

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

In the Matter of )  
 )  
KING, COUNTY OF )  
 )  
Licensee of Private Land Mobile Radio Station )  
WPUY429 )  
 )

ORDER PROPOSING MODIFICATION

Adopted: May 21, 2010

Released: May 21, 2010

By the Deputy Chief, Policy Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. By this *Order Proposing Modification*, we initiate a proceeding to modify the license of County of King (King County), Washington, for Private Land Mobile Radio (PLMR) Station WPUY429 to reduce the Effective Radiated Power (ERP) of one of its base station locations from 140 watts to 100 watts on one frequency as detailed below. We take this action in furtherance of ensuring compliance with international obligations and Commission rules.

II. BACKGROUND

2. King County is the licensee of PLMR Station WPUY429 in King County, Washington. Because Station WPUY429 operates in the 800 MHz band and is located within 140 kilometers of the border with Canada, it is subject to the provisions of the bilateral annex (Arrangement F) with Canada, which specifies the conditions under which 800 MHz PLMR stations may operate along the border.<sup>1</sup> Under Arrangement F, the ERP of stations in the border region is limited based on the height of the transmitting antenna. These power and antenna height limits are also reflected in Section 90.619(c)(3) of the Commission’s rules.<sup>2</sup>

3. The license for PLMR Station WPUY429 improvidently authorizes King County to transmit with an ERP of 140 watts at base station location 3 located in Issaquah, Washington. An analysis of this base station location reveals, however, that—based on the antenna height—the maximum permitted ERP for this base station location is 100 watts as specified in Section 90.619(c)(3) of the Commission’s rules

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<sup>1</sup> See Arrangement Between the Dept. of Communications of Canada and the FCC of the United States Concerning the Use Along the US-Canada Border of the Band 806-890 MHz (Jan. 1994, addendum, Dec. 1994) (Arrangement F). See also Arrangement Between the Dept. of Communications of Canada and the FCC of the United States Concerning the Use Along the US-Canada Border of the Bands 821-824 MHz and 866-869 MHz (Sep. 1990, addendum, Dec. 1994).

<sup>2</sup> 47 C.F.R. § 90.619(c)(3).

and the referenced Arrangement F.<sup>3</sup> An explanation for how the maximum ERP is determined pursuant to Section 90.619(c)(3) of the Commission's rules and Arrangement F is included in Attachment I.

### III. DISCUSSION

4. Based on the information before us, we conclude that the license for Station WPUY429 must be modified so that the ERP of base station location 3 complies with Commission rules and Arrangement F on the frequency listed in Attachment I.<sup>4</sup>

5. In accordance with Section 1.87(a) of the Commission's Rules,<sup>5</sup> we will refrain from issuing an order modifying Station WPUY429 until King County has received this notice of our proposed action and has had an opportunity to file a protest. To protest the modification, King County must, within thirty days of the release date of this *Order Proposing Modification*, submit a written statement which protests the proposed modification and proposes an alternate method for bringing its base station into compliance on the frequency listed in Attachment I with Section 90.619(c)(3) of the Commission's rules and Arrangement F. We remind King County that the Federal Communications Commission lacks the authority to waive or modify the provisions of international treaties. 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>6</sup> In addition, please provide an electronic copy of any written statement to Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, at [Brian.Marengo@fcc.gov](mailto:Brian.Marengo@fcc.gov).

6. If no timely protest is filed, King County will have waived its right to protest the modification and will be deemed to have consented to the modification. The license for Station WPUY429 will then be modified to specify an ERP of 100 watts for base station location 3 on the frequency listed in Attachment I in compliance with Section 90.619(c)(3) of the Commission's rules and Arrangement F as detailed in Attachment I.

### V. ORDERING CLAUSES

7. ACCORDINGLY, IT IS PROPOSED, pursuant Sections 4(i) and 316 of the Communications Act of 1934, as amended, 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 for Private Land Mobile Radio Service Station WPUY429, held by the

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<sup>3</sup> *Id.* See also Arrangement F, Annex A, Table A2. The maximum ERP limits are based on the Antenna Height Above Mean Sea Level in Canada Border Region 5 where Station WPUY429 is located.

<sup>4</sup> Industry Canada objected to the operation of base station location 3 at 140 watts ERP only on the frequency listed in Attachment I. Therefore, King County may continue to operate location 3 at 140 watts ERP on the remaining licensed frequency.

<sup>5</sup> 47 C.F.R. § 1.87(a).

<sup>6</sup> Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission. All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW-A325, Washington, DC 20554. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of before entering the building. Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743. U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street, SW, Washington DC 20554.

County of King, BE MODIFIED by reducing the Effective Radiated Power at the base station location 3 on the frequency listed in Attachment I from 140 watts to 100 watts to comply with Section 90.619(c)(3) of the Commission's rules and Arrangement F.

8. IT IS FURTHER ORDERED that this *Order Proposing Modification* shall be sent by certified mail, return receipt requested, to King, County Of, Attn Hai Phung, Dept Of Transportation, 821 2nd Avenue, Mail EXC-TR-129, Seattle, WA 98104.

9. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm  
Deputy Chief, Policy Division  
Public Safety and Homeland Security Bureau

## Attachment I

**Maximum Permitted ERP Under Section 90.619(c)(3) and Arrangement F**

Stations authorized on U.S. primary channels in Canada Border Region 5, which includes Washington State, are subject to the Effective Radiated Power (ERP) and Antenna Height Above Mean Sea Level (RCAMSL) limits listed in Table C4 of Section 90.619(c)(3).<sup>7</sup>

The pertinent values for Stations WPUY429 are included below:

Call Sign	Location No.	Lat. (N)	Long. (W)	Current Frequency (MHz)	Replacement Frequency (MHz)	RCAMSL (meters)	Maximum Permitted ERP (watts)	Licensed ERP (watts)
WPUY429	3	47° 30' 16.3"	121° 58' 20.4"	851.0125	854.6875	944	100	140

<sup>7</sup> The ERP limitation applies to both King County's currently licensed frequency and its 800 MHz rebanding replacement frequency. See *Improving Public Safety Communications in the 800 MHz Band, Report and Order, Fifth Report and Order, Fourth Memorandum Opinion and Order, and Order*, 19 FCC Rcd 14969, 15077 ¶ 201 (2004).