

THIS ORDER AMENDS ORDER 2002-269 ISSUED DECEMBER 18, 2002

 <p>P.O. Box 99 • Ray Brook, New York 12977 • (518) 891-4050</p>	<p>APA Project Order 2002-269A</p>
<p>In the Matter of a Proposal by</p> <p>THE NEW YORK STATE DEPARTMENT OF TRANSPORTATION, THE NEW YORK STATE POLICE AND CROWN COMMUNICATIONS NEW YORK, INC.</p> <p>Subject to Section 814 of the Adirondack Park Agency Act and 9 NYCRR 4.150</p>	<p>Date Issued: October 16, 2003</p>

SUMMARY AND AUTHORIZATION

The New York State Department of Transportation, Department of State Police, and Crown Communications, New York, Inc. are granted an amended order, on conditions. The project is a major public utility use involving new communications towers in the Town of Chester, Warren County; the Towns of Schroon, North Hudson, Elizabethtown, Westport, Lewis, and Chesterfield, Essex County; and the Towns of AuSable, and Peru, Clinton County.

The project consists of new land use and development by a state agency on state land, that requires review by the Adirondack Park Agency pursuant to §814 of the Adirondack Park Agency Act, 9 NYCRR 579.1, and 9 NYCRR 4.150 (Executive Order 150).

Nothing contained in this amended order shall be construed to satisfy any legal obligations of the applicant to obtain any governmental approval or permit from any entity other than the Agency, whether federal, State, regional or local.

AGENCY JURISDICTION

The project, as originally proposed consisted of the replacement of the existing VHF based NYS Police Emergency call box system with a new wireless-based system, and the addition of private cellular phone service to the travel corridor between Interchanges 26 and 35 of the Adirondack Northway (I-87). The system will be built in the I-87 right-of-way without cost to the State and managed by Crown Communication New York, Inc. pursuant to the NYS Telecommunications Site Manager Agreement. The term of the Telecommunications Site Manager Agreement is twenty (20) years with extension options of four, five-year terms.

The proposed amendment is requested as an alternative to the conventional wireless-based communications network system previously approved by Agency Permit 2002-269. It involves the use of existing fiber optic cable located within the I-87 right-of-way, the relocation of five of the approved antenna pole/tower locations and the construction of a new hub station for the purpose of regenerating signals within the fiber optic cable system.

PROJECT DESCRIPTION AS PROPOSED

The project as originally proposed is described in Order No. 2002-269 issued December 18, 2002. The requested amendments involve the integration of the emergency call box and cellular telephone system with an existing fiber optic cable system. The applicants propose to connect the 33 remote antennas over fiber optic lines through a system owned and operated by Crown Communication New York, Inc. (industry trademarked name of OptiNet). The applicants also propose the relocation of five pole/towers (i.e. sites 99.7SB, 113.4NB, 115.2NB, 122.0NB, and 131.6NB), and the construction of a new regeneration hub site at the Lincoln Pond northbound rest area.

The proposed amendments are requested as an alternative means of providing reliable emergency and cellular telephone service to the I-87 corridor. If undertaken as proposed in the amended project, it will allow the applicants to undertake the project using Global System Mobile Communications, Time Division Multiple Access, and Code Divisional Multiple Access carrier network configurations. Doing so will allow the system to operate using digital cellular and PCS phone services. The amendments are proposed as an alternative to the original project. The applicants will either undertake the project as amended herein or as originally proposed.

The proposed pole/tower relocations are necessary to provide seamless coverage to the I-87 corridor. The construction of the signal regeneration hub site and the use of the existing hub sites are

necessary to allow the amended system to interface with the existing fiber optic network located within the I-87 right-of-way.

The proposed amendments are described in letters received July 24 and August 8, 2003 and are shown on Drawings S-1A (5 sheets) and S2-A for the proposed pole/tower relocations and H-1 and H-2 for the proposed hub site which were received August 8, 2003 and are entitled "Adirondack Northway Corridor (I-87) OptiNet Alternate."

The new pole/tower locations are:

- 99.7SB:
 - Option 1: Move approximately 480' south to an elevation approximately 36' higher
 - Option 2: Move approximately 400' south to an elevation approximately 30' higher
- 113.4NB: Move approximately 139' south to an elevation approximately 19' higher
- 115.2NB: Move approximately 100' north to an elevation approximately 18' higher
- 122.0SB: Move approximately 900' south to an elevation approximately 3' higher, and move site from NB to SB side of I-87
- 131.6NB:
 - Option 1: Move approximately 980' south to an elevation approximately 13' higher
 - Option 2: Move approximately 1090' south to an elevation approximately 20' higher

The new regeneration/hub site includes the construction of a 30 ft. x 30 ft. (20 ft. high) building. The new building will be accessed from and located adjacent to (i.e. about 60 ft.) County Route 7. It will be over 600 ft. from the northbound lane of I-87 travel corridor and about 120 ft. from the rest area off-ramp. The building will not be readily visible from the Northway or the rest area. A diesel powered electric generator will be located at the site to provide emergency backup power, and the site will be enclosed with chainlink security fence. Access to the site for construction and maintenance will be through an existing gate directly from County Route 7. The wireless telecommunication equipment required to allow the service providers to interface with the OptiNet network will be located in the hub building. Similar equipment will be installed in two existing hub buildings constructed as a part of the existing fiber optic system.

The existing fiber optic cable system and signal regeneration hub sites are currently owned and operated by Dominion Telecom. Dominion (or its successors or assignees) will lease a portion of the fiber optic line and space within the existing hubs to Crown Communication.

Each of the poles and base stations will be connected to the existing fiber optic line via underground fiber optic cable. The proposed system will result in less overall disturbance due to construction in that each Random Access Node at the individual antenna poles will operate on 100 amps of electric rather than 400 amps, and the antenna pole sites will not need to connect to telephone lines. The proposed system will also result in eliminating the construction of four BTS cabinets per pole location through the installation of one Radio Access Node at each pole site which can accommodate up to four carriers.

The proposal allows for a second Random Access Node at each antenna pole to accommodate up to four additional carriers with no additional ground disturbance.

This project does not contemplate nor involve the transfer or conveyance of any properties.

CONDITIONS

BASED UPON THE FINDINGS BELOW, THE AMENDED PROJECT IS APPROVED WITH THE FOLLOWING CONDITIONS:

1. All conditions in Order 2002-269 remain in full force and effect unless specifically amended herein.
2. The amended project shall be undertaken as described in the request for an amended order and the Project Description as proposed herein, and in compliance with the Conditions herein. In the case of conflict, the Conditions control. Failure to comply with the order is a violation and may subject the applicant, successors and assigns to civil penalties and other legal proceedings, including modification, suspension or revocation of the order.
3. This order is binding on the applicant(s), all present and future owners of the project site and all contractors undertaking all or a portion of the project. Copies of this order and all the approved maps and plans referred to herein shall be furnished by the applicant(s) to all contractors prior to undertaking the project, and to all subsequent owners or lessees of the project site prior to sale or lease. All deeds conveying all or a portion of the lands subject to this order shall contain references to this order as follows: "The lands conveyed are subject to Adirondack Park Agency Order 2002-269 issued December 18, 2002 and Order 2002-269A issued

_____, the terms and conditions of which are binding upon the heirs, successors and assigns of the grantors and all subsequent grantees."

4. The Agency may conduct such on-site investigations, examinations, tests and evaluations as it deems necessary to ensure compliance with the terms and conditions hereof. Such activities shall take place at reasonable times and upon advance notice where possible.
5. The applicants shall advise the Agency in writing whether the originally approved project or the amended project will be undertaken within 30 days of undertaking the project.
6. The chainlink security fence around the new regeneration/hub site shall be black, vinyl-coated fabric, posts and hardware to minimize visibility of the fence.

FINDINGS OF FACT

Findings of Fact 1 through 28 are contained in Order 2002-269 which was issued on December 18, 2002 and remain in effect.

29. By letters dated July 23 and August 6, 2003, a request was made to amend Adirondack Park Agency Order 2002-269 authorizing the replacement of the existing VHF based NYS Police Emergency call box system with a new wireless-based system, and the addition of private cellular phone service to the travel corridor between Interchanges 26 and 35 of the Adirondack Northway (I-87). The amendment is being proposed as an alternative to the originally approved project. The applicants request authorization to undertake either the previously authorized project as described in Agency Order 2002-269 or the amended project as described herein.
30. The requested amendments do not involve a material change in order conditions, the applicable law, environmental conditions or technology since the issuance of Order 2002-269 pursuant to Section 814 of the Adirondack Park Agency Act.

CONCLUSIONS OF LAW

The Agency has considered all statutory and regulatory criteria for project approval as set forth in Section 814 of the Adirondack Park Agency Act (Executive Law, Article 27) and 9 NYCRR Part 579.3(d). The Agency hereby finds that the project is approvable and complies with the above criteria, provided it is undertaken in compliance with the conditions herein.

ORDER issued this day
of , 2003.

ADIRONDACK PARK AGENCY

BY: _____
Mark E. Sengenberger
Deputy Director (Regulatory Programs)

STATE OF NEW YORK)
) ss.:
COUNTY OF ESSEX)

On the day of in the year 2003, before me, the undersigned, a Notary Public in and for said State, personally appeared Mark E. Sengenberger, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

MES:GVO:tal