

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

In the Matter of)
)
AMERICELL COMMUNICATIONS)
)
Stations WPUN646, WPUN648, WPWF572,)
WPXT546, WPXY307, WPZC381, and)
WPZK217)

ORDER

Adopted: October 22, 2010

Released: October 22, 2010

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

1. *Introduction.* As set forth below, we conclude that the above-captioned stations licensed to Americell Communications (Americell) have permanently discontinued operations. Consequently, we will modify the Commission's licensing records to reflect the cancellation of the licenses.

2. *Background.* Americell was granted licenses for the above-captioned trunked 806-821/851-866 MHz Business Pool stations at locations in Idaho and Washington (Stations WPUN646, WPUN648, WPWF572, WPXT546, and WPXY307) between April 2002 and June 2003, and licenses for the above-captioned trunked Industrial/Business Pool stations at locations in Idaho (Stations WPZC381 and WPZK217) between December 2003 and January 2004. On September 13, 2010, the 800 MHz Transition Administrator (TA) notified the Commission's Public Safety and Homeland Security Bureau that Americell had neither submitted a cost estimate to Sprint Nextel Communications, Inc. by the date established by the Commission,¹ nor responded to repeated attempts by the TA to locate Americell's principal of record, Jason Horstman.²

3. On October 4, 2010, the Wireless Telecommunications Bureau's Mobility Division (Division), acting pursuant to Section 308(b) of the Communications Act of 1934, as amended,³ requested

¹ Pursuant to the provisions of the Commission's 800 MHz rebanding proceeding, Improving Public Safety Communications in the 800 MHz Band, *Second Report and Order*, 23 FCC Rcd 7605, 7619-21 ¶¶ 37-41 (2008), and the Implementation Plan established by the TA, 800 MHz Transition Administrator, LLC, Implementation Plan and Timetable for the Reconfiguration of the 800 MHz Band in the U.S.-Canada Border Regions, WT Docket No. 02-55 (Oct. 1, 2008), *approved*, Public Safety and Homeland Security Bureau Announces that the 30-Month Transition Period for 800 MHz Band Reconfiguration in Regions along the U.S.-Canada Border Will Commence on October 14, 2008, *Public Notice*, 23 FCC Rcd 14877 (PSHSB 2008), Americell was required to submit a cost estimate to retune its stations licensed to operate in the 800 MHz band in the NPSAC Region 43 portion of Canada border region 4 to frequencies below the band segment designated for ESMR operation in that region, *i.e.*, below 818/863.2625 MHz, at the expense of Sprint Nextel Corporation by January 12, 2009.

² The TA reported that there is no such business located at Americell's address listed in the Commission's Universal Licensing System, and that the telephone number listed therein for Americell has been disconnected. A certified letter sent to Jason Horstman was signed for by his father, but not responded to. The TA states that it contacted Jason Horstman's mother by telephone, and was informed that neither she nor his father could assist the TA in locating Jason Horstman or conveying a message to him. *See* Notice of Failure to Submit Cost Estimate, filed Sept. 13, 2010 by the TA. In addition, we note that Americell has not filed anything with the Commission with respect to the above-captioned licenses since 2004. *See* FCC File No. 0001960088.

³ 47 U.S.C. § 308(b).

that Americell provide specified information concerning the operational status of the above-captioned stations within thirty days.⁴ The Division stated that if Americell failed to respond within thirty days, the Division could conclude that the authorizations for the stations had terminated due to permanent discontinuance of operation.⁵ The Division's letter was returned as undeliverable.

4. *Discussion.* Section 90.157 of the Commission's Rules provides that a license for a private land mobile radio station cancels automatically upon discontinuance of operation for a period of one year or more.⁶ The information provided by the TA is persuasive evidence that Americell's stations are not in operation, and that its authorizations cancelled automatically due to a permanent discontinuance of service.⁷ In addition, Americell's failure to respond to the Division's letter presumptively indicates that the stations are not constructed or operational.⁸ Therefore, we will update the Commission's Universal Licensing System to reflect the cancellation of the licenses for Stations WPUN646, WPUN648, WPWF572, WPXT546, WPXY307, WPZC381, and WPZK217.

5. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 90.157 of the Commission's Rules, 47 C.F.R. § 90.157, the Commission's licensing records SHALL BE MODIFIED to reflect the cancellation of the licenses for Stations WPUN646, WPUN648, WPWF572, WPXT546, WPXY307, WPZC381, and WPZK217.

6. 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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁴ Letter dated Oct. 4, 2010, from Scot Stone, Deputy Chief, Wireless Telecommunications Bureau, to Americell Communications. The letter was sent to the addresses of record on Americell's licenses.

⁵ *Id.* at 2.

⁶ See 47 C.F.R. § 90.157(a).

⁷ See, e.g., National Ready Mixed Concrete Co., *Memorandum Opinion and Order*, 23 FCC Red 5250, 5253-54 ¶ 11 (2008) (explaining that "persuasive evidence that the licensee no longer exists" is sufficient to demonstrate permanent discontinuance of station operations under Section 90.157).

⁸ See, e.g., Milton H. Pintell, *Order on Reconsideration*, 20 FCC Red 19315, 19316 ¶ 5 (WTB PSCID 2005).