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February 17, 2000

**HAND DELIVERED**

Ms. Magalie Salas, Secretary  
Federal Communications Commission  
445 12th Street SW  
Room TW-B204  
Washington DC 20554

Re: **WT Docket No. 97-12**  
**Amendment of the Amateur Service Rules to Provide for Greater Use**  
**of Spread Spectrum Communication Technologies**

Dear Ms. Salas:

Clearwire Technologies, Inc. (Clearwire) withdraws the Petition for Reconsideration it filed in this proceeding on October 25, 1999.<sup>1</sup>

In taking this action, Clearwire expressly reserves its position that a Part 15 user, such as Clearwire, is entitled to seek protection from an Amateur station that operates unlawfully. The applicable rule states that a Part 15 user must accept interference "that may be caused by the operation of an *authorized* radio station . . ."<sup>2</sup> By definition, a station operating outside the terms of its authorization is not an authorized station. Such a station therefore is not one from which Part 15 must accept interference.

<sup>1</sup> Public notice of the Clearwire petition appeared in the Federal Register on January 21, 2000. 65 Fed. Reg. 3451 (Jan. 21, 2000).

<sup>2</sup> 47 C.F.R. § 15.5(b) (emphasis added).

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Magalie R. Salas, Esquire  
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The National Association for Amateur Radio (ARRL) disagrees.<sup>3</sup> Misstating the rule, it argues that "Part 15 devices are entitled to no protection from *allocated services*."<sup>4</sup> Nothing in the rules supports that view. ARRL contends that Part 15 devices "have no interest in the operation of amateur stations, whether those stations happen to be in compliance with Part 97 rules or not."<sup>5</sup> ARRL even states that "it is irrelevant whether the station is operating lawfully or otherwise, as long as it is authorized to operate by the Commission."<sup>6</sup>


ARRL seems to say that a station's operation is "authorized" even when its operation is illegal. This position is self-contradictory, and self-evidently incorrect. Clearwire has every right to ask the Commission to enforce its rules.

Although the issue of Clearwire's standing is moot in the context of the present proceeding, Clearwire does not waive its right to seek relief from unlawful Amateur operation in the future.

Please accept the original and four copies of this letter for filing in the above-referenced docket, and date-stamp and return the extra copy provided for that purpose.

If there are any questions about this filing, please call me at the number above.

Respectfully submitted,

  
Mitchell Lazarus  
Counsel for Clearwire Technologies, Inc.

cc: Thomas Sugrue, Chief, Wireless Telecommunications Bureau  
D'Wana Terry, Chief, Public Safety and Private Wireless Division  
William Cross, Public Safety and Private Wireless Division  
Christopher D. Imlay, Counsel for ARRL, the National Association for Amateur Radio

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<sup>3</sup> ARRL filed an opposition to Clearwire's Petition for Reconsideration on January 31, 2000 (Opposition).

<sup>4</sup> Opposition at 3 (emphasis added).

<sup>5</sup> Opposition at 3.

<sup>6</sup> Opposition at 4.