

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

In the Matter of )  
 )  
RADIOLINK CORPORATION )  
 )  
Licensee of Industrial/Business Private Land )  
Mobile Radio Station WPOX212, Litchfield Park, )  
Arizona )

**MEMORANDUM OPINION AND ORDER**

**Adopted: February 26, 2004**

**Released: March 4, 2004**

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

**I. INTRODUCTION**

1. On our own motion, we initiate a proceeding to modify the license of Radiolink Corporation (Radiolink) for Industrial/Business Pool Station WPOX212, Litchfield Park, Arizona, to delete frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz.

**II. BACKGROUND**

2. In 1995, the Commission adopted rules that, *inter alia*, allowed the use of VHF band (156-162 MHz) public coast (VPC) station frequencies by eligible private land mobile radio (PLMR) entities away from navigable waterways.<sup>1</sup> In 1997, the Commission proposed to adopt a geographic licensing approach for VPC spectrum,<sup>2</sup> and suspended the acceptance and processing of applications, including applications for PLMR use.<sup>3</sup> In 1998, the Commission adopted a geographic licensing approach for VPC spectrum,<sup>4</sup> and removed the rule allowing PLMR entities to use VPC spectrum.<sup>5</sup> Later in 1998, the Commission conducted the initial auction of VPC geographic licenses. The licenses for the VPC areas encompassing the state of Arizona were granted to Warren C. Havens (Havens) on May 19, 1999.<sup>6</sup>

<sup>1</sup> See 47 C.F.R. § 90.283 (1997); Amendment of the Commission's Rules Concerning Maritime Communications, *First Report and Order*, PR Docket No. 92-257, 10 FCC Rcd 8419, 8423 ¶ 9 (1995).

<sup>2</sup> Amendment of the Commission's Rules Concerning Maritime Communications, *Second Report and Order and Second Further Notice of Proposed Rule Making*, PR Docket No. 92-257, 12 FCC Rcd 16969, 16989 ¶ 76 (1997).

<sup>3</sup> *Id.* at 17015 ¶ 132.

<sup>4</sup> Amendment of the Commission's Rules Concerning Maritime Communications, *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853, 19859 ¶ 10 (1998).

<sup>5</sup> *Id.* at 19912. The Commission expressly declined a suggestion to permit the continued licensing of PLMR systems away from navigable waterways. See *id.* at 19871 ¶ 36.

<sup>6</sup> See licenses for Call Signs WPOJ523, WPOJ524, WPOJ525, and WPOJ526.

3. On August 18, 1999, Radiolink was granted a license for PLMR Station WPOX212, with base stations in Litchfield Park and Crown King, Arizona. Among the frequencies assigned for use for the control station for Station WPOX212, and by mobile units within forty kilometers of the Litchfield Park base station were frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz, which are VPC mobile frequencies.<sup>7</sup>

### III. DISCUSSION

4. Based on the information before us, we conclude that the Radiolink application should not have been granted to the extent that it requested VPC frequencies. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.<sup>8</sup> Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.<sup>9</sup> In this connection, we note that a proposed modification under the circumstances presented would promote the public interest, convenience, and necessity because the subject channels were not available for assignment to Radiolink when the application was granted because they were previously assigned to Havens. Further, we believe that such action would not unduly disrupt Radiolink's current operations, because other frequencies also are assigned to those locations of Station WPOX212. Thus, we believe that a modification of the Radiolink license to delete the subject frequencies without authorizing replacement frequencies is appropriate under the circumstances presented.

5. Consequently, we propose to modify Radiolink's license for Station WPOX212 to remove the frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz. In accordance with Section 1.87(a) of the Commission's Rules,<sup>10</sup> we will not issue a modification order until Radiolink has received notice of our proposed action and has had an opportunity to file a protest. To protest the modification, Radiolink 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, DC 20554.<sup>11</sup> If no protest is filed, Radiolink will have waived its right to protest the modification and will be deemed to have consented to the modification.

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<sup>7</sup> See 47 C.F.R. § 80.371(c)(1)(i).

<sup>8</sup> 47 U.S.C. § 316(a)(1).

<sup>9</sup> *Id.*

<sup>10</sup> 47 C.F.R. § 1.87(a).

<sup>11</sup> The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at our new location at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by overnight mail (other than United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).

**IV. CONCLUSION**

6. For the reasons stated above, we conclude that the grant of a license for Station WPOX212, Litchfield Park, Arizona, was defective to the extent that it included authorization to use VPC frequencies. Accordingly, we propose to modify Radiolink's license for Station WPOX212 to delete all operational authority for frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz.

**V. ORDERING CLAUSES**

7. ACCORDINGLY, IT IS PROPOSED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 316, and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license for Private Land Mobile Radio Service Station WPOX212, Litchfield Park, Arizona, held by Radiolink Corporation BE MODIFIED by deleting frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz.

8. IT IS FURTHER ORDERED that this *Memorandum Opinion and Order* shall be sent by certified mail, return receipt requested, to Radiolink Corporation, P.O. Box 37825, Phoenix, AZ 85069 ATTN Randy L. Power.

9. 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 Critical Infrastructure Division  
Wireless Telecommunications Bureau