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

In the Matter of Application of	)	
	)	
UNIVERSITY OF SOUTHERN CALIFORNIA	)	File No. 0001030124
	)	
For a new Industrial/Business Pool Station at Los Angeles, California	)	

ORDER

Adopted: November 19, 2004 **Released: November 29, 2004**

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

1. *Introduction*. On September 16, 2002, the University of Southern California (USC) filed the above application for authorization for Station WPWI786, in Los Angeles, California.[1] The Licensing and Technical Analysis Branch (Branch) of the former Public Safety and Private Wireless Division[2] granted the application under Call Sign WPWI786 on November 25, 2002. On December 15, 2002, Henry Radio, Inc. (Henry) asked that we revoke the grant of the license for Station WPWI786.[3] On December 27, 2002, License Communications Services (LCS) also asked that we revoke the grant of the license for Station WPWI786.[4] On December 27, 2002, the Branch reversed the grant of USC's application and terminated the license for Station WPWI786, pending resolution of the Henry and LCS petitions. For the reasons set forth below, we grant the Henry and LCS petitions and affirm our termination of the WPWI786 license.

2. *Background*. We affirm our termination of the WPWI786 license because the frequency coordination for the license was incomplete. 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 designated radio services.[5] 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

[1] FCC File No. 0001030124.

[2] The Commission reorganized the Wireless Telecommunications Bureau effective November 13, 2003, and the relevant duties of the Public Safety and Private Wireless Division were assumed by the Public Safety and Critical Infrastructure Division. *See* Reorganization of the Wireless Telecommunications Bureau, *Order*, 18 FCC Rcd 25414, 25414 ¶ 2 (2003).

[3] *See* Letter dated Dec. 15, 2002 from Ted S. Henry, President of Henry Radio, Inc. to Secretary, Federal Communications Commission (Henry Petition). On December 23, 2002, USC filed an opposition to the Henry Petition. *See* Letter dated Dec. 23, 2002 from Tom Hehir, Deputy Chief, Department of Public Safety, USC, to Secretary, Federal Communications Commission (USC Opposition to Henry Petition).

[4] Petition for Reconsideration of the Grant of License WPWI786 to USC on 472/475.700 MHz (dated Dec. 23, 2002, filed Dec. 27, 2002) (LCS Petition). On January 17, 2003, USC filed an opposition to the LCS Petition. *See* Letter dated Jan. 17, 2003 from Tom Hehir, Deputy Chief, Department of Public Safety, USC, to Secretary, Federal Communications Commission (USC Opposition to LCS Petition). LCS filed a reply to USC's opposition. *See* Reply to USC Opposition to LCS Petition (dated Jan. 24, 2003).

[5] Frequency Coordination in the Private Land Mobile Radio Services, *Report and Order,* PR Docket No. 83-737, 103 FCC 2d 1093 (1986).

effective manner.[6] The Commission has stated that accurate information is fundamental to its ability to review effectively the frequency recommendations made by Commission-certified frequency coordinators in connection with the Commission's licensing determinations.[7] A fundamental aspect of frequency coordination, in any radio service, is an accurate determination by a Commission-certified coordinator as to whether proposed operations could cause harmful interference to existing co-channel or adjacent channel licensees.[8]

3. USC's application for Station WPWI786, Los Angeles, California, was coordinated by the Personal Communications Industry Association (PCIA) on May 23, 2002,[9] and subsequently granted on November 25, 2002. USC's license authorized centralized trunked operation on the frequency pairs 470/473.700 MHz, 470/473.725 MHz and 472/475.700 MHz. Under the Commission's Part 90 rules, such operations may be authorized only if the applicant satisfies (1) the loading requirements of Section 90.313 with respect to co-channel licensees[10] and (2) the interference criteria of TIA/EIA/TSB-88 (TSB-88) with respect to adjacent channel licensees.[11]

4. On December 15, 2002, Henry asked that we revoke the grant of the license for Station WPWI786. Henry argues that the coordination of Station WPWI786 was defective because adjacent channel licensees would suffer more than the maximum five percent signal degradation permitted by TSB-88 standards.[12] In addition, Henry contends that USC's station would fail to comply with the contour overlap provisions of Section 90.187 of the Commission's Rules with respect to a co-channel licensee.[13] On December 27, 2002, LCS asked that we revoke the grant of a license for Station WPWI786. In support, LCS contends that the coordination of Station WPWI786 was defective because USC's station would fail to comply with the contour overlap provisions of Section 90.187(a)(2) of the Commission's Rules with respect to a co-channel licensee.[14] The stations Henry and LCS contend are affected by the grant of USC's license for Station WPWI786 are as follows:

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[6] *Id.* at 1094-95 ¶ 2.

[7] *Id.* at 1148 ¶ 111, 1150 ¶ 116.

[8] *See generally* American Mobile Telecommunications Association, Inc. and American Trucking Associations, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 12416, 12422-23 ¶¶ 13-15 (WTB PSPWD 2001).

[9] Frequency Coordination No. PC20021360020.

[10] 47 C.F.R. § 90.313.

[11] *See* Filing Freeze to be Lifted for Applications Under Part 90 for 12.5 kHz Offset Channels in the 421-430 and 470-512 MHz Bands, *Public Notice*, 13 FCC Rcd 5942 (WTB 1997).

[12] *See* Henry Petition at 1.

[13] *See id.* USC argued in its opposition that Henry failed to demonstrate that it was adversely affected in any way by grant of the license for Station WPWI786. *See* USC Opposition to Henry Petition.

[14] *See* LCS Petition at 2. USC argued in its opposition that LCS failed to demonstrate any basis for standing to file its petition. *See* USC Opposition to LCS Petition. LCS argued in its reply that it does have standing and will suffer harm. *See* Reply to USC Opposition to LCS Petition.

Station Affected	Affected Frequency Pair	USC Frequency Pair	Relationship
County of Los Angeles (Station WIJ513)[15]	470/473.6875 MHz	470/473.700 MHz 470/473.725 MHz	Adjacent Channel
County of Los Angeles Metropolitan Transit Authority (Station KUP236)	472/475.6875 MHz	472/475.700 MHz	Adjacent Channel
LCS (Station WPQF492)	472/475.700 MHz	472/475.700 MHz	Co-Channel

5. On December 27, 2002, the Branch reversed the grant of USC's application and terminated the license for Station WPWI786, pending resolution of the Henry and LCS petitions. Further, on January 13, 2003, the Branch returned the USC application and requested additional engineering studies.[16] On February 3, 2003, PCIA submitted a TSB-88 interference analysis indicating that USC's proposed station would cause less than five percent signal degradation to all adjacent channel licensees.[17]

6. *Discussion.* Presented with the PCIA response, our staff engineers conducted an independent analysis of USC's application and have concluded that the TSB-88 study performed by PCIA was incomplete. Specifically, our engineers agree – based on TSB-88 – that USC's application would create less than five percent interference degradation to adjacent channel Stations WIJ513 and KUP236. However, our engineers have determined that USC's proposed station would receive greater than five percent interference degradation from adjacent channel Stations WIJ513 and KUP236. The received interference affects all channel pairs proposed by USC.[18] By contrast, the PCIA study fails to show the interference degradation received by USC's proposed station.

7. In this regard, we note that the Land Mobile Communications Council (LMCC) developed an industry consensus on evaluating adjacent channel interference in the 470-512 MHz band using TSB-88. The LMCC states that an application shall not be certified if an incumbent or the *applicant* has unacceptable interference of more than five percent reduction of the calculated service area reliability.[19] In regard to co-channel Station WPQF492, we note that the contour overlap provisions of Section 90.187 do not apply in this instance; rather, co-channel frequencies in the 470-512 MHz band are assigned pursuant to the loading requirements of Section 90.313.

8. Under the circumstances presented, we deemed it appropriate for the PCIA to indicate whether alternative frequency pairs are available for USC.[20] PCIA responded that a radius search showed

[15] In its reconsideration petition, Henry states that Station WIJ513 is also affected on the frequency pair 470/473.7125 MHz; however, Station WIJ513 is not authorized for the frequency pair 470/473.7125 MHz.

[16] *See* Return Letter Ref. No. 1691187 (Jan. 13, 2003).

[17] *See* Letter dated Feb. 3, 2003 from Dawn Daniels-Ross, Coordination Services, PCIA to FCC.

[18] USC would receive over eighty percent new interference from Station WIJ513 on frequencies 470.700 MHz and 470.725 MHz, and over eighty percent new interference from Station KUP236 on frequency 472.700 MHz.

[19] *See* Letter dated Sept. 10, 1997 from Larry A. Miller, President, LMCC to Daniel B. Phythyon, Chief, Wireless Telecommunications Bureau, Federal Communications Commission.

[20] *See* Letter dated Mar. 30, 2004 from D'wana R. Terry, Chief, Public Safety and Critical Infrastructure Division, to Don Andrew, PCIA.

that there are no alternative frequency pairs that can be assigned to USC.[21] Although PCIA requested that the granted license for Station WPWI786 for USC be reinstated, we deny this request since it conflicts with the LMCC industry consensus for evaluating adjacent channel interference in the 470-512 MHz band.[22]

9. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petitions for Reconsideration filed on December 15, 2002 by Ted S. Henry and on December 27, 2002 by License Communications Services, Inc. ARE GRANTED.

10. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 21.20(b)(4) and 21.902 of the Commission's Rules, 47 C.F.R. §§ 21.20, 21.902, that the application filed on September 16, 2002 by the University of Southern California (File No. 0001030124) SHALL BE DISMISSED.

11. 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

Michael J. Wilhelm
Chief, Public Safety and Critical Infrastructure Division
Wireless Telecommunications Bureau

[21] *See* Letter dated Apr. 27, 2004 from Don Andrew, Manager, PCIA Frequency Coordination Services, to Tracy Simmons, Public Safety and Critical Infrastructure Division.

[22] It is true, as PCIA points out, that LMCC approached the Commission regarding modifying the consensus plan to permit applications where the applicant would receive more than five percent degradation, so long as no incumbents were affected. *See id.* at 2. However, this occurred in March 2003, after the USC application was filed. *See* Letter dated Mar. 27 2003 from Larry Miller, President, LMCC, to D'wana R. Terry, Chief, Public Safety and Private Wireless Division. Moreover, the Commission never announced that it had accepted any revision to the consensus plan, and LMCC later reaffirmed that the consensus plan prohibits applications where the applicant would receive more than five percent degradation. *See* Letter dated Oct. 13, 2003 from Larry Miller, President, LMCC, to D'wana R. Terry, Chief, Public Safety and Private Wireless Division.