] and granted a request filed on July 13, 2005 by ACL and NUSCO, and modified on August 3, 2005, for confidential treatment of certain materials submitted in conjunction with the application.[3] As set forth below, we deny the petition for reconsideration.

2. *Background.* On May 4, 2005, ACL submitted the above-captioned an application to assign to NUSCO part of the geographic license for AMTS Channel Block B in the Northern Atlantic region, Call Sign WQCP810.[4] In connection with the application, NUSCO, an electric power provider, requested a waiver to permit it to use the AMTS spectrum for private land mobile radio (PLMR) operations.[5] On May 25, 2005, PSI filed a petition to deny the application. On July 13, 2005, ACL and NUSCO filed a request for confidential treatment of their purchase agreement submitted in conjunction with the

[1] Pursuant to a Commission reorganization effective September 25, 2006, certain duties of the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. *See* Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 19867 (2006).

[2] FCC File No. 0002147762 (filed May 4, 2005).

[3] AMTS Consortium, LLC, *Order*, 20 FCC Rcd 17975 (WTB PSCID 2005) (*Order*).

[4] Specifically, ACL proposed to partition the entire channel block in New Hampshire, western Massachusetts (Berkshire and Franklin Counties, and parts of Worcester, Hampshire, and Hamden Counties), and eastern Connecticut (Windham, Tolland, Hartford, New London, and Middlesex Counties, and parts of New Haven, Litchfield, and Fairfield Counties); and to partition and disaggregate part of the channel block in the remaining parts of New Haven, Litchfield, and Fairfield Counties. *See* FCC File No. 0002147762, Description of Partitioning and Disaggregation.

[5] *See* FCC File No. 0002147762, Waiver Request.

application, and modified this request on August 3, 2005,[6] pursuant to Section 0.457(d) of the Commission's Rules.[7]

3. On November 9, 2005, the Division denied deny the petition to deny, and granted the request for protection and waiver request. The Division concluded that PSI lacked standing to file the petition to deny because the service contours of its incumbent site-based AMTS Station WQA216 do not overlap any of the areas to be partitioned, but it nonetheless would address the merits of the petition as an informal request for relief pursuant to Section 1.41 of the Commission's Rules.[8] It then rejected PSI's argument that the redacted purchase agreement filed by ACL and NUSCO was insufficient to satisfy the purpose of the filing requirement in Section 1.2111(a) of the Commission's Rules.[9] On December 8, 2005, PSI filed a petition for reconsideration of the *Order*.[10]

4. *Discussion.* PSI asserts that the Division erred in its decision that PSI did not establish standing to file the petition to deny, and submits a map to demonstrate that Station WQA216's service contour does overlap partitioned areas of ACL's license.[11] We need not resolve this issue, however, because, as discussed above, the Division addressed the merits of PSI's petition as an informal request for relief. Consequently, reversing the Division's decision on the standing issue would not afford PSI any actual relief in this matter.

5. The primary contention in PSI's petition for reconsideration is that ACL and NUSCO's purchase agreement should be made public to facilitate developing a record to insure the public interest is met.[12] PSI argues that the reasons proffered in ACL and NUSCO's request for confidential treatment of their purchase agreement were conclusory, and insufficient to support the Division's decision to treat the document as confidential.[13] In reaching its decision, the Division reviewed not only the request for confidential treatment, but also the unredacted purchase agreement.[14] We agree with NUSCO that further explaining the redacted information itself would have disclosed information that the Division concluded should be kept confidential.[15]

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[6] Request for Protection Under § 0.459 and § 0.457 Attaching Document Subject to this Request: Filing Under Section 1.2111(a), (filed July 13, 2005); Reply to Opposition to Request for Protection Under §§ 0.459 and 0.457 (filed Aug. 3, 2005).

[7] 47 C.F.R. § 0.457(d).

[8] *See Order*, 20 FCC Rcd at 17976-77 ¶ 4; *see also* 47 C.F.R. § 1.41.

[9] *See Order*, 20 FCC Rcd at 17977-78 ¶¶ 8-9; *see also* 47 C.F.R. § 1.2111(a).

[10] On December 19, 2005, ACL and NUSCO requested an extension of time to January 6. 2006, to file opposition. Email dated December 19, 2005, from Warren Havens, ACL to Scot Stone, Deputy Chief, Mobility Division re: Request for Extension of Time to File Reply to Opposition to Petition to Deny. The Mobility Division granted the request in part and extended the time to January 4, 2006. *See* Email dated December 19, 2006, from Scot Stone, Deputy Chief, Mobility Division to Warren Havens, ACL, and Martin W. Bercovici, Counsel for NUSCO. On January 4, 2006, ACL and NUSCO oppositions. On January 17, 2006, PSI filed a reply to oppositions.

[11] Petition for Reconsideration at 2-3, Ex. 1.

[12] *Id.* at 6-7.

[13] *Id.*

[14] *See Order*, 20 FCC Rcd at 17978 ¶ 9.

[15] NUSCO Opposition at 6.

Finally, PSI argues[16] that the grant should have been expressly conditioned on the outcome of PSI's pending application for review of a decision by the Wireless Telecommunications Bureau (Bureau) denying PSI's petition for reconsideration of a decision by the Bureau's Auctions and Spectrum Analysis Division denying a petition to disqualify ACL from the auction that ultimately resulted in the grant of its license Call Sign WQCP810.[17] The filing of an application for review or petition for reconsideration does not by itself act to stay the challenged action.[18] Consequently, the pendency of PSI's application for review did not preclude consent to ACL's application to assign spectrum to NUSCO.[19]

6. Accordingly, IT IS ORDERED pursuant to Sections 4(i), 303(r), and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the petition for reconsideration filed by Paging Systems, Inc. on December 8, 2005 IS DENIED.

7. 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

Roger S. Noel
Chief, Mobility Division
Wireless Telecommunications Bureau

[16] Petition for Reconsideration at 4-5.

[17] Petition for Reconsideration and Motion for Stay of Paging Systems, Inc., *Order*, 20 FCC Rcd 8087 (WTB 2005).

[18] *See* 47 C.F.R. §§ 1.106(n), 1.115(h)(2).

[19] Whether to so condition the grant is a matter of Commission discretion. *See* AT&T Wireless Services, Inc., *Memorandum Opinion and Order*, 19 FCC Rcd 21522, 21549-50 ¶ 51 (2004).