

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

In the Matter of )
COUNTY OF GREENWOOD, )
SOUTH CAROLINA )
Licensee of Conventional Public Safety Station )
WPOX642 )

ORDER PROPOSING MODIFICATION

Adopted: November 13, 2012

Released: November 13, 2012

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

I. INTRODUCTION

1. By this Order Proposing Modification, we initiate a proceeding to modify the license of the County of Greenwood, South Carolina (Greenwood) for Conventional Public Safety Station WPOX642 by removing frequency pair 814/859.2375 MHz from location number 4 and associated mobile units. Furthermore, we direct Greenwood’s frequency coordinator to prepare and submit a revised analysis of the best available frequency for Station WPOX642. We take this action in order to ensure compliance with the channel eligibility requirements specified in Section 90.617 of the Commission’s Rules.<sup>1</sup>

II. BACKGROUND

2. In the 800 MHz Report and Order, the Commission recognized that the 800 MHz band’s mix of “generally incompatible” high-site and cellular technologies was the “root cause” of interference to public safety radios.<sup>2</sup> Accordingly, the Commission ordered the reconfiguration of the 800 MHz band to separate public safety<sup>3</sup> and other non-cellular systems from ESMR systems which characteristically use high-density cellular architecture.<sup>4</sup> In most of the United States, the 800 MHz band, as reconfigured, requires public safety and other non-cellular licensees to operate in the lower portion of the band (806-

<sup>1</sup> 47 C.F.R. § 90.617.

<sup>2</sup> See, Improving Public Safety Communications in the 800 MHz Band, WT Docket No. 02-55, Report and Order, Fifth Report and Order, Fourth Memorandum opinion and Order and Order, 19 FCC Rcd at 14969,15045-15079 ¶¶ 142-209 (2004) amended by Erratum, 19 FCC Rcd 19651(WTB PSCID 2004) and Erratum, 19 FCC Rcd 2818 (WTB PSCID 2004). (800 MHz Report and Order).

<sup>3</sup> Id. at 15021-15045 ¶¶ 88-141.

<sup>4</sup> An 800 MHz high density cellular system is defined as a cellular system which: (1) Has more than five overlapping interactive sites featuring hand-off capability; and (2) Any one of such sites has an antenna height of less than 30.4 meters (100 feet) above ground level with an antenna height above average terrain (HAAT) of less than 152.4 meters (500 feet) and twenty or more paired frequencies. See 47 C.F.R. § 90.7.

817/851-862 MHz), and restricts ESMR carriers that utilize high-density cellular architecture to the upper portion of the band (817-824/862-869 MHz).<sup>5</sup>

3. The Commission, however, found that the ESMR band segment boundaries, *supra*, were too restrictive to accommodate both SouthernLINC and Sprint Nextel Corp. in the area of the southeastern United States in which SouthernLINC operates, *i.e.*, there were too few channels in the ESMR segment of the band to replicate both companies' existing channel capacity.<sup>6</sup> Accordingly, the Commission created an expanded ESMR band in the southeastern United States, *i.e.*, 813.5-824 MHz/858.5-869 MHz.<sup>7</sup> Thus, in the southeastern region, which includes Greenwood, S.C.,<sup>8</sup> public safety and other non-cellular licensees must operate only below 813.5/858.5 MHz and ESMR systems must operate only above 813.5/858.5 MHz.

4. Greenwood is licensed for fixed sites and mobile units and operates a non-ESMR system under call sign WPOX642. It filed a license modification application to add ESMR frequency pair 814/859.2375 MHz to call sign WPOX642 to operate at one fixed site with 140 mobile units.<sup>9</sup> In its application, Greenwood certified that it was eligible to operate on the ESMR channel.<sup>10</sup> The Association of Public Safety Communications Officials International, Inc. (APCO), a Commission-certified frequency coordinator, coordinated Greenwood's application.<sup>11</sup> On October 5, 2012, Greenwood submitted a construction notification claiming that it had completed construction on frequency pair 814/859.2375 MHz.<sup>12</sup>

### III. DISCUSSION

5. The Commission's 800 MHz band plan, incorporated into Section 90.617 of the rules makes Greenwood ineligible to operate on frequency pair 814/859.2375 MHz. Greenwood's licensing of channel 814/859.2375 MHz in the ESMR segment of the band directly conflicts with the goal of band reconfiguration, exposes Greenwood to interference and makes the Greenwood station a potential source of interference to ESMR operators using that frequency pair. Therefore, based on the information before us, we conclude, and so propose, that we should modify the license of Station WPOX642, to remove frequency pair 814/859.2375 MHz from location 4 and associated mobile units.

6. Furthermore, we are troubled that APCO, a Commission-certified public safety frequency coordinator, would certify Greenwood's application to operate in the ESMR band. Therefore, we direct APCO to prepare and submit a revised analysis of the best available frequency for WPOX642

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<sup>5</sup> 47 C.F.R. § 90.617. *See also Mobile Relay Associates v. FCC*, 457 F.3d 1 (DC Cir. 2006).

<sup>6</sup> *800 MHz Report and Order* at 15057 ¶ 164.

<sup>7</sup> *Id.* As a result, there is no Guard Band in this area and the Expansion Band encompasses 812.5-813.5 MHz/857.5-858.5 MHz. *Id.* at 15058 ¶ 166.

<sup>8</sup> *See 800 MHz Report and Order* at Appendix G.

<sup>9</sup> *See* FCC File No. 0005289872.

<sup>10</sup> *Id.*

<sup>11</sup> *See* Frequency Coordination Number 16GPAP820228119.

<sup>12</sup> *See* FCC File No. 0005436489 (filed Oct. 5, 2012) *re* WPOX642.

location 4 and its associated mobile units. APCO's analysis and identification of a substitute frequency shall be completed within fifteen days from the release of this *Order Proposing Modification*.

7. Section 316 of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter. Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.<sup>13</sup> We find that the proposed modification would serve the public interest by reverting Greenwood to the *status quo ante* and permitting APCO sufficient time to identify an alternative frequency for Greenwood's use in order to comply with the Commission's rules and its 800 MHz rebanding goals.

8. Based on the record before us, we find that a modification of Greenwood's license for Station WPOX642 to delete frequency pair 814/859.2375 MHz is appropriate. In accordance with Section 1.87 of the Commission's rules, we will not issue a modification order until Greenwood has received notice of our proposed action and has had an opportunity to interpose a protest.<sup>14</sup> To protest the modification, Greenwood must, within 30 days of the release of this *Order Proposing Modification*, submit a written statement with sufficient evidence to show that the modification would not be in the public interest. The protest must be filed with the Federal Communications Commission, Office of the Secretary, 445 Twelfth Street, SW, Washington, DC 20554.<sup>15</sup> If no protest is filed, Greenwood will have waived its right to protest the modification and will be deemed to have consented to the modification.<sup>16</sup>

#### IV. ORDERING CLAUSES

9. Accordingly, IT IS PROPOSED, pursuant to 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 WPOX642, held by the County of Greenwood, South Carolina, BE MODIFIED by deleting the frequency pair 814/859.2375 MHz.

10. IT IS FURTHER ORDERED that this Order Proposing Modification shall be sent by certified mail, return receipt requested, to County of Greenwood, South Carolina, attention Michael S. Weeks, 1115 Siloam Church Road, Greenwood, SC 29646, and to Farokh Latif, Association of Public Safety Communications Officials, International, 351 N. Williamson Blvd. Daytona Beach, FL 32114.

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<sup>13</sup> 47 U.S.C. § 316(a) (requiring that we notify the affected station(s) of the proposed modification(s) and the public interest reasons for the action, and afford at least thirty days to respond).

<sup>14</sup> 47 C.F.R. § 1.87(a).

<sup>15</sup> The address for FCC locations should be used only for documents filed by United States Postal Service first-class mail, Express Mail, and Priority Mail, and hand-delivered or messenger-delivered documents. Documents sent by commercial overnight mail (other than United States Postal Service, Express Mail, and Priority Mail) should be addressed for delivery to 9300 East Hampton Drive, Capitol Heights, MD 20743. Please provide an electronic copy of the statement to Brian Marengo, Policy Division, Public Safety and Homeland Security Bureau, at [Brian.Marengo@fcc.gov](mailto:Brian.Marengo@fcc.gov)

<sup>16</sup> 47 C.F.R. § 1.87(g) and (h).

11. 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 and Licensing Division  
Public Safety and Homeland Security Bureau