

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

In the Matter of	)	
	)	
PREFERRED COMMUNICATIONS	)	
SYSTEMS, INC.	)	File Nos. D123081 – D123084, D123094-
	)	D123124, D123125, and D123126 –
For Minor Modifications of Various 800	)	D123134
MHz General Category Stations	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: November 30, 2001**

**Released: December 3, 2001**

By the Chief, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. This order addresses two Petitions for Reconsideration (Petitions) filed on January 12, 2000 and February 11, 2000,<sup>1</sup> respectively, by Preferred Communications, Inc. (Preferred). Preferred seeks reconsideration of the dismissal of the above-captioned notifications of minor modification by the Deputy Chief, Licensing and Technical Analysis Branch (Branch), Commercial Wireless Division, Wireless Telecommunications Bureau.<sup>2</sup> For the reasons set forth below, we deny Preferred's Petitions.

2. Preferred is the licensee of various Specialized Mobile Radio (SMR) stations in Puerto Rico in the former 800 MHz General Category pool.<sup>3</sup> Preferred filed the above-captioned applications<sup>4</sup> to notify the Commission of minor modifications to certain SMR licenses. On December 13, 1999 and January 14, 2000, the Branch dismissed Preferred's notifications as defective because they did not contain a frequency coordination statement, as required by section 90.175 of the Commission's rules.<sup>5</sup> On January 12, 2000 and February 11, 2000, Preferred filed its Petitions seeking reconsideration.

<sup>1</sup> Petitions for Reconsideration (Petitions), filed by Preferred Communications, Inc. on January 12, 2000 and February 11, 2000. We consolidate these Petitions because the issues and arguments presented are identical. Preferred's February 11, 2000 Petition seeks reconsideration of the Branch's action regarding File No. D123125.

<sup>2</sup> See Letters from Terry Fishel, Deputy Chief, Licensing and Technical Analysis Branch, Commercial Wireless Division, Wireless Telecommunications Bureau to David Kaufman, Esq. (counsel for Preferred), dated December 13, 1999, and Notice of Application Dismissal, dated January 14, 2000, regarding File No. D123125 (Branch Letters).

<sup>3</sup> In the *800 MHz Report and Order*, the Commission reallocated the former 150 General Category pool channels to the SMR pool. See Amendment of Commission's Rules to Facilitate Future Development of SMR Systems in the 800 MHz Frequency Band, PR Docket No. 93-144, *First Report and Order*, *Eighth Report and Order*, and *Second Further Notice of Proposed Rule Making*, 11 FCC Rcd 1463 (1995) (*800 MHz Report and Order*).

<sup>4</sup> The applications were submitted on FCC Form 601 - Application for Wireless Telecommunications Bureau Radio Service Authorization.

<sup>5</sup> 47 C.F.R. § 90.175.

3. Preferred argues that the Branch's dismissal of its notifications was improper because frequency coordination is not required for the notification of minor modifications to 800 MHz licenses, including modifications to former General Category licenses, in accordance with section 90.693 of the Commission's rules.<sup>6</sup> Preferred further argues that the Commission eliminated the coordination requirement for 800 MHz former General Category licensees in its *ULS Order*.<sup>7</sup> Finally, Preferred argues that the Branch's action violates the Paperwork Reduction Act of 1980<sup>8</sup> because the required frequency coordination is a revised collection requirement.

4. We find that Preferred's notifications were properly dismissed. Section 90.175 of the Commission's rules<sup>9</sup> requires that, with certain enumerated exceptions,<sup>10</sup> an applicant seeking a change in existing facilities is required to include a showing of frequency coordination from a certified frequency coordinator with any application to modify its license. Rule section 90.175(e)<sup>11</sup> provides that 800 MHz applicants are subject to this coordination requirement. Although Preferred's minor modifications require only the filing of a notification under section 90.693 of the Commission's rules, rather than an application requiring prior Commission approval, section 90.175 does not exempt modifications of former 800 MHz General Category licensees from the frequency coordination requirement. Thus, Preferred's notifications on FCC Form 601 were defective and were properly dismissed.

5. Preferred's argument that the Commission eliminated the frequency coordination requirement in the *ULS Order* is misplaced. In the *ULS Order*, the Commission did not amend rule section 90.175 to eliminate the coordination requirement for minor modifications filed by 800 MHz former General Category licensees. Rather, the Commission modified rule section 101.103<sup>12</sup> to eliminate coordination requirements for certain microwave license modifications.<sup>13</sup> Finally, the Commission did not change the pre-existing coordination requirement set forth in section 90.175 or create a new collection requirement in the *ULS Order*. The Branch's actions do not violate the Paperwork Reduction Act of 1980<sup>14</sup> because frequency coordination for modification of former General Category licenses was required by the Commission's rules<sup>15</sup> at the time Preferred filed its notifications.

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<sup>6</sup> 47 C.F.R. § 90.693. Incumbent 800 MHz SMR licensees are allowed to modify their station licenses as long as the station's original field strength contour is not expanded.

<sup>7</sup> See Petition at 4; see also Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, WT Docket No. 98-20, *Report and Order*, 13 FCC Rcd 21027 (1998) (*ULS Order*).

<sup>8</sup> 44 U.S.C. §§ 3501-3520.

<sup>9</sup> 47 C.F.R. § 90.175.

<sup>10</sup> See 47 C.F.R. § 90.175 (i).

<sup>11</sup> 47 C.F.R. § 90.175(e).

<sup>12</sup> 47 C.F.R. § 101.103.

<sup>13</sup> See *ULS Order* at 21067-68, ¶¶ 87 and 88.

<sup>14</sup> 44 U.S.C. §§ 3501-3520.

<sup>15</sup> 47 C.F.R. § 90.175.

6. ACCORDINGLY, IT IS ORDERED that, pursuant to sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 405, and sections 0.331, 90.175, and 1.106 of the Commission's rules, 47 C.F.R. §§ 0.331, 90.175 and 1.106, the Petitions for Reconsideration filed by Preferred Communications, Inc. on January 12, 2000 and February 11, 2000, respectively, are hereby DENIED.

## FEDERAL COMMUNICATIONS COMMISSION

William W. Kunze, Chief  
Commercial Wireless Division  
Wireless Telecommunications Bureau