

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

In the Matter of	)
	)
LONG BEACH UNIFIED SCHOOL DISTRICT	)
Licensee of Industrial/Business Private Land	)
Mobile Radio Station WNIT941	)
	)
and	)
	)
FCI 900, INC.	)
Licensee of Industrial/Business Private Land	)
Mobile Radio Stations WPKX764 and WPSL997,	)
Nob Hill, California	)

**ORDER OF MODIFICATION**

**Adopted: February 22, 2007**

**Released: February 23, 2007**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this *Order of Modification*, we modify the authorizations of Industrial/Business Private Land Mobile Radio Stations WPKX764 and WPSL997, licensed to FCI 900, Inc. (FCI 900), by deleting frequency pair 935/896.225 MHz. As explained below, we take this action pursuant to an earlier order by the Wireless Telecommunications Bureau's Public Safety and Critical Infrastructure Division (Division)<sup>1</sup> proposing to modify FCI 900's licenses.<sup>2</sup>

2. *Background.* Under the Commission's Rules, co-channel stations in the 935-940 MHz band must be separated by at least seventy miles unless the prior licensee concurs or the applicant provides an analysis demonstrating that the proposed station meets certain transmitter power and antenna criteria for short spacing.<sup>3</sup> Long Beach Unified School District (Long Beach) has been authorized to operate conventional Industrial/Business Station WNIT941 at Signal Hill, California on frequency pair 935/896.225 MHz since at least 1987. Stations WPKX764 and WPSL997 were authorized to operate at Nob Hill, California on, *inter alia*, the same frequency pair on September 11, 1997, and June 18, 2001, respectively.<sup>4</sup> Although the Signal Hill and Nob Hill sites are approximately sixty-six miles apart, the applicants for Stations WPKX764 and WPSL997 did not obtain Long Beach's concurrence or submit a

<sup>1</sup> Pursuant to a reorganization effective September 25, 2006, certain duties of the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. See Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 10867 (2006).

<sup>2</sup> See Long Beach Unified School District, *Order Proposing Modification*, 21 FCC Rcd 6358 (WTB PSCID 2006) (*Order Proposing Modification*).

<sup>3</sup> See 47 C.F.R. § 90.621(b).

<sup>4</sup> See FCC File Nos. D0653989, 0000414489. Station WPKX764 initially was licensed to Radiowave Communications (Radiowave), and Station WPSL997 initially was licensed to RF Pocketcomm. In 2005, Radiowave and RF Pocketcomm filed applications to assign the licenses to FCI 900. See FCC File Nos. 0002352370, 0002349509. The Division consented to the assignments in 2005, and the assignments were consummated in early 2006. See FCC File Nos. 0002452244, 0002481738.

short-spacing analysis.

3. On August 21, 2003, Long Beach requested that the Commission rescind the license grant for Station WPSL997, on the grounds that the station violates the co-channel separation requirements.<sup>5</sup> On April 6, 2005, the Division sent a letter to the Personal Communications Industry Association (PCIA), which coordinated the applications for Stations WPKX764 and WPSL997, regarding Long Beach's request.<sup>6</sup> On May 3, 2005, PCIA recommended modifying the license for Station WPSL997 by deleting frequency pair 935/896.225 MHz, because there were no assignable replacement frequencies available, and attempts to short-space pursuant Section 90.621 of the Commission's Rules<sup>7</sup> were not successful.<sup>8</sup> Consequently, the Division proposed to modify the licenses for Stations WPKX764 and WPSL997 to delete frequency pair 935/896.225 MHz.<sup>9</sup>

4. *Discussion.* The *Order Proposing Modification* was released on June 5, 2006. FCI 900 did not protest the proposed modification of its licenses within the requisite thirty-day time frame.<sup>10</sup> Accordingly, FCI 900 is deemed to have consented to the proposed modification.<sup>11</sup> Based on the record before us, we conclude that it is in the public interest to modify FCI 900's licenses for Stations WPKX764 and WPSL997 by deleting frequency pair 935/896.225 MHz.<sup>12</sup>

5. *Ordering Clauses.* Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of Commission's Rules, 47 C.F.R. § 1.87, that the licenses for Industrial/Business Private Land Mobile Radio Stations WPKX764 and WPSL997, Nob Hill, California, BE MODIFIED by removing frequency pair 935/896.225 MHz.

6. IT IS FURTHER ORDERED that this *Order of Modification* SHALL BE SENT by certified mail, return receipt requested, to FCI 900, Inc., 2001 Edmund Halley Dr., Reston, VA 20191, Attn: Robin J. Cohen.

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<sup>5</sup> See Letter dated August 19, 2003 from Frederick J. Day, counsel for Long Beach Unified School District to Mary M. Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division at 1-2.

<sup>6</sup> See Letter dated April 6, 2005 from Michael J. Wilhelm, Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau to Don Andrew, Personal Communications Industry Association, Frequency Coordination Department.

<sup>7</sup> 47 C.F.R. §90.621(d).

<sup>8</sup> See Letter dated May 3, 2005 from Don Andrew, Manager, PCIA Frequency Coordination Services to Melvin Spann and Tracy Simmons, Federal Communications Commission at 2.

<sup>9</sup> See *Order Proposing Modification*, 21 FCC Rcd at 6360 ¶ 9.

<sup>10</sup> See 47 C.F.R. § 1.87(g)(1).

<sup>11</sup> See 47 C.F.R. § 1.87(h).

<sup>12</sup> The Division concluded that the proposed modification would not unduly disrupt FCI 900's operations, because operations could continue on the other frequency pairs authorized to the stations. See *Order Proposing Modification*, 21 FCC Rcd at 6360 ¶ 8. Subsequently, FCI 900 reported that the stations were inoperative, and requested a waiver of Section 90.157 of the Commission's Rules, 47 C.F.R. § 90.157, to avoid automatic cancellation of the licenses. The Mobility Division granted the waiver request on January 26, 2007. See Letter dated January 26, 2007 from Terry L. Fishel, Associate Chief, Mobility Division, Wireless Telecommunications Bureau to Robert H. McNamara, Director, Spectrum Management, Sprint Nextel Corporation.

7. 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 COMMUNICATION COMMISSION

Scot Stone  
Deputy Chief, Mobility Division  
Wireless Telecommunications Bureau