

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

In the Matter of )
)
PHI SERVICE COMPANY ) FCC File Nos. 0006199338 and 0006199345
)
Request for Waiver )

ORDER

Adopted: July 7, 2014

Released: July 7, 2014

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

1. Introduction. On March 13, 2014, PHI Service Company (PHI) filed the above-captioned applications seeking to modify its geographic licenses for Automated Maritime Telecommunications System (AMTS) Stations WQR1818 and WQR1820 by adding seven fixed locations in Delaware, New Jersey and Maryland. PHI also seeks a waiver of certain Part 80 rules to allow it to operate a private land mobile radio (PLMR) system on AMTS spectrum. For reasons set forth below we will grant the modification applications to authorize the fixed locations, and we grant the waiver request.

2. Background. The AMTS service was established to meet the communications needs of vessels on inland waterways, but the Commission's rules now permit AMTS stations to provide service to units on land, including PLMR service. In establishing rules for AMTS, the Commission considered the potential for interference to television reception, particularly with respect to television Channels 10 and 13, because of the proximity of AMTS frequencies to those channels. An applicant proposing to locate an AMTS station within 169 kilometers (105 miles) of a Channel 13 television station, or within 129 kilometers (80 miles) of a Channel 10 television station, must submit an engineering study demonstrating the means it will use to avoid interference to television reception.

1 FCC File Nos. 0006199338, 0006199345. The Wireless Telecommunications Bureau published notice of the filing of the applications on April 2, 2014. See Wireless Telecommunications Bureau Market-Based Applications Accepted for Filing, Public Notice, Report No. 9473 (WTB rel. Apr. 2, 2014).

2 Specifically, Dagsboro and Seaford, Delaware; Cape May and Rio Grande, New Jersey; and Salisbury (two locations) and Snow Hill, Maryland. The same sites are proposed for both licenses, which differ only with respect to which AMTS frequencies they authorize.

3 Request for Waiver (filed Mar. 13, 2014) (Waiver Request).

4 See 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 (1981) (IWCS Report and Order).

5 See MariTEL, Inc. and Mobex Network Services, LLC, Report and Order, WT Docket No. 04-257, 22 FCC Rcd 8971, 8974-78 ¶¶ 4-10 (2007) (Flexibility Order), on recon., Memorandum Opinion and Order, 25 FCC Rcd 533 (2010), aff'd, Order on Reconsideration, 26 FCC Rcd 2491 (2011), review dismissed, Second Memorandum Opinion and Order, 26 FCC Rcd 16579 (2011).

6 See IWCS Report and Order, 84 FCC 2d at 897 ¶ 80.

7 See 47 C.F.R. §§ 80.215(h)(2), 80.475(a)(1). If there are at least one hundred residences within both the proposed AMTS station's predicted interference contour and the television station's Grade B contour, the AMTS applicant

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3. In 2002, the Commission adopted a geographic area licensing approach for AMTS stations.<sup>8</sup> While geographic licensees generally are authorized to place stations anywhere within their service areas, the Commission requires individual licensing of stations at locations for which the rules mandate submission of an engineering study demonstrating that interference to television reception will be avoided.<sup>9</sup> PHI submitted an engineering study with its applications.<sup>10</sup>

4. PHI is a subsidiary of Pepco Holdings, Inc., an energy delivery company in the Mid-Atlantic region.<sup>11</sup> It acquired AMTS frequencies in Delaware, the District of Columbia, Maryland and New Jersey,<sup>12</sup> and seeks to use the spectrum to support smart grid requirements of two of its companies, Atlantic City Electric and Delmarva Power.<sup>13</sup> The operations will provide distribution automation, Supervisory Control and Data Acquisition, and substation communications.<sup>14</sup> Wireless sensors on various devices such as switches, voltage sensors, and fault detectors are used to gather information sent by wireless signals to and from wireless access points connected to the company's network operations center and, potentially, to control operation of the devices.<sup>15</sup> Both the master stations and the remote units will operate in simplex mode on AMTS mobile station frequencies.<sup>16</sup> As a result, PHI seeks a waiver of Sections 80.92, which requires Part 80 licensees to monitor a frequency prior to transmitting;<sup>17</sup> 80.123, which sets forth the conditions under which AMTS stations may serve fixed and mobile units on land;<sup>18</sup> and 80.385, which divides AMTS spectrum into coast (base) station frequencies and ship (mobile) station frequencies.<sup>19</sup>

5. *Discussion. Licensed sites.* PHI plans to control interference to television reception by operating with less power than permitted by the AMTS rules and using directional antennas to ensure that signals remain within the master station contours,<sup>20</sup> and concludes that its proposed operations will cause no interference to television reception.<sup>21</sup> While we do not agree in every particular with the methodology

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must (1) show that its 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. See 47 C.F.R. § 80.215(h)(3).

<sup>8</sup> See Amendment of the Commission's Rules Concerning Maritime Communications, *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685, 6696 ¶ 24 (2002), *erratum*, 19 FCC Rcd 9918 (2004).

<sup>9</sup> See 47 C.F.R. § 80.385(b).

<sup>10</sup> AMTS Technical Showing, dated February 28, 2014 (Technical Showing).

<sup>11</sup> Waiver Request at 1.

<sup>12</sup> FCC File Nos. 0005652570, 0005652678 (filed Feb. 19, 2013).

<sup>13</sup> Technical Showing at 4.

<sup>14</sup> *Id.*

<sup>15</sup> Waiver Request at 5.

<sup>16</sup> *Id.* at 1.

<sup>17</sup> See 47 C.F.R. § 80.92(a).

<sup>18</sup> See 47 C.F.R. § 80.123; 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, 16964-65 ¶ 25 (1997) (*Maritime Second Report and Order*).

<sup>19</sup> See 47 C.F.R. § 80.385(a)(2).

<sup>20</sup> See Technical Showing at 4.

<sup>21</sup> See *id.* at 16.

of PHI's engineering study, we conclude that PHI's unopposed proposed deployment does not appear to have any potential interference issues.<sup>22</sup> Consequently, we will grant the modification applications to add the proposed sites. We remind PHI, however, that AMTS stations are authorized on the condition that no harmful interference will be caused to reception of existing television stations.<sup>23</sup> AMTS licensees are expected to help resolve interference complaints, and any AMTS licensee that causes impermissible interference to television reception must cure the problem or discontinue operation of the station.<sup>24</sup>

6. Waiver request. Section 1.925(b)(3) of the Commission's Rules provides that we may grant a waiver if it is shown that (a) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and grant of the requested waiver would be in the public interest; or (b) in light of unique or unusual circumstances, application of the rule(s) would be inequitable, unduly burdensome, or contrary to the public interest, or the applicant has no reasonable alternative.<sup>25</sup>

7. PHI requests a waiver of the requirements to monitor before transmitting,<sup>26</sup> use the coast station call sign,<sup>27</sup> and afford priority to marine communications<sup>28</sup> because its system is configured to transmit only broadband data, and cannot support voice communications.<sup>29</sup> It also notes that 156-162 MHz VHF Public Coast (VPC) frequencies remain available to meet marine communications needs.<sup>30</sup> PHI also states that it has taken reasonable steps to minimize the impact of its operations to adjacent channel and co-channel operations.<sup>31</sup> We agree that a waiver of this requirement is warranted under the circumstances presented. PHI's proposed use of the AMTS frequencies does not jeopardize the maritime community's ability to meet its operational, safety and security communications needs, and permitting the use of the subject frequencies for PLMR operations will promote the efficient use of AMTS spectrum and serve the public interest by supporting critical power utility operations. We therefore waive these requirements.<sup>32</sup>

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<sup>22</sup> As required by the Commission's Rules, PHI provided notice of the filing of the application to the television stations that could be affected. See 47 C.F.R. § 80.475(a)(2). No station objected to the proposed operations.

<sup>23</sup> 47 C.F.R. § 80.215(h).

<sup>24</sup> 47 C.F.R. § 80.215(h)(4).

<sup>25</sup> 47 C.F.R. § 1.925(b)(3); see also *WAIT Radio v FCC*, 418 F. 2d 1153, 1159 (D.C. Cir. 1969). In addition, when the Commission amended its rules to permit AMTS stations to provide private correspondence service to units on land, it stated that the following factors would be considered in evaluating waiver requests: (a) whether the applicant will provide priority to maritime communications, (b) the distance of a proposed land mobile radio operation from the nearest navigable waterways, (c) the magnitude of divergence sought from specific Part 80 technical requirements, (d) whether alternative spectrum that could accommodate the proposed PLMR or other land mobile radio service is unavailable or unsuitable for that purpose, and (e) whether grant of the waiver would benefit public safety or homeland security (including support of critical infrastructure). See *Flexibility Order*, 22 FCC Rcd at 8986-87 ¶ 26.

<sup>26</sup> 47 C.F.R. § 80.92(a).

<sup>27</sup> 47 C.F.R. § 80.123(c).

<sup>28</sup> 47 C.F.R. § 80.123(b).

<sup>29</sup> See Waiver Request at 5-9.

<sup>30</sup> *Id.* at 6.

<sup>31</sup> *Id.* at 5 n.8.

<sup>32</sup> See *MariTEL Northern Pacific, Inc.*, *Order*, 27 FCC Rcd 8153, 8155-56 ¶ 7 (WTB MD 2012) (waiving Section 80.123(b) to permit electric utility to operate on VPC spectrum without affording priority to marine-originating communications, provided that no interference was caused to maritime communications), *recon. Denied, Order on Reconsideration and Order*, 28 FCC Rcd 7080 (WTB MD 2013); *Vermont Transco LLC*, *Order*, 26 FCC Rcd 8820, 8822 ¶ 6 (WTB MD 2011) (waiving Section 80.92(a) to allow electric utility to use AMTS spectrum to satisfy fixed

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8. As noted above, PHI proposes operations in simplex mode with transmitters using the mobile portion of the channel pair. It requests a waiver of Section 80.385(a)(2), which provides separate AMTS coast station transmit and ship station transmit channels.<sup>33</sup> PHI will restrict the power levels below those permitted for ship stations in Section 80.215(h)(5)(i), thereby providing protection against interference to maritime operations. Additionally, remote terminals will employ directional antennas such that its operations will not exceed the permitted signal strength at the border of the licensed geographic area. Because the proposed configuration will not affect other licensees any more than compliant mobile units operating on the mobile side of the band, we conclude that a waiver is warranted.

9. Finally, PHI seeks a waiver of the requirement in Section 80.123(a)<sup>34</sup> that AMTS stations to secure a letter from the coast station authorizing the land station to communicate with the coast station.<sup>35</sup> The purpose of this requirement is to enable authorities to verify that a unit on land is authorized to operate on AMTS spectrum. We agree with PHI that because its proposed operations are limited to internal machine-to-machine communications rather than voice communications from mobile units,<sup>36</sup> this purpose would not be served under the circumstances presented, so we grant the requested waiver.

10. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, that the Request for Waiver filed by PHI Service Company on March 13, 2014, IS GRANTED, and applications FCC File Nos. 0006199338 and 0006199345 SHALL BE PROCESSED consistent with this *Order* and the Commission's Rules.

11. 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

Scot Stone  
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and mobile communications requirements); *Maritime Second Report and Order*, 12 FCC Rcd at 16965 ¶ 26 (land units' use of coast station call sign is not necessary if automated or selective calling is used).

<sup>33</sup> See Waiver Request at 10-11.

<sup>34</sup> 47 C.F.R. § 80.123(a).

<sup>35</sup> See Waiver Request at 9. PHI also requests a waiver of Section 80.123(f), 47 C.F.R. § 80.123(f), which requires land stations to communicate only with coast stations, see Waiver Request at 10, but we conclude that no waiver is needed because PHI does not appear to propose that the remote stations will communicate on AMTS spectrum with any station other than the master stations.

<sup>36</sup> See Waiver Request at 9-10.