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July 16, 1999

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JUL 16 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

VIA HAND-DELIVERY

Ms. Magalie Roman Salis
Office of the Secretary
Federal Communications Commission
445 12th Street, S.W.
Room TWB204
Washington, D.C. 20554

RM-9664

Dear Ms. Salis:

Please find enclosed an original and 5 copies of the Opposition of the Association for Maximum Service Television to the Petition for Rulemaking Filed By RegioNet on May 12. Please have one copy file stamped and returned.

Thank you.

Sincerely,

Erika King

Erika King

Enclosures

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Before the
FEDERAL COMMUNICATIONS COMMISSION JUL 16 1999
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
)	RM No. 9664
RegioNet Wireless License, LLC)	
)	
)	
Amendment of Part 80 of the)	
Commission's Rules Concerning Automated)	
Maritime Telecommunications System)	
Stations)	

OPPOSITION OF THE ASSOCIATION FOR MAXIMUM SERVICE TELEVISION TO
THE PETITION FOR RULEMAKING FILED BY REGIONET

Pursuant to 47 C.F.R. § 1.405, the Association for Maximum Service Television ("MSTV")¹ hereby opposes the Petition for Rulemaking ("Petition") submitted on May 12 by RegioNet Wireless License, LLC ("RegioNet").² RegioNet is under common ownership with Orion Telecom ("Orion"),³ an automated maritime telecommunications system (AMTS) station licensee that made identical arguments in a 1997 rulemaking before the Commission.⁴ The

¹ MSTV is a non-profit association of television station owners dedicated to preserving the technical integrity of the television broadcast service.

² The Petition was placed on Public Notice on June 16, 1999, and accordingly this Opposition is timely filed. 47 C.F.R. § 1.405.

³ According to its Petition, RegioNet is controlled by Fred Daniel, has filed applications for new AMTS stations, and is seeking the assignment of outstanding AMTS authorizations from Fred Daniel d/b/a Orion Telecom. Petition at 1. Orion has licenses for AMTS systems along the Pacific and Atlantic Coasts, the West Coast of Florida, Hawaii, the Great Lakes, and the Erie Canal. *Id.*

⁴ See Comments of Fred Daniel d/b/a Orion Telecom, PR Docket No. 92-257 (filed August 19, 1997); Reply Comments of Fred Daniel d/b/a Orion Telecom, PR Docket No. 92-257 (filed September 19, 1997).

issues presented today were briefed in 1997 – by Orion for AMTS, and by MSTV and NAB for broadcasters⁵ – and RegioNet brings nothing new to the discussion in this Petition.

Discussion

An AMTS is a specialized system of public coast stations providing integrated and interconnected marine voice and data communications, somewhat like a cellular telephone system. The purpose of AMTS stations is to enable tugboats, barges, and other commercial vessels on the nation's waterways to communicate with each other and to connect to other telecommunications systems, such as the public switched network.

Because AMTS stations operate adjacent to television Channel 13 and therefore have the potential to interfere with Channel 13 reception, and because AMTS stations can interfere with television Channel 10 reception due to a phenomenon called "half-IF beat interference," the Commission has for years required applicants for AMTS licenses to show that they will not interfere with those television channels.⁶ Specifically, an applicant for an AMTS license who proposes to locate a base station transmitter 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 to the Commission showing the means by which it plans to avoid causing harmful interference to television reception.⁷ In addition, the applicant is

⁵ See Joint Comments of the National Association of Broadcasters and the Association for Maximum Service Television on the Second Further Notice of Proposed Rulemaking, PR Docket 92-257 (filed September 15, 1997); Comments of the National Association of Broadcasters and the Association for Maximum Service Television, Inc., in Reply to the Early-Filed Reply Comments of Orion Telecom, PR Docket 92-257 (filed September 30, 1997).

⁶ Part 80 of the Commission's rules regulate the operation of AMTS stations in the 217-220 MHz band, just above television Channel 13. See 47 CFR Part 80. Part 95 of the Commission's rules regulate the operation of low power point-to-point network control links for AMTS systems in the 216.75-217.00 MHz band. See 47 CFR Part 95.

⁷ See 47 C.F.R. § 80.215(h).

required to notify each television station that may be affected so that the broadcaster may comment on the proposed construction. These requirements also apply to any AMTS applicant proposing to install an antenna at a height greater than 61 meters (200 feet).⁸

In June 1997, the Commission proposed changes to the regulations governing AMTS licensees.⁹ In particular, the Commission proposed to allow licensees to construct additional base stations within the geographic areas that they serve, with a minimal amount of prior review by the Commission and other interested parties.¹⁰ Orion supported the proposal, making many of the same arguments that RegioNet makes here – that television receivers have improved sufficiently since the regulations were initially promulgated to obviate the need for notice and review of AMTS station construction plans, and that the possibility for interference has been overstated. MSTV and the National Association of Broadcasters (NAB) jointly opposed the proposal and the arguments made by Orion. The Commission deferred resolution of the issue.¹¹

In its Petition, RegioNet requests that the Commission "reduc[e] the regulatory burdens" imposed on applicants for AMTS systems either by eliminating the requirement that prospective licensees file engineering studies with AMTS applications, or by modifying the standards that govern interference assessments. RegioNet makes the same arguments that Orion made – that the possibility of interference is overstated, that the required engineering studies are

⁸ *Id.*

⁹ *See In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications, Second Report and Order and Second Further Notice of Proposed Rulemaking*, 12 F.C.C.R. 16949 (June 16, 1997).

¹⁰ *Id.* at ¶ 115.

¹¹ *In the Matter of Amendment of the Commission's Rules Concerning Maritime Communications, Third Report and Order and Memorandum Opinion and Order*, 13 F.C.C.R. 19853 (July 9, 1998).

prohibitively expensive, and that changes in technology have rendered the Commission's AMTS regulations obsolete. RegioNet has also submitted two engineering studies, one of which addresses alleged advances in television receivers, and the other of which addresses ("recalculates") the interference potential. These two studies are of limited use and are overly optimistic in their predictions of interference to Channels 10 and 13.

There is nothing new of substance before the Commission today. The possibility of interference to Channels 10 and 13 is well established and, as explained in our earlier filings,¹² there have been no changes in television receiver technology that would justify relaxing the protection criteria.¹³ RegioNet claims, as Orion did, that a low number of interference complaints is evidence that AMTS operations are not interfering with television broadcast signals. But, as we explained in September 1997, the low number of complaints is inconclusive. Studies show that most people who experience interference in their broadcast receivers respond by changing the channel or turning the receiver off. It is for this reason that advance notice of proposed AMTS station construction is essential to ensure protection of the terrestrial broadcast system. RegioNet cannot plausibly argue that the cost of engineering studies to demonstrate non-interference is prohibitive. RegioNet itself concedes that AMTS licensees must continue to protect Channels 10 and 13; engineering—in this protection requires studies prior to commencement of operation. In short, in our view, the current system strikes the proper balance between the interests of AMTS stations in obtaining licenses and the interests of broadcasters in objecting to potentially interfering facilities. Furthermore, changes at this juncture to the

¹² See e.g., Joint Comments at 4.

¹³ Studies conducted by the Advanced Television Test Center during the digital television development process confirmed the continuing susceptibility of NTSC television receivers to adjacent channel interference.

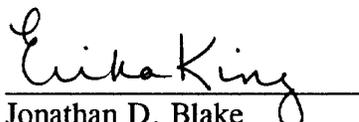
interference protection afforded to Channels 10 and 13 from AMTS stations would be particularly poorly timed, in light of the fact that broadcasters are in the midst of complex transition from analog to digital broadcasting which itself raises a host of complicated interference issues.

Conclusion

We remain persuaded that television broadcasters using Channels 10 and 13 continue to need protection from AMTS operations, and that this protection must include the opportunity to object to construction of AMTS facilities that will impact their coverage areas, as demonstrated by engineering studies submitted to the Commission by prospective AMTS licensees. The Commission should, accordingly, dismiss the RegioNet Petition.

Respectfully Submitted

THE ASSOCIATION FOR
MAXIMUM SERVICE
TELEVISION



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Its Attorneys

July 16, 1999

CERTIFICATE OF SERVICE

I, Erika F. King, hereby certify that a copy of the foregoing **Opposition of the Association for Maximum Service Television to the Petition for Rulemaking Filed By RegioNet**, was sent this 16th day of July, 1999, by first class mail, postage prepaid to the following:

Dennis C. Brown, Esq.
126/B North Bedford Street
Arlington, Virginia 22201



Erika F. King