

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

In the Matter of)
)
TOWN TAXI, INC.)
)
Petition to Revoke License of Comtronics)
Corporation for Station WPPD215, Boston,)
Massachusetts)
)
And)
)
COMTRONICS CORPORATION)
)
Licensee of Trunked Industrial/Business Pool)
Radio Service Station WPPD215, Boston,)
Massachusetts)
)

MEMORANDUM OPINION AND ORDER

Adopted: July 26, 2001

Released: August 1, 2001

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

I. INTRODUCTION

1. On August 28, 2000, Town Taxi, Inc. (Town Taxi) submitted a petition seeking revocation of the above-captioned authorization granted to Comtronics Corporation (“Comtronics”).¹ For the reasons set forth below, we deny Town Taxi’s Petition. However, on our own motion, we initiate a proceeding to modify Comtronics’ license to remove the frequency 152.2775 MHz.

II. BACKGROUND

2. Frequency coordination in the Private Land Mobile Radio (PLMR) Services is the process by which a private entity certified by the Commission recommends the most appropriate frequencies for applicants in their designated radio service.² In 1986, the Commission adopted frequency coordination rules and procedures in an effort to maximize service to the public by assuring that the assignment and management of the PLMR spectrum is performed in an efficient and effective manner.³ The Commission has stated that accurate information is fundamental to its ability to review effectively the frequency

¹ Letter dated August 3, 2000 and received August 28, 2000 from John Ford, Town Taxi, Inc. to Office of the Secretary, Federal Communications Commission (Petition).

² Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order*, 103 FCC 2d 1093 (1986).

³ *Id.* at 1094-1095 ¶ 2.

recommendations made by frequency coordinators prior to licensing.⁴ A fundamental aspect of frequency coordination, in any radio service, is an accurate determination by the frequency coordinator of whether the proposed operations potentially will cause harmful interference to existing co-channel or adjacent licensees.⁵

3. In 1997, the Commission allowed centralized trunking in the PLMR bands between 150 MHz and 512 MHz.⁶ The Commission emphasized that trunking would be permitted only in those areas where exclusivity is recognized by the Commission or where an applicant/licensee has obtained the consent of all licensees whose service areas overlap a circle with a radius of 70 miles from the proposed trunked system's base station.⁷ In 1999, the Commission provided applicants with an alternate means of obtaining an authorization for a trunked system by obtaining concurrence whenever the 19 dBu (UHF) or 22 dBu (VHF) interference contour from a proposed trunked station intersects the 37 dBu service contour (UHF) or 39 dBu service contour (VHF) of any existing co-channel or adjacent channel station.⁸ In 2000, the Commission revised the definition of trunked systems authorized in the 150-512 MHz bands.⁹

4. On September 12, 1996, the Commission renewed Town Taxi's license for Taxicab Radio Service Station KCA660, Boston, Massachusetts.¹⁰ Comtronics subsequently filed an application for authorization to operate an Industrial/Business Pool (I/B) trunked station in the Boston, Massachusetts area.¹¹ The Personal Communications Industry Association (PCIA), a frequency coordinator, certified and submitted Comtronics' application to the Licensing and Technical Analysis Branch (Branch) of the Public Safety and Private Wireless Division.¹² On October 28, 1999, the Branch granted Comtronics' application to operate I/B trunked Station WPPD215 on various frequencies, including 152.2775 MHz.¹³

⁴ *Id.* at 1148 ¶ 111, 1150 ¶ 116.

⁵ *See generally* American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc., *Report and Order*, DA 01-1411 (WTB PSPWD June 11, 2001) at ¶¶ 13-15.

⁶ Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket No. 92-235, *Second Report and Order*, 12 FCC Rcd 14307, 14337-38 ¶¶ 56-59 (1997).

⁷ *Id.*

⁸ Replacement of Part 90 by Part 88 to Revise the Private Land Mobile Radio Services and Modify the Policies Governing Them, PR Docket No. 92-235, *Third Memorandum Opinion and Order*, 14 FCC Rcd 10922, 10926-27 ¶¶ 6-9 (1999).

⁹ 47 C.F.R. § 90.187. The Commission's amendment did not change the substance of the rule provision at issue here. *See* 1998 Biennial Regulatory Review, 47 C.F.R Part 90, Private Land Mobile Radio Services, WT Docket No. 98-182, *Report and Order and Further Notice of Proposed Rule Making*, 15 FCC Rcd 16673 (2000).

¹⁰ File No. 9609R157370.

¹¹ *See* FCC File No. 9905A038730.

¹² *See* FAC# 991370517.

¹³ *See* License for Station WPPD215.

5. By letter received June 2, 2000, Town Taxi requested that the Commission reconsider Comtronics' license grant.¹⁴ Town Taxi cited concerns over potential interference to its Station KCA660's operations while using frequency 152.270 MHz.¹⁵ Specifically, Town Taxi argues that the subject authorization was granted in error because Comtronics did not obtain Town Taxi's consent.¹⁶ Town Taxi submitted a study from the Industrial Telecommunications Association, Inc. (ITA) showing that Comtronics' interference contour (19 dBu) overlapped Town Taxi's service area contour (37 dBu). Therefore, Town Taxi urged that the Commission should set aside the license grant.¹⁷

6. On June 30, 2000 the Branch dismissed Town Taxi's Request for failure to timely file within thirty days of the grant of the license for Station WPPD215 and for not filing with the Secretary's Office as required by the Commission's Rules.¹⁸ On August 28, 2000, Town Taxi filed a petition seeking revocation of Comtronics' license for Station WPPD215.¹⁹ Town Taxi argues that the public interest requires consideration of the merits of Town Taxi's revocation petition.²⁰ Town Taxi repeats its consent and interference arguments and requests that the Commission revoke Comtronics' license.²¹

7. On February 15, 2001 the Branch requested that the PCIA respond to the Town Taxi Petition and propose a solution, if in fact the Comtronics application had been incorrectly coordinated.²² By letter dated March 12, 2001, the PCIA stated that Town Taxi's license might not have been accounted for and proposed modifying the Comtronics license for Station WPPD215 by deleting frequency 152.2775 MHz.²³

III. DISCUSSION

8. We will treat Town Taxi's Petition as an informal request for Commission action under Section 1.41 of the Commission's Rules.²⁴ Town Taxi argues that revocation is warranted because Comtronics' operation will cause interference to Town Taxi's operations.²⁵ Town Taxi attaches an

¹⁴ See Letter from John Ford, Town Taxi, Inc. to Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (dated May 26, 2000).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ See Letter from Mary Shultz, Chief, Licensing and Technical Analysis Branch, to John Ford, Town Taxi, Inc. (dated June 30, 2000).

¹⁹ See Petition.

²⁰ *Id.*

²¹ *Id.*

²² Letter from Mary Shultz, Chief, Licensing and Technical Analysis Branch to PCIA (dated February 15, 2001).

²³ Letter from PCIA to Tracy Simmons, Licensing and Technical Analysis Branch, Federal Communications Commission (dated March 12, 2001).

²⁴ 47 C.F.R. § 1.41.

²⁵ See Petition.

interference analysis prepared by the ITA which states that Comtronics' interference contour (19 dBu) overlaps Town Taxi's service area (37 dBu) contour.²⁶ Town Taxi states that it was never asked to consent to Comtronics' proposed trunked operation. Further, Town Taxi represents that it does not intend to consent to Comtronics' trunked operation. The PCIA admits "that there may be a Town Taxi licensed site that was not accounted for" and recommends modifying Comtronics' license in order to address Town Taxi's concerns.

9. Based upon our analysis of the record in this proceeding, we conclude that the Comtronics application should not have been coordinated for the frequency 152.2775 MHz because it did not provide the requisite interference protection to Town Taxi's already licensed operations. We find that initiation of revocation proceedings against Comtronics' station is unnecessary in the instant case because the PCIA has proposed changes to the Comtronics license designed to eliminate the described interference to Town Taxi's operations. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.²⁷ Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.²⁸ In this connection, we note that the proposed modification would serve the public interest by preserving the existing coverage areas of the affected parties and preventing harmful interference, while not unduly disrupting Comtronics' operations.

10. As discussed above, the coordination of Comtronics' application was defective. Thus, we believe that a modification of the Comtronics license to remove the operating frequency 152.2775 MHz is appropriate to prevent harmful interference. In accordance with Section 1.87(a) of the Commission's Rules,²⁹ we will not issue a modification order until Comtronics has received notice of our proposed action and has had an opportunity to interpose a protest. To protest the modification, Comtronics must, within thirty days of the release date of this *Memorandum Opinion and Order*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554. If no protest is timely filed, Comtronics will have waived its right to protest the modification and will be deemed to have consented to the modification.

IV. CONCLUSION

11. For the reasons stated above, we conclude that the grant of Comtronics' application was defective. As a result the license grant to Comtronics was defective. Accordingly, we propose to modify Comtronics' license to delete the frequency 152.2775 MHz in order to prevent Town Taxi, an adjacent licensee, from experiencing harmful interference.

²⁶ *Id.*

²⁷ 47 U.S.C. § 316(a)(1).

²⁸ *Id.*

²⁹ 47 C.F.R. § 1.87(a).

V. ORDERING CLAUSES

12. ACCORDINGLY, IT IS ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, the Petition for Revocation filed by Town Taxi, Inc. on August 28, 2000, IS DENIED.

13. IT IS PROPOSED that, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, the license for Private Land Mobile Radio Services Station WPPD215, held by Comtronics Corporation, BE MODIFIED by deleting the frequency 152.2775 MHz.

14. IT IS FURTHER ORDERED pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.87(i) of the Commission's Rules, 47 C.F.R. § 1.87(i) that this *Memorandum Opinion and Order* shall be served by certified mail, return receipt requested upon Comtronics Corporation, Attention: Catherine Leonard, 1230 Furnace Brook Parkway, Quincy, Massachusetts 02169-4718.

15. 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