

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

In the Matter of)
)
STATE OF NEW YORK,)
OFFICE FOR TECHNOLOGY)
)
Licensee of Private Land Mobile Radio Stations)
WPLP920, WPWR391, WPJI660 and WQFG910)

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 licenses of the State of New York, Office for Technology (New York) for Private Land Mobile Radio (PLMR) Stations WPLP920, WPWR391, WPJI660 and WQFG910 to reduce the Effective Radiated Power (ERP) of its base station locations as detailed below. We take this action in furtherance of ensuring compliance with international obligations and Commission rules.

II. BACKGROUND

2. New York is licensed to operate PLMR Stations WPLP920, WPWR391, WPJI660 and WQFG910 at numerous locations throughout the State of New York. Because Stations WPLP920, WPWR391, WPJI660 and WQFG910 operate in the 800 MHz band and are located within 140 kilometers of the border with Canada, they are 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.¹ 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)(2) of the Commission’s rules.²

3. The licenses for PLMR Stations WPLP920, WPWR391, WPJI660 and WQFG910 improvidently authorize New York to transmit with an ERP ranging from 20 watts to 500 watts on frequencies in the 800 MHz band at the base station locations listed in these authorizations. An analysis of these base station locations reveals, however, that—based on their antenna heights—the base station

¹ 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).

² 47 C.F.R. § 90.619(c)(2).

locations listed in Attachment I exceed the ERP limits specified in Section 90.619(c)(2) of the Commission's rules and the referenced Arrangement F.³ An explanation of how the maximum ERP is determined pursuant to Section 90.619(c)(2) 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 licenses for Stations WPLP920, WPWR391, WPJI660 and WQFG910 must be modified so that the ERP of the base station locations listed in Attachment I comply with Commission rules and Arrangement F on the frequencies listed in Attachment I.

5. In accordance with Section 1.87(a) of the Commission's Rules,⁴ we will refrain from issuing an order modifying Stations WPLP920, WPWR391, WPJI660 and WQFG910 until New York has received this notice of our proposed action and has had an opportunity to file a protest. To protest the modification, New York 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 stations into compliance with Section 90.619(c)(2) of the Commission's rules and Arrangement F. We remind New York 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 20554.⁵ 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.

6. If no timely protest is filed, New York will have waived its right to protest the modification and will be deemed to have consented to the modification. The licenses for Stations WPLP920, WPWR391, WPJI660 and WQFG910 will then be modified to specify the maximum permitted ERP listed in Attachment I in compliance with Section 90.619(c)(2) of the Commission's rules and Arrangement F.

V. ORDERING CLAUSES

7. ACCORDINGLY, IT IS PROPOSED, pursuant to the authority of 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

³ *Id.* See also Arrangement F, Annex A, Table A1. The maximum ERP limits are based on the Effective Antenna Height (EAH) of each site. An explanation of how the maximum ERP is determined pursuant to Arrangement F is included in Attachment I.

⁴ 47 C.F.R. § 1.87(a).

⁵ 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.

Commission's rules, 47 C.F.R. § 1.87, that the license for Private Land Mobile Radio Service Stations WPLP920, WPWR391, WPJI660 and WQFG910, held by State of New York, Office For Technology, BE MODIFIED by reducing the Effective Radiated Power at the base station locations listed in Attachment I to comply with Section 90.619(c)(2) 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 State of New York, Office for Technology, 74 North Pearl Street, 2nd Floor, Albany, NY 12207-2721.

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)(2) and Arrangement F

Stations authorized on U.S. primary channels in Canada Border Regions 1, 2, 3, 4, 6, 7 and 8, which includes New York State, are subject to the Effective Radiated Power (ERP) and Effective Antenna Height (EAH) limits listed in Table C2 of Section 90.619(c)(2). The EAH is calculated by subtracting the Assumed Average Terrain Elevation (AATE) listed in Table C3 of Section 90.619(c)(2) from the antenna radiation center above mean sea level (RCAMSL).

$$\text{EAH} = \text{RCAMSL} - \text{AATE}$$

The pertinent values for Stations WPLP920, WPWR391, WPJI660 and WQFG910 are included below:⁶

Call Sign	Location No.	Lat. (N)	Long. (W)	Current Frequency (MHz)	Replacement Frequency (MHz)	RCAMSL (meters)	AATE (meters)	EAH (meters)	Maximum Permitted ERP (watts)	Licensed ERP (watts)
WPLP920	1	42° 43' 44.2"	78° 49' 27.1"	851.0875	851.0875	271	76	195	125	500
WPLP920	1	42° 43' 44.2"	78° 49' 27.1"	851.5125	852.1625	271	76	195	125	500
WPLP920	1	42° 43' 44.2"	78° 49' 27.1"	852.1125	852.1125	271	76	195	125	500
WPLP920	1	42° 43' 44.2"	78° 49' 27.1"	852.5625	852.5625	271	76	195	125	500
WPLP920	1	42° 43' 44.2"	78° 49' 27.1"	852.8625	852.8625	271	76	195	125	500
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WPWR391	301	42° 48' 38"	75° 45' 03"	867.1250	852.1250	690.1	76	614.1	10	40
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WPJI660	1	42° 58' 31.2"	78° 51' 30.1"	851.1125	851.1125	248.4	76	172.4	125	130
WPJI660	1	42° 58' 31.2"	78° 51' 30.1"	851.6125	851.6125	248.4	76	172.4	125	130
WPJI660	1	42° 58' 31.2"	78° 51' 30.1"	852.1375	852.1375	248.4	76	172.4	125	130
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WQFG910	1	42° 02' 48"	79° 05' 25"	851.0125	851.4250	698.8	76	622.8	10	20.417

⁶ The PFD limitation applies to both currently licensed frequencies and 800 MHz rebanding replacement frequencies. 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).

Call Sign	Location No.	Lat. (N)	Long. (W)	Current Frequency (MHz)	Replacement Frequency (MHz)	RCAMSL (meters)	AATE (meters)	EAH (meters)	Maximum Permitted ERP (watts)	Licensed ERP (watts)
WQFG910	1	42° 02' 48"	79° 05' 25"	851.0375	851.0375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.1125	851.8750	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.1375	851.7375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.1625	851.0075	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.1875	853.2000	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.2375	851.3125	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.4625	851.4625	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.5125	851.7625	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.5625	851.3375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.5875	853.2250	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.6125	851.6125	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.6375	851.2125	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	851.9375	851.9375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.0125	852.1625	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.0375	852.0375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.1125	852.1125	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.1375	851.3125	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.4375	853.0875	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.4875	852.4875	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.5375	852.5375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.5625	852.5615	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.8125	852.8125	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.8375	852.8375	698.8	76	622.8	10	20.417
WQFG910	1	42° 02' 48"	79° 05' 25"	852.9125	852.9125	698.8	76	622.8	10	20.417