

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)

ORDER OF MODIFICATION

Adopted: July 6, 2005

Released: July 7, 2005

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

1. In this *Order of Modification*, we modify the license of RadioLink Corporation (RadioLink) for Industrial/Business Pool Station WPOX212, Litchfield Park, Arizona, by deleting frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz. As explained in further detail below, we take this action pursuant to an earlier *Memorandum Opinion and Order (MO&O)* proposing to modify RadioLink’s license.¹

2. *Background.* 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.² In 1997, the Commission proposed to adopt a geographic licensing approach for VPC spectrum,³ and suspended the acceptance and processing of applications, including applications for PLMR use.⁴ In 1998, the Commission adopted a geographic licensing approach for VPC spectrum,⁵ and removed the rule allowing PLMR entities to use VPC spectrum.⁶ Later in 1998, the

¹ See RadioLink Corporation, *Memorandum Opinion and Order*, 19 FCC Rcd 3908 (WTB PSCID 2004) (MO&O).

² 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).

³ See 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).

⁴ *Id.* at 17015 ¶ 132.

⁵ See 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).

⁶ *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.

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 on May 19, 1999.⁷

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.⁸

4. We concluded in the *MO&O*, released March 4, 2004, that the RadioLink application should not have been granted to the extent that it requested VPC frequencies.⁹ As a result, we proposed to modify RadioLink's license for Station WPOX212 to remove frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz.¹⁰ In response, RadioLink conceded that the frequencies had been improperly coordinated, but argued that it would not be in the public interest to delete the frequencies because of the impact it would have on RadioLink's operations.¹¹ RadioLink also argued that we should direct the relevant frequency coordinator to find replacement channels.¹²

5. On April 26, 2004, we requested that the Industrial Telecommunications Association (ITA), the FCC-certified frequency coordinator that certified the RadioLink application, determine and recommend the most appropriate Industrial/Business Pool frequencies to replace frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz.¹³ We also asked RadioLink if it would modify its license in accordance with ITA's recommendation.¹⁴ On May 25, 2004, ITA recommended the use of any five of nineteen channels in the 160.230-161.445 MHz range, provided that the necessary concurrence¹⁵ could be obtained from the American Association of Railroads (AAR).¹⁶ ITA also stated that it would continue to work with RadioLink and the Commission to find suitable channels in the event that AAR did not concur in the recommendation.¹⁷ On June 4, 2004, RadioLink indicated that it was willing to modify its license in accordance with ITA's recommendation, and would continue

⁷ See licenses for Call Signs WPOJ523, WPOJ524, WPOJ525, and WPOJ526.

⁸ See 47 C.F.R. § 80.371(c)(1)(i).

⁹ See *MO&O*, 19 FCC Rcd at 3909 ¶ 4.

¹⁰ See *id.* at 3909 ¶ 5.

¹¹ See Petition for Reconsideration at 3.

¹² *Id.* at 6.

¹³ See letter dated April 26, 2004 from Herbert W. Zeiler, Deputy Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau, to Andre F. Cote, Industrial Telecommunications Association.

¹⁴ *Id.* at 2.

¹⁵ Concurrence would be needed for RadioLink to use the recommended frequencies because they are designated as railroad frequencies. See 47 C.F.R. § 90.35(b)(3).

¹⁶ See letter dated May 25, 2004 from Jeremy Denton, Director, Government Affairs, ITA, to Scot Stone, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

¹⁷ *Id.* at 2.

working with ITA and the Commission in the event that AAR did not concur in the recommendation.¹⁸ On July 27, 2004, ITA reported that AAR had denied concurrence for RadioLink to use any of the recommended 160.230-161.445 MHz frequencies, based on the potential for co-channel and/or adjacent-channel interference to incumbent railroad stations.¹⁹ In lieu of the railroad frequencies, ITA recommended certain frequencies in the 153.095-153.395 MHz range that RadioLink could use, albeit at reduced power levels.²⁰ On November 1, 2004, RadioLink filed an application to modify its license for Station WPOX212 to add the 153.095-153.395 MHz frequencies recommended by ITA.²¹ The application was granted on December 21, 2004.

6. *Discussion.* Based on the record in this matter, we conclude that it is in the public interest to modify RadioLink's license to delete frequencies 157.225 MHz, 157.275 MHz, 157.325 MHz, 157.375 MHz, and 157.400 MHz. As RadioLink concedes, the frequencies were not available for PLMR licensing, and should be cleared for use by the VPC geographic licensee. In addition, RadioLink already has added the replacement channels recommended by ITA, which will minimize the impact of this action on RadioLink's operations.

7. ACCORDINGLY, IT IS ORDERED that, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, 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 *Order of Modification* 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

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

¹⁸ See letter dated June 4, 2004 from Randy L. Power, President, RadioLink Corporation, to Scot Stone, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

¹⁹ See letter dated July 27, 2004 from Jeremy Denton, Director, Government Affairs, ITA, to Scot Stone, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau.

²⁰ *Id.* at 2.

²¹ FCC File No. 0001920247.