

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

In the Matter of the Applications of	)	
	)	
SNET CELLULAR, INC.	)	File Nos. 9900665, 9900666
	)	
to Modify Microwave Service Licenses for	)	
Station WLN555, Charlestown, Rhode Island, and	)	
Station WLN554, Exeter, Rhode Island	)	

**ORDER**

**Adopted: January 20, 2000**

**Released: January 21, 2000**

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* SNET Cellular, Inc. (SNET) operates Stations WLN555, Charlestown, Rhode Island and WLN554, Exeter, Rhode Island, in the fixed microwave services (FMS). SNET has filed applications to modify the stations' licenses, *inter alia*, to correct various information for the two stations and to reinstate a 2 GHz path to Station WLN555.<sup>1</sup> SNET seeks to retain primary status for the stations' 2 GHz paths. For the reasons set forth below, the applications are granted in part and denied in part. Specifically, we grant SNET's request to retain primary status for its existing 2 GHz paths from Station WLN554 but deny its request for primary status with respect to the 2 GHz path it seeks to reinstate to Station WLN555.

2. *Background.* The Commission has reallocated portions of the 2 GHz band from FMS to emerging technology (ET) services, including the personal communications services.<sup>2</sup> To this end, the Commission has adopted certain transition rules.<sup>3</sup> First, rather than immediately clearing the 2 GHz band of incumbent FMS users, the Commission permits the incumbents to continue to occupy the band on a co-primary basis with existing ET licensees for a length of time, by the end of which the incumbents are to relocate to another portion of the spectrum.<sup>4</sup> ET licensees have the option, however, of requiring the

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<sup>1</sup> SNET Cellular, Inc. Applications for Authorization in the Microwave Services (FCC File Nos. 9900665, 9900666) (filed Mar. 1, 1999) (SNET Applications).

<sup>2</sup> Redevelopment of Spectrum to Encourage Innovation in the Use of New Telecommunications Technologies, *First Report and Order and Third Notice of Proposed Rule Making*, 7 FCC Rcd 6886 (1992) (*ET First Report and Order*).

<sup>3</sup> See 47 C.F.R. §§ 101.69-101.81. The rules are intended to reaccommodate the FMS licensees in a manner that would be most advantageous for the incumbent users, least disruptive to the public and most conducive to the introduction of new services. See *ET First Report and Order*, 7 FCC Rcd at 6886-87 ¶ 5.

<sup>4</sup> 47 C.F.R. §§ 101.69(b), 101.79(a). See also *ET First Report and Order*, 7 FCC Rcd at 6886 ¶ 5.

FMS incumbents to relocate sooner if they pay the additional costs caused by the earlier relocation.<sup>5</sup> Second, the Commission is authorizing new FMS stations and most modifications of FMS systems only on a secondary basis to ET systems.<sup>6</sup> Primary status is granted for a limited number of technical changes including, *inter alia*, data corrections which do not involve a change in the location of an existing facility.<sup>7</sup> All other minor modifications render the modified license secondary unless the FMS licensee justifies primary status and the modification does not add to the relocation costs to be paid by the new ET licensees.<sup>8</sup>

3. On March 1, 1999, SNET filed applications to modify the licenses for Stations WLN554 and WLN555.<sup>9</sup> In general, it seeks to correct various errors on its the licenses, some of which were discovered during recent site surveys, and to reinstate to Station WLN555 a 2 GHz path that SNET states is operating but is not reflected on the license.<sup>10</sup> SNET contends that the proposed changes should not cause it to be accorded secondary status under the Commission's Rules.<sup>11</sup>

4. *Discussion.* Station WLN554 transmits on three 2 GHz paths, each received at a different station.<sup>12</sup> SNET proposes to modify Station WLN554's license to correct the longitude, ground elevation, centerline and overall structure height of the station; to correct the longitude and antenna height of the receive station for path one; to correct the equipment model, antenna model and latitude, ground elevation and antenna height for path two; and to delete path three.<sup>13</sup> Existing FMS systems in the 2 GHz band retain primary status for data corrections which do not involve a change in the location of an existing facility.<sup>14</sup> We find that SNET's proposed corrections meet this requirement.<sup>15</sup> Furthermore, the

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<sup>5</sup> See 47 C.F.R. §§ 101.69(a), 101.71-101.77.

<sup>6</sup> 47 C.F.R. § 101.81; see Amendment to the Commission's Rules Regarding a Plan for Sharing the Cpsts of Microwave Relocation, *First Report and Order and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8825, 8868 ¶ 88 (1996) (*Cost Sharing First Report and Order*).

<sup>7</sup> *Cost Sharing First Report and Order*, 11 FCC Rcd at 6888 ¶88; 47 C.F.R. §101.81(d).

<sup>8</sup> *Cost Sharing First Report and Order*, 11 FCC Rcd at 6888 ¶88; 47 C.F.R. §101.81.

<sup>9</sup> SNET Applications.

<sup>10</sup> *Id.* at 2 and Sched. B, Exh. 1.

<sup>11</sup> *Id.*

<sup>12</sup> See SNET Application for Station WLN554 (FCC File No. 9900666).

<sup>13</sup> *Id.* at 2.

<sup>14</sup> 47 C.F.R. § 101.81(d).

<sup>15</sup> We also note that incumbent 2 GHz licensees are allowed to make minor equipment changes without losing primary status. 47 C.F.R. § 101.81(h). Thus, even were SNET changing equipment, rather than correcting the information on its license regarding the equipment, it would not lose primary status.

deletion of a 2 GHz path from a license does not affect the primary or secondary status of other 2 GHz paths on the same license.<sup>16</sup>

5. SNET seeks to “reinstate” to the license for Station WLN555 an “existing” 2 GHz path from Station WLN555 to Station WLN554 at 2128.0 MHz,<sup>17</sup> by which we understand SNET to request authorization for a path that it was previously authorized to operate in connection with Station WLN555 but which path is incorrectly omitted from its current license. The Commission’s licensing records, which provide current license information, do not indicate that SNET is authorized to operate this path in connection with Station WLN555. Further, SNET has not provided sufficient evidence that Station WLN555 was previously authorized to operate the path. For example, SNET has not provided a copy of a previous license for Station WLN555 showing the path. While the coordination report attached to SNET’s current modification application<sup>18</sup> indicates that Comsearch previously coordinated the frequency for SNET, we do not find this to be sufficient evidence that we previously granted SNET authorization to operate this path.<sup>19</sup> Nor has SNET shown that, even if it was previously authorized to operate the path it seeks to “reinstate,” it did not subsequently modify the license for Station WLN555 to delete the path.<sup>20</sup> Finally, SNET supports its request by stating that the license for the receive station, Station WLN554, reflects the path, even though the license for Station WLN555 does not.<sup>21</sup> SNET is mistaken. Licenses indicate only the paths transmitted from a station, not the paths received at a station. Therefore, contrary to SNET’s contention, the license for Station WLN554 does not contain direct evidence that Station WLN555 is operating, or ever was authorized to operate, on the path SNET seeks to reinstate. Moreover, the existence of a 2 GHz path from Station WLN554 to Station WLN555 is not sufficient evidence of the authorization a “return” path from Station WLN555 to Station WLN554. For these reasons, we find that SNET has not adequately demonstrated that we should authorize it to operate the path at issue with primary status.<sup>22</sup> However, assuming that SNET’s application is otherwise proper,

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<sup>16</sup> Cf. Medina Electric Coop., Inc., *Order on Reconsideration*, DA 99-2314 ¶ 3 (WTB PSPWD rel. Oct. 26, 1999) (relocation of one of station’s two 2 GHz paths to 6 GHz band did not cause other 2 GHz path to be accorded secondary status); Utilicorp United, Inc., *Order on Reconsideration*, DA 99-2460, ¶ 5 (WTB PSPWD rel. Nov. 5, 1999) (change in antenna for station’s 6 GHz paths did not affect question of primary status for station’s 2 GHz paths).

<sup>17</sup> SNET Application for Station WLN555 (FCC File No. 9900665) at 2.

<sup>18</sup> *Id.* at Sched. C.

<sup>19</sup> For example, SNET might have forgotten to apply for a license for the frequency, or the application might have been denied as to that frequency.

<sup>20</sup> In this regard, we note that the license for Station WLN555 has been modified a number of times since 1987.

<sup>21</sup> SNET Application (FCC File No. 9900665) at 2.

<sup>22</sup> SNET also seeks to modify the license for Station WLN555 to correct various data on the license and to change the only currently authorized 2 GHz path to a 6 GHz path. As stated above, 2 GHz licensees that modify their licenses to make data corrections are not accorded secondary status. But since neither of Station WLN555’s two existing paths will be operating in the 2 GHz band, and since we are denying SNET’s request to authorize the path at 2128.0 MHz on a primary basis, we do not need to reach the the issue whether these modifications would cause Station WLN555 to be accorded secondary status.

pursuant to Section 101.81 of the Commission's Rules we will authorize SNET to operate the path on a secondary basis to ET systems.

6. ACCORDINGLY, IT IS ORDERED that the applications of SNET Cellular, Inc., FCC File Nos. 9900665 and 9900666, filed March 1, 1999, SHALL BE PROCESSED by the Public Safety and Private Wireless Division, Licensing and Technical Branch consistent with this *Order*.

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

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau