

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

In the Matter of)
)
ASSOCIATION OF PUBLIC SAFETY)
COMMUNICATIONS OFFICIALS)
INTERNATIONAL, INC., AND FORESTRY)
CONSERVATION COMMUNICATIONS)
ASSOCIATION)
)
Request to Set Aside or Revoke the Grant)
of the License of Chandler Fire Department for)
Station WPQB602, Chandler, Oklahoma)
)
and)
)
CHANDLER FIRE DEPARTMENT)
)
Licensee of Public Safety Pool Station WPQB602,)
Chandler, Oklahoma)

MEMORANDUM OPINION AND ORDER

Adopted: August 3, 2001

Released: August 3, 2001

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

I. INTRODUCTION

1. On January 26, 2001, the Association of Public Safety Communications Officials International, Inc. (APCO) and the Forestry Conservation Communications Association (FCCA) requested that the Commission set aside or revoke the license for Station WPQB602, Chandler, Oklahoma.¹ This station is licensed to the Chandler Fire Department (Chandler) for operation on frequencies 151.250 MHz and 159.450 MHz. For the reasons set forth below, we deny their request. On our own motion, however, we initiate a proceeding to modify Chandler's license.

II. BACKGROUND

2. On January 18, 2000, APCO, a FCC-certified frequency coordinator,² submitted an application to the Commission on behalf of Chandler seeking authorization to operate on frequencies

¹ Request to Set Aside or Revoke the License for Station WPQB602 filed by the Association of Public Safety Communications Officials International, Inc., and the Forestry Conservation Communications Association (Jan. 26, 2001) (Request to Set Aside or Revoke).

² A frequency coordinator is a private-sector entity or organization that recommends the most appropriate private land mobile radio (PLMR) frequencies for use by licensees. *See* 47 C.F.R. § 90.7. In 1986, the Commission designated FCCA as a Public Safety Radio Services (PSRS) frequency coordinator in the Forestry Conservation Radio Service. At that time, the Commission also designated APCO as a PSRS frequency coordinator for the Local Government Radio Service and the Police Radio Service. *See* Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order*, PR Docket No. 83-737, 103 FCC 2d 1093, 1127-1130 ¶¶ 73-76.

151.250 MHz and 159.450 MHz.³ Under the Commission's Rules, the FCCA was required to coordinate this application because it was the certified frequency coordinator for these frequencies.⁴ Notwithstanding this defect, on April 17, 2000, the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (Branch) granted Chandler's application with call sign WPQA354. Due to an administrative error, on May 9, 2000, the Branch granted a duplicate copy of Chandler's initial license application and the authorization associated with this grant was given call sign WPQB602.⁵ On May 12, 2000, APCO requested that the Branch set aside the license grant for Station WPQA354 because the FCCA had not consented to the assignment of the subject frequencies to Chandler.⁶ On May 26, 2000, the Branch set aside the license grant for Station WPQA354 for further review. No action was taken with respect to Station WPQB602.

3. On June 6, 2000, the Branch returned Chandler's FCC File No. A049434 to APCO and requested that FCCA approval be obtained.⁷ On September 20, 2000, APCO returned the application to the Branch indicating that FCCA's approval could not be obtained.⁸ APCO requested that the Branch make the determination as to whether these frequencies should be granted to Chandler for its radio operations.⁹ On November 8, 2000, the Branch dismissed this application.¹⁰

4. Meanwhile, The State of Oklahoma (Oklahoma) - - which operates a statewide forest fire suppression system on frequencies 151.250 MHz and 159.450 MHz under call sign KA5112 - - opposed the grant of the license for Station WPQB602 because of harmful interference to the state's public safety radio system.¹¹ FCCA and APCO have repeatedly attempted to resolve the matter, but to no avail.¹² Oklahoma State Forestry Division (State Forestry) also has attempted - - without success - - to negotiate an agreement that would enable Chandler to continue operations while ensuring that harmful interference to the state's public safety communications system is eliminated.¹³ Because of harmful interference to the state's forest fire suppression system caused by Chandler's operations, FCCA and Oklahoma continue to

³ The application was assigned FCC File No. A049434.

⁴ See 47 C.F.R. § 90.20(c)(3).

⁵ The copy of the application was assigned FCC File No. D136621.

⁶ See Letter from Ron Haraseth, Director, APCO International, to Mary Shultz, Chief, Licensing and Technical Analysis Branch, the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (May 12, 2000).

⁷ See Letter from FCC, Gettysburg, Pennsylvania, to APCO (June 6, 2000).

⁸ See Letter from Mary M. Shultz, Chief, Licensing and Technical Analysis Branch, the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau to James R. Hugueley, Chief, Chandler Fire Department, Chandler, Oklahoma (Nov. 8, 2000).

⁹ *Id.*

¹⁰ *Id.*

¹¹ See Letter from Patrick A. McDowell, Assistant Director, Forestry Services, Department of Agriculture, State of Oklahoma, to Mary Shultz, Chief, Licensing and Technical Analysis Branch, the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (Oct. 30, 2000) (McDowell/Shultz Letter).

¹² See Letter from Richard S. DeMello, Director at Large, FCCA, to Mary Shultz, Chief, Licensing and Technical Analysis Branch, the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (Aug. 25, 2000) (DeMello/Shultz Letter II).

¹³ See Letter from Patrick A. McDowell, Assistant Director, Forestry Services, Department of Agriculture, State of Oklahoma, to Randy Hugueley, Fire Chief, Chandler Fire Department, Chandler, Oklahoma (Dec. 5, 2000).

oppose Chandler's use of the subject frequencies.¹⁴ Accordingly, on January 26, 2001, APCO and FCCA filed the instant request to set aside the grant of the license for Station WPQB602.¹⁵

III. DISCUSSION

5. Chandler submits that operating its radio station on frequencies 151.250 MHz and 159.450 MHz would help relieve congestion on frequency 154.400 MHz in Lincoln County.¹⁶ According to Chandler, the county's seventeen fire departments, four ambulance services, and emergency management agencies all operate on 154.400 MHz causing severe overcrowding on the channel.¹⁷ After monitoring 151.250 MHz and 159.450 MHz - - and not hearing any radio traffic from Oklahoma's Forestry Division units¹⁸ - - Chandler maintains that these frequencies are the most feasible for its use.¹⁹ Contrary to the state's position, Chandler argues that the State Forestry operates in the eastern and northwestern sections of the state at such a great distance from Chandler's station (specifically, 100 miles) that interference is unlikely.²⁰ Furthermore, Chandler submits, the State Forestry relies on local fire departments to handle the area outside the protected land in which the State Forestry operates daily.²¹ Chandler submits that since the license grant on April 17, 2000, it has purchased equipment and has been operating on the subject frequencies. If the grant is withdrawn, argues Chandler, it will be out the money spent for equipment, as well as other costs associated with changing frequencies.²²

6. The State Forestry views the use of the subject frequencies by Chandler as a significant threat to the state's entire forestry communications network because these frequencies are used by two State Forestry regional dispatch centers impacting 75 percent of its repeater network.²³ The state represents that it operates twelve repeaters in eastern Oklahoma using the subject frequencies and Chandler's operations are causing harmful interference to the state's public safety communications system.²⁴ As an example, State Forestry cites an occurrence in August of 2000, when Chandler began to operate its repeater regularly on the subject frequencies and interrupted the state's communications in the Wilburton area.²⁵ When Chandler is transmitting, a handheld radio used by the state's personnel on the ground has trouble overcoming Chandler's signal to trigger the state's repeaters.²⁶ The state reports that

¹⁴ See Petition to Set Aside or Revoke.

¹⁵ *Id.*

¹⁶ See Letter from Randy Huguely, Fire Chief, Chandler Fire Department, Chandler, Oklahoma, to Mary Shultz, Chief, Licensing and Technical Analysis Branch, the Public Safety and Private Wireless Division, Wireless Telecommunications Bureau (May 19, 2000) (Chandler/FCC Letter).

¹⁷ *Id.*

¹⁸ Chandler's Fire Chief, James R. Huguely, maintains that since he became Fire Chief in 1995, he has never seen or heard of a State Forestry vehicle or crew fight fire within a 70-mile radius of Chandler, Oklahoma. See Letter from James R. Huguely, Fire Chief, Chandler Fire Department, Chandler, Oklahoma, to Pat A. McDowell, Assistant Director, Forestry Services, State of Oklahoma (June 5, 2000).

¹⁹ Chandler/FCC Letter.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ See Letter from Roger L. Davis, Director, Forestry Services, Department of Agriculture, State of Oklahoma, to Joe Friend, FCCA (Mar. 23, 2000) (Davis Letter).

²⁴ *Id.* at 1.

²⁵ McDowell/Shultz Letter at 1-2.

²⁶ *Id.* at 2.

its fire crews no longer have reliable communications from a fire scene to dispatch.²⁷ According to State Forestry, the safety of over half a million people across a 10,000 square mile area is at stake.²⁸ Nearly 300 rural fire departments interact with State Forestry on a daily basis on the subject frequencies.²⁹

7. State Forestry submits that it has statewide responsibility for wildfire suppression.³⁰ It responds to an average of 2,000 wildland fires annually.³¹ State Forestry also operates a mobile incident command post equipped with temporary repeaters, base stations and mobiles on the subject frequencies throughout the state of Oklahoma as needed.³² The state additionally notes that not all its emergency responses have been purely wildland fires.³³ In response to devastating tornadoes during May of 1999, State Forestry dispatched a team of law enforcement personnel to Moore, Oklahoma, to assist with the containment and security of the affected area at night.³⁴ State Forestry maintains that in order to perform in this capacity, it must have the ability to establish a temporary communications network at any time and anywhere within the state.³⁵

8. Section 90.20(c)(3) of the Commission's Rules designates the FCCA as the exclusive frequency coordinator for the frequencies in question.³⁶ Chandler's application should not have been granted because FCCA refused to coordinate the frequencies. We believe corrective action is necessary because State Forestry, which has statewide jurisdiction for forest fires, has continually received serious interference from Chandler on frequencies 151.250 MHz and 159.450 MHz.

9. FCCA and APCO have jointly requested that Chandler's license grant be set aside or revoked.³⁷ We deny their request because we believe that Chandler's license may be modified in a manner that will allow Chandler to operate without causing interference to the State Forestry. FCCA - - the designated frequency coordinator for Forestry Conservation Radio frequencies - - has suggested two other channels (153.740 MHz and 155.070 MHz) that Chandler can use without causing harmful interference to the state's operations.³⁸ Section 316(a) permits us to modify a station license if the action will promote the public interest, convenience, and necessity.³⁹ We believe that modifying Chandler's license to move its operations to 153.740 MHz and 155.070 MHz and reducing the station's effective

²⁷ *Id.*

²⁸ Davis Letter at 1.

²⁹ *Id.*

³⁰ *Id.*

³¹ See Letter from Patrick A. McDowell, Assistant Director, Forestry Services, Department of Agriculture, State of Oklahoma, to Randy Hugueley, Fire Chief, Chandler Fire Department, Chandler, Oklahoma (June 23, 2000) (McDowell/Hugueley Letter I).

³² Davis Letter at 1.

³³ McDowell/Hugueley Letter I at 2.

³⁴ *Id.* at 2-3.

³⁵ Davis Letter at 1-2.

³⁶ 47 C.F.R. § 90.20(c)(3).

³⁷ See Petition to Set Aside to Revoke.

³⁸ See E-mail from Ken Goodwin, FCCA Region 2 coordinator, to John Lane, Esq. (June 17, 2001).

³⁹ 47 U.S.C. § 316(a). Section 316(a) requires that we notify the affected station(s) of the proposed modification(s), the public interest reasons for the action, and afford at least 30 days to respond.

radiated power (ERP)⁴⁰ from 426.5 W to 50 W would indeed serve the public interest. Chandler would be able to operate on two different radio frequencies while eliminating dangerous disruption to State Forestry's radio communications. We also note that FCCA finds that 50 W ERP would be sufficient to provide Chandler with coverage throughout Lincoln County, Oklahoma.⁴¹

10. In accordance with Section 1.87(a) of the Commission's Rules,⁴² this *Order* will not become final until the licensee has received notice of our action and an opportunity to protest the modification. Accordingly, the licensee, Chandler, and any other interested licensee⁴³ has thirty days from the release date of this *Order* to protest the proposed license modification. To protest the modification, an interested party must, within thirty days of the release of this *Order*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest.⁴⁴ The protest must be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, S.W., Room TW-A325, Washington, D.C. 20554. If no protest is timely filed, the right to file a protest will be deemed waived, and Chandler will be deemed to have consented to the modification.⁴⁵

IV. CONCLUSION

11. For the reasons stated above, we conclude that the grant of Chandler's license application, FCC File No. D136621, was defective. Accordingly, we propose to modify Chandler's license to modify the frequencies assigned from 151.250 MHz and 159.450 MHz to 153.740 MHz and 155.070 MHz and to reduce the ERP from 300 W to 50 W on Chandler's authorization for Station WPQB602.

V. ORDERING CLAUSES

12. ACCORDINGLY, IT IS ORDERED, pursuant to Sections 4(i) and 312 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 312, and Section 1.91 of Commission's Rules, 47 C.F.R. § 1.91, that the Request to Set Aside or Revoke filed by APCO and FCCA on January 26, 2001, 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) and 316, and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, the license for Station WPQB602, held by Chandler Fire Department, BE MODIFIED by deleting frequencies 151.250 MHz and 159.450 MHz and substituting frequencies 153.740 MHz and 155.070 MHz, respectively, and by reducing the authorized effective radiated power for FB2 operation on frequency 153.740 MHz from 436.5 watts to 50 watts.

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 the *Order of Modification* shall be served by certified mail, return receipt requested upon Chandler Fire Department, Attention: Fire Department and Ambulance Service Chief, 220 South Cleveland, Chandler, Oklahoma 74834.

⁴⁰ Effective radiated power (ERP) is the power supplied to an antenna multiplied by the relative gain of the antenna in a given direction. See 47 C.F.R. § 90.7.

⁴¹ See E-mail from Ken Goodwin, FCCA Region 2 coordinator, to John Lane, Esq. (June 17, 2001).

⁴² 47 C.F.R. § 1.87(a).

⁴³ 47 C.F.R. § 1.87(c).

⁴⁴ 47 C.F.R. § 1.87(d).

⁴⁵ 47 C.F.R. § 1.87(g), (h).

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 COMMUNICATION COMMISSION

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