

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

In the Matter of	)	
	)	
Kang B. Lee	)	WT Docket No. 02-55
and Sprint Nextel	)	
	)	
Mediation No. TAM-31018	)	

**ORDER**

**Adopted: January 14, 2008**

**Released: January 14, 2008**

By the Associate Chief, Public Safety and Homeland Security Bureau:

1. *Introduction.* In this Order, we require Kang B. Lee (Lee) to retune his 800 MHz conventional Specialized Mobile Radio (SMR) station WCFG663 or surrender his license within thirty days of the release date of this Order. We take this action pursuant to our earlier *Memorandum Opinion and Order (Lee Order)* regarding the disposition of Lee's license in the 800 MHz rebanding process.<sup>1</sup>

2. *Background.* Lee holds an 800 MHz SMR license for a single-site, one-channel conventional system in Puerto Rico that is subject to rebanding under the Commission's 800 MHz rebanding orders. In the *Lee Order*, we found that Lee violated the good faith requirements of Section 90.677(c) of the Commission's rules<sup>2</sup> by failing to provide sufficient information about his SMR facility to allow meaningful negotiation and mediation of his retuning costs and other details of retuning his station.<sup>3</sup> The record disclosed that Lee did not determine the actual cost of retuning his station, did not provide Sprint with the information necessary to conclude a Frequency Reconfiguration Agreement with Lee, and did not respond to Sprint's *bona fide* offer by making a counter-offer.<sup>4</sup> We found that Lee's refusal to heed the Commission's rules and follow the Transition Administrator (TA) mediator's direction to conform to those rules exhibited a lack of good faith.<sup>5</sup> Because of Lee's failure to act in good faith, we found that Lee forfeited any right to payment for reconfiguration and must bear his own retuning costs or surrender his license.<sup>6</sup> To date, Lee has neither retuned his facilities nor surrendered his license.

3. *Discussion.* Because we did not provide a date certain for Lee to abide by the terms of the *Lee Order*, we now require Lee to retune station WCFG663 at his own expense to replacement channels designated by the TA and to complete such retuning within thirty days of the release date of this Order. Alternatively, we require Lee to cease operation and surrender his license within thirty days of the release date of this Order. We take this action in order to make the channels currently licensed to Lee available for rebanding by public safety in accordance with the Commission's orders.

<sup>1</sup> Kang B. Lee and Sprint Nextel, WT Docket 02-55, *Memorandum Opinion and Order*, 22 FCC Rcd 7667 (PSHSB 2007) (*Lee Order*).

<sup>2</sup> 47 C.F.R. § 90.677(c).

<sup>3</sup> *Lee Order*, 22 FCC Rcd at 7671 ¶ 15.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.* at 7671-762 ¶ 16.

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

4. If Lee fails to abide by the terms of this Order, because such action would threaten public safety communication, we propose, pursuant to Section 316(a) of the Communications Act of 1934 as amended,<sup>7</sup> to modify Lee's license for station WPF663 by deleting the pre-rebanding frequencies from the license. Pursuant to Section 316(b) of the Act<sup>8</sup> and Section 1.87(c) of the Commission's rules,<sup>9</sup> we afford Lee an opportunity to protest this proposed modification. Because the proposed modification to WPF663 involves the safety of life and property, Lee must file any protest within forty days of the release date of this Order.<sup>10</sup>

5. *Ordering Clauses.* Accordingly, pursuant to the authority of Sections 0.191 and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191, 0.392, Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and section 90.677, of the Commission's rules, 47 C.F.R. § 90.677, it is **ORDERED** that no later than thirty days after the release date of this Order, Kang B. Lee shall cease operations on his current frequencies and shall either (1) retune Station WPF663 to the frequencies specified by the TA, or (2) surrender his license to the Commission.

6. **IT IS FURTHER ORDERED**, that if Kang B. Lee fails to comply with the above clause, pursuant to Section 316(a) of the Communications Act, 47 U.S.C. §316(a), Kang B. Lee **SHALL SHOW CAUSE** why his authorization for station WPF663 should not be modified by terminating his right to operate on his current frequencies.

7. **IT IS FURTHER ORDERED**, that pursuant to Section 1.87(a) of the Commission's Rules, 47 C.F.R. §1.87(a), Kang B. Lee, may, no later than forty days after release date of this Order, file a written statement showing with particularity why his license should not be modified as proposed.

8. If Lee or any other party raises a substantial and material question of fact, a hearing may be required to resolve such questions of fact pursuant to Section 1.87 of the Commission's rules, 47 C.F.R. § 1.87. Upon review of the statements and/or additional information furnished, the Commission may grant the modification, deny the modification, or set the matter of modification for hearing. If no written statements are filed within forty days of the release date of this Order, the licensee will be deemed to have consented to a modification as proposed and a final Order will be issued if the modification is found to be in the public interest.

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<sup>7</sup> 47 U.S.C. § 316(a).

<sup>8</sup> 47 U.S.C. § 316(b).

<sup>9</sup> 47 C.F.R. § 1.87(c).

<sup>10</sup> See Ron and Barbara Gossett, WT Docket 02-55, *Memorandum Opinion and Order*, 22 FCC Rcd 8522 (PSHSB 2007).

9. **IT IS FURTHER ORDERED**, that a copy of this Order shall be sent **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**, to the following:

Kang B. Lee  
16005 Shady Stone Way  
Gaithersburg, MD 20878

Laura H. Phillips, Esq.  
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FEDERAL COMMUNICATIONS COMMISSION

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