

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

In the Matter of )  
 )  
ROBERT W. RHODES ) File No. 0001383708  
Licensee of Amateur Service Station KG4RTN )

**MEMORANDUM OPINION AND ORDER**

**Adopted: February 27, 2004**

**Released: March 4, 2004**

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

**I. INTRODUCTION**

1. For the reasons set forth below, we propose to modify the operator privileges of Mr. Robert W. Rhodes (Rhodes), licensee of Amateur Radio Station KG4RTN. Specifically, we propose to modify Mr. Rhodes' operator license to show Technician Class operator privileges.

**II. BACKGROUND**

2. On July 16, 2003, the Licensing and Technical Analysis Branch (Branch) of the former Public Safety and Private Wireless Division<sup>1</sup> granted the captioned application which was included in the electronic data file it received from the Western Carolina Amateur Radio Society Volunteer Examiner Coordinator, Inc. (WCARS VEC). This file requested that the operator license of Mr. Rhodes be modified to show General Class operator privileges. Based on this request, we granted Mr. Rhodes a General Class amateur service operator license on July 16, 2003. This license, among other things, authorizes Mr. Rhodes to be the control operator of an amateur station transmitting on frequency bands authorized by Section 97.301(a) and (d) of the Commission's Rules.<sup>2</sup>

3. By e-mail correspondence, WCARS VEC notified the Commission that the data file it sent contained an error.<sup>3</sup> Specifically, WCARS VEC states that Mr. Rhodes attended an examination session and passed examination Element 3, the written examination element he was required to pass to qualify for a General Class operator license, but that he did not meet the other licensing requirements associated with that class of license, specifically, the five words-per-minute Morse code requirement.<sup>4</sup> It also states that the data file it submitted to us showed that Mr. Rhodes had qualified for a General Class operator license.<sup>5</sup>

<sup>1</sup> 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*, FCC 03-291, ¶ 2 (rel. Nov. 25, 2003).

<sup>2</sup> *See* 47 C.F.R. § 97.301(a), (d).

<sup>3</sup> October 10, 2003 e-mail letter from Mr. Ray Adams, WCARS VEC, to Rebecca Williams, Wireless Telecommunications Bureau (WCARS VEC Request).

<sup>4</sup> WCARS VEC Request at 1.

<sup>5</sup> *Id.*

Because the grant and subsequent issuance of the General Class operation license was the result of an error, WCARS VEC urges us to modify such license to reflect the operator privileges for which Mr. Rhodes is qualified.<sup>6</sup>

### III. DISCUSSION

4. Based on the information now before us, it appears that WCARS VEC did not intend to request that we modify Mr. Rhodes's operator license. It also appears to us that the grant of General Class operator privileges to Mr. Rhodes was erroneous because he had not fulfilled all of the requirements necessary to qualify for a General Class amateur service operator license. Rather, he appears to be currently authorized General Class operator privileges due to an error made in reviewing the license examination session data. Thus, we agree that the operator privileges indicated on Rhodes' license must be corrected to accurately reflect his current qualifications. We also note that this situation was not caused by any wrongdoing on Rhodes's part.

5. While we agree with WCARS VEC's request that the license be modified to show the correct class of operator privileges, we believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.<sup>7</sup> Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.<sup>8</sup> We believe that a modification of the license for amateur station KG4RTN to change General Class operator privileges with Technician Class operator privileges is appropriate under the circumstances. If Rhodes does not protest this proposal, we will issue an Order of Modification to correct the license.

6. In accordance with Section 1.87(a) of the Commission's Rules,<sup>9</sup> we will not issue a modification order until Rhodes has received notice of our proposed action and has had an opportunity to file a protest. To protest the modification, Mr. Rhodes 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>10</sup> If no protest is filed, Rhodes will have waived his right to protest the modification and will be deemed to have consented to the modification.

### IV. CONCLUSION

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<sup>6</sup> *Id.*

<sup>7</sup> 47 U.S.C. § 316(a)(1).

<sup>8</sup> *Id.*

<sup>9</sup> 47 C.F.R. § 1.87(a).

<sup>10</sup> The address for Commission 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).

7. For the reasons stated above, we conclude that the grant of General Class amateur radio operator privileges was defective. Accordingly, we propose to modify the amateur service operator license for amateur station KG4RTN by replacing General Class operator privileges with Technician Class operator privileges.

#### V. ORDERING CLAUSES

8. 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 of Mr. Robert W. Rhodes for amateur service Station KG4RTN BE MODIFIED by replacing General Class operator privileges with Technician Class operator privileges.

9. IT IS FURTHER ORDERED that this *Memorandum Opinion and Order* shall be sent by certified mail, return receipt requested, to Mr. Robert W. Rhodes, 8605 Daisy Dallas Road, Hixon, TN 37343.

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 Critical Infrastructure Division  
Wireless Telecommunications Bureau