

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

In the Matter of	)	
	)	
CALUMET OIL COMPANY	)	File No. 00008852277
	)	
Petition for Reconsideration of Dismissal of	)	
Application for Special Temporary Authority	)	
to for 800 MHz Industrial/Land Transportation	)	
Service Radio Station Operations in the Vicinity	)	
of Bartlesville, Oklahoma	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: April 22, 2003**

**Released: April 24, 2003**

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

1. *Introduction.* On June 7, 2002, Calumet Oil Company (Calumet) filed a Petition for Reconsideration (Petition)<sup>1</sup> of the May 16, 2002 dismissal<sup>2</sup> by the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (Branch) of Calumet's May 13, 2002 application requesting Special Temporary Authority (STA).<sup>3</sup> For the reasons set forth below, we deny the Petition.

2. *Background.* Section 1.931 of the Commission's Rules provides for the grant of special temporary authority (STA) in the Private Wireless Services under five circumstances:

- in emergency situations;
- to permit the restoration or relocation of existing facilities to continue communication service;
- to conduct tests to determine necessary data for the preparation of an application for regular authorization;
- for a temporary, non-recurring service where a regular authorization is not appropriate; or
- in other situations involving circumstances which are of such an extraordinary nature that delay in the institution of service would seriously prejudice the public interest.<sup>4</sup>

When seeking an STA, the applicant must fully describe the nature of the circumstances that, in its opinion, warrant grant of the requested STA.<sup>5</sup>

3. Calumet is engaged in petroleum production activities at various sites located throughout the southwestern United States.<sup>6</sup> In its STA application, filed May 13, 2002, Calumet noted that it had

<sup>1</sup> Calumet Oil Company, Petition for Reconsideration (filed June 7, 2002) (Petition).

<sup>2</sup> Notice of Dismissal, File No. 0000885227, Reference No. 1428737 (WTB PSPWD LTAB May 16, 2002) (Dismissal Notice).

<sup>3</sup> FCC File No. 0000885227 (filed May 13, 2002) (STA Application).

<sup>4</sup> 47 C.F.R. § 1.931(b)(2)(i)-(v).

<sup>5</sup> 47 C.F.R. § 1.931(b)(3).

<sup>6</sup> STA Application at 1.

acquired certain production facilities that were supported by a 800 MHz two-way mobile communications system.<sup>7</sup> It had believed the system to be properly licensed, but recently discovered that the licenses inadvertently had been permitted to expire.<sup>8</sup> Calumet stated that the system is used to dispatch personnel to respond to emergency situations after working hours, and at unmanned petroleum boosters, tank batteries, and pumping stations.<sup>9</sup> Calumet noted that the frequencies had been assigned to another party, but, based on its monitoring of the channels, the licensee had not yet commenced operations.<sup>10</sup> Calumet argued that grant of an STA was authorized either as restoration of a facility to continue existing service or because denial of the request would prejudice the public interest.<sup>11</sup>

4. On May 16, 2002, the Branch denied Calumet's request. It stated, "The initiation of service you have described is not adequate justification for such an authorization."<sup>12</sup>

5. *Discussion.* On reconsideration, Calumet argues that the Branch erroneously presumed that Calumet intended to seek authority for the initiation of new service, as opposed to restoring Calumet's existing facilities.<sup>13</sup> In neither its STA application nor its Petition has Calumet identified the system's former call sign(s). The Commission's Universal Licensing System licensing database does not reflect any prior license on the requested frequencies at Calumet's location. Thus, it appears that any predecessor license(s) expired sufficiently long ago that Calumet's STA application cannot reasonably be described as requesting "restoration or relocation of existing facilities to continue communication service."<sup>14</sup> Rather, the request is most properly characterized as an application to initiate new service, for which an STA is not available. Thus, the Branch concluded correctly that Calumet had not sufficiently demonstrated that grant of an STA was warranted under Section 1.931(b)(2)(ii).

6. Moreover, as noted by Calumet, the frequencies for which Calumet seeks authorization have been assigned to other licensees.<sup>15</sup> We, as a general matter, do not authorize, by STA, a third party to use spectrum already licensed to another entity on an exclusive basis.<sup>16</sup> Of course, Calumet is free to enter into private contractual arrangements and terms with the licensee(s) of the subject frequencies, consistent with the Commission's rules governing operations on the subject frequency.

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<sup>7</sup> *Id.*

<sup>8</sup> *Id.*; Petition at 1.

<sup>9</sup> STA Application at 1.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 2 (citing 47 C.F.R. § 1.931(b)(2)(ii), (v)).

<sup>12</sup> Dismissal Notice at 1.

<sup>13</sup> Petition at 1.

<sup>14</sup> 47 C.F.R. § 1.931(b)(2)(ii).

<sup>15</sup> Frequency 855.125 MHz was subsequently licensed to American Electric Power Corporation (AEP) under Call Sign WPCM988, and frequencies 855.1375 and 855.1625 were subsequently licensed to Coastal Product Service, Inc. (Coastal) under Call Sign WPTE854. The frequencies Calumet seeks to use are licensed on an exclusive basis to AEP and Coastal.

<sup>16</sup> See *Midwest Bell Communications, Order on Reconsideration*, 15 FCC Rcd 11005, 11007 ¶ 7 (WTB PSPWD 2000).

7. Finally, it appears that Calumet and/or its predecessor-in-interest may have operated the facility for a substantial period of time without Commission authorization. Accordingly, we are referring this matter to the Commission's Enforcement Bureau for such action as it deems appropriate.<sup>17</sup>

8. *Conclusion.* For the reasons set forth above, we find no basis for reversing the Branch's decision. The Branch's action was warranted based on the facts presented, and was consistent with Commission precedent. Therefore, we deny Calumet's Petition.

9. 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 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the Petition for Reconsideration filed by Calumet Oil Company on June 7, 2002 is DENIED.

10. 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

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<sup>17</sup> See R/M Management Co., Inc., *Memorandum Opinion and Order*, DA 02-3608, ¶ 10 (WTB PSPWD rel. Dec. 31, 2002) (citing Southeast Telephone, Inc., *Order*, 15 FCC Rcd 15702, 15703-04 ¶ 5 (WTB CWD PRB 2000); Florida Power and Light Company, *Notice of Apparent Liability for Forfeiture*, 14 FCC Rcd 7203, 7203 ¶ 1 (WTB ECID 1999)).