

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

In the Matter of)	
)	
GTECH CORPORATION)	FCC File No. 0000195561
)	
Application for Authority to Operate)	
Multiple Address System Station at)	
Mesa, Arizona)	

ORDER ON RECONSIDERATION

Adopted: June 1, 2001

Released: June 5, 2001

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

1. *Introduction.* On December 15, 2000, GTECH Corporation (GTECH) filed a petition for reconsideration (Petition) of the dismissal of the above-captioned application by the Licensing and Technical Analysis Branch (Branch), Public Safety and Private Wireless Division (Division), Wireless Telecommunications Bureau. GTECH requests that the Division reinstate its application for authorization to operate a Multiple Address System (MAS) station in Mesa, Arizona, *nunc pro tunc*. For the reasons set forth herein, we grant the Petition and reinstate the above-captioned application.

2. *Background.* On July 17, 2000, Salt River Project Agricultural & Power District (SRP) was granted special temporary authority (STA) to operate a facility under the call sign WPQP274 in Tempe, Arizona on MAS frequencies 952/928.43750 MHz.¹ On July 27, 2000, GTECH filed the above-captioned application for authority to operate a new MAS station on frequencies 952/928.43125 MHz in Mesa, Arizona,² about six miles from SRP's facility.³ GTECH submitted evidence of frequency coordination with its application that concluded that the proposed location for its system complied with the interference protection criteria set forth in Sections 101.105 and 101.147 of the Commission's Rules.⁴ GTECH's frequency coordination submission did not consider SRP's Tempe, Arizona operations under call sign WPQP274. On November 15, 2000, the Branch dismissed GTECH's application as defective, on the grounds that GTECH's proposed station was short-spaced with respect to SRP's Tempe, Arizona MAS facility, and did not contain the required short-spacing agreement.⁵ GTECH filed the subject petition on

¹ See Special Temporary Authority File No. 0000188009 for Call Sign WPQP274 (granted July 17, 2000). On September 11, 2000, SRP filed an application (FCC File No. 0000216989) for permanent authority to operate Station WPQP274. This application remains pending.

² FCC File No. 0000195561

³ Petition at 3.

⁴ FCC File No. 0000195561, Supplemental Showing Attachment - Letter from Sydney T. Black, Engineer, Black & Associates to Allen Ross, GTECH Corporation (Feb. 21, 2000), which indicated that there are no fixed co-channel systems less than 145 km (90 miles) or mobile co-channel systems less than 113 km (70 miles) or grandfathered co-channel systems within the search radius that required protection. See also 47 C.F.R. §§ 101.105, 101.147.

December 15, 2000, asking the Division to reinstate its application *nunc pro tunc* and grant the authorization.⁶

3. *Discussion.* In its Petition, GTECH asserts that the Branch's action was erroneous because the station to which the Branch referred in its dismissal letter as being short-spaced with GTECH's proposed location was operating pursuant to a STA.⁷ GTECH states that SRP's operation of the Tempe, Arizona facility should not have affected the final disposition of GTECH's application.⁸ We agree. The Commission issues STAs on a secondary, non-interfering basis.⁹ Section 101.3 of the Rules defines "secondary operations" as "radio communications which may not cause interference to operations authorized on a primary basis and which are not protected from interference from these primary operations."¹⁰ STAs do not affect the final disposition of any application or action pending before the Commission.¹¹

4. SRP was authorized under special temporary authority to operate its Tempe, Arizona facility under call sign WPQP274 on MAS frequencies 952/928.43750 MHz when GTECH filed its application for permanent authority on July 27, 2000. Because SRP's operations were secondary at the time GTECH filed its complete application, such operations should not have been considered in the Branch's analysis and disposition of the GTECH application. SRP did not file for permanent authority until September 11, 2000, which was after GTECH filed the subject application.¹² Therefore, we reverse the Branch's decision and reinstate the GTECH application for further processing by the Branch consistent with this *Order*.¹³

5. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by GTECH CORPORATION on December 15, 2000, is GRANTED to the extent stated herein and the GTECH application, FCC File No. 0000195561, for authority to operate a Multiple Address System Station in Mesa, Arizona on frequencies 952/928.43125 IS REINSTATED

⁵ See Notice of Application Dismissal, Reference No. 600701 (Nov. 16, 2000).

⁶ Petition at 4.

⁷ *Id.* at 3.

⁸ *Id.* at 3-4.

⁹ See 47 C.F.R. § 1.931(b).

¹⁰ 47 C.F.R. § 101.3.

¹¹ See, e.g., State of Oregon, *Memorandum Opinion and Order*, 15 FCC Rcd 11842, 11843 ¶ 3 (2000); Liberty Cable Co., Inc., *Hearing Designation Order and Notice of Opportunity for Hearing*, WT Docket No. 96-41, 11 FCC Rcd 14133, 14140-41 ¶ 24 (1996).

¹² Applications for permanent authorization are processed in the order received. See Amendment of the Commission's Rules Regarding Multiple Address Systems, WT Docket No. 97-81, *Report and Order*, 15 FCC Rcd 11956, 11973 (2000) (the 928/952/956 MHz bands will be licensed on a first-come, first-served basis).

¹³ A review of the FCC database indicates that there are no other stations short-spaced with GTECH's proposed location. Thus, GTECH's requested frequencies are currently available.

nunc pro tunc.

6. IT IS FURTHER ORDERED that the GTECH application, FCC File No. 0000195561, shall be processed by the Licensing and Technical Analysis Branch, Public Safety Private Wireless Division, in accordance with this *Order* and the applicable Commission rules.

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 COMMUNICATION

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Chief, Public Safety and Private Wireless Division
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