

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

In the Matter of)	File No.: EB-SED-12-00002427
)	
Monroe Medi-Trans, Inc. dba Monroe Ambulance)	NAL/Acct. No.: 201432100002
)	
Former licensee of PLMRS Station WNXA527)	FRN: 0003407889
)	

ORDER

Adopted: November 19, 2013

Released: November 19, 2013

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Monroe Medi-Trans, Inc. dba Monroe Ambulance (Monroe). The Consent Decree resolves and terminates the Bureau’s investigation into possible violations of Section 301 of the Communications Act of 1934, as amended (Act),¹ Sections 1.903(a) and 1.949(a) of the Commission’s rules,² and the associated Commission orders requiring licensees to seek authority for any continued operations after license expiration,³ as such rules and orders pertain to the operation of Private Land Mobile Radio Service wireless radio stations.

2. The Bureau and Monroe have negotiated the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated herein by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the investigation.

4. In the absence of material new evidence relating to this matter, we conclude that our investigation raises no substantial or material questions of fact as to whether Monroe possesses the basic qualifications, including those related to character, to hold or obtain any Commission license or authorization.

¹ 47 U.S.C. § 301.

² 47 C.F.R. §§ 1.903(a), 1.949(a).

³ See *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, Report and Order, 13 FCC Rcd 21027, 21071, para. 96 (1998) (adopting inter alia Section 1.949 of the Rules); Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476, 11485–86, para. 22 (1999).

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i), 4(j), and 503(b) of the Act,⁴ and Sections 0.111 and 0.311 of the Rules,⁵ the Consent Decree attached to this Order **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Timothy S. Coyle, Vice President, Monroe Medi-Trans, Inc. dba Monroe Ambulance, 1669 Lyell Avenue, Rochester, New York 14606, and to Sharon P. Stiller, Esq., Abrams, Fensterman, Eisman, Formato, Ferrara & Einiger, LLP, Counsel to Monroe Medi-Trans, Inc. dba Monroe Ambulance, 160 Linden Oaks, Suite E, Rochester, New York 14625.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

⁴ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁵ 47 C.F.R. §§ 0.111, 0.311.

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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Monroe Medi-Trans, Inc. dba Monroe Ambulance, by their respective authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Enforcement Bureau’s investigation into possible violations of Section 301 of the Communications Act of 1934, as amended,¹ Sections 1.903(a) and 1.949(a) of the Commission’s rules,² and the associated Commission orders requiring licensees to seek authority for any continued operations after license expiration,³ as such rules and orders pertain to the operation of Private Land Mobile Radio Service wireless radio stations.

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to

¹ 47 U.S.C. § 301.

² 47 C.F.R. §§ 1.903(a), 1.949(a).

³ See *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services*, Report and Order, 13 FCC Rcd 21027, 21071, para. 96 (1998) (*Universal Licensing System Report and Order*) (adopting inter alia Section 1.949 of the Rules); Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476, 11485–86, para. 22 (1999) (*Universal Licensing System MO&O*) (collectively, *Universal Licensing System Orders*).

which Monroe is subject by virtue of its business activities, including but not limited to, the Licensing Rules.

- (f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 10.
- (g) “Covered Employees” means all employees and agents of Monroe who perform, or supervise, oversee, or manage the performance of, duties that relate to Monroe’s responsibilities under the Licensing Rules.
- (h) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (i) “Investigation” means the investigation commenced by the Bureau’s September 5, 2012 letter of inquiry⁴ regarding Monroe’s apparent violation of the Licensing Rules.
- (j) “Licensing Rules” means Section 301 of the Act, Sections 1.903(a) and 1.949(a) of the Rules, the *Universal Licensing System Orders*, and other Communications Laws that prohibit the use or operation of a wireless radio station without a valid Commission authorization or in a manner inconsistent with such authorization.
- (k) “Monroe” means Monroe Medi-Trans, Inc. dba Monroe Ambulance, its predecessors-in-interest and successors-in-interest.
- (l) “Operating Procedures” means the standard, internal operating procedures and compliance policies established by Monroe to implement the Compliance Plan.
- (m) “Parties” means Monroe and the Bureau, each of which is a “Party.”
- (n) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.

II. BACKGROUND

2. Section 301 of the Act⁵ and Section 1.903(a) of the Rules⁶ prohibit the use or operation of any apparatus for the transmission of energy or communications or signals by wireless radio stations except under and in accordance with an authorization granted by the Commission. Additionally, Section 1.949(a) of the Rules requires that licensees file renewal applications for wireless radio stations “no later than the expiration date of the authorization for which renewal is sought, and no sooner than 90 days prior

⁴ See Letter from John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, to Eileen Coyle, President/CEO, Monroe Medi Trans Incorporated (Sep. 5, 2012) (on file in EB-SED-12-00002427).

⁵ 47 U.S.C. § 301.

⁶ 47 C.F.R. § 1.903(a).

to expiration.⁷ Absent a timely filed renewal application, a wireless radio station license automatically terminates.⁸

3. Commission records indicate that Monroe's Private Land Mobile Radio Service (Industrial/Business Pool) (PLMRS) station license, call sign WNXA527, automatically expired on August 25, 2011, the expiration date of the station's license, because Monroe did not timely file an application to renew the license.⁹ On April 24, 2012, Monroe filed with the Wireless Bureau a request for Special Temporary Authority (STA Request) to operate a PLMRS station until its application for a new station license was granted.¹⁰ In its STA Request, Monroe acknowledged that it continued to operate the station after the expiration of the station license.¹¹ On May 14, 2012, Monroe filed an application for a new PLMRS license, which was granted on August 22, 2012.¹²

4. The Bureau's Spectrum Enforcement Division issued a letter of inquiry (LOI) to Monroe on September 5, 2012.¹³ The LOI directed Monroe to submit a sworn written response to a series of questions relating to Monroe's failure to file a license renewal application for station WNXA527 and its continued operation of the station after the expiration of the station license. Monroe responded to the LOI on October 17, 2012.¹⁴ In its LOI Response, Monroe stated that it took steps to secure operating authority from the FCC "immediately" after discovering that the license for station WNXA527 had expired.¹⁵ Monroe also reported that it had implemented new procedures to ensure the timely filing of license

⁷ *Id.* § 1.949(a). If a licensee intending continued operations fails to file a timely renewal application, the Commission nevertheless requires such licensee to seek operating authority. *See Universal Licensing System Report and Order*, 13 FCC Rcd at 21071, para. 98 (directing licensees that fail to file timely renewal applications to submit a new application or, if necessary, a request for special temporary operating authority); *Universal Licensing System MO&O*, 14 FCC Rcd at 11485-86, para. 22 (permitting, in the alternative, the acceptance and processing of late filed renewal applications under certain circumstances). In the *Universal Licensing System MO&O*, the Commission expressly held that it could "initiate enforcement action against the licensee both for untimely filing and unauthorized operation between the expiration of the license and the late renewal filing, including, if appropriate, the imposition of fines or forfeitures for these rule violations." *Id.*

⁸ 47 C.F.R. § 1.955(a)(1).

⁹ On May 30, 2011, the Commission's Wireless Telecommunications Bureau (Wireless Bureau) sent Monroe a courtesy "renewal reminder" notice for station WNXA527, alerting Monroe that it was required to file a renewal application for the station prior to the expiration of the station's license if it planned to continue operation. *See Automated Renewal Reminder Notice from the FCC Wireless Telecommunications Bureau to Monroe Medi-Trans, Incorporated*, Reference No. 5164589 (May 30, 2011).

¹⁰ *See* FCC File No. 0005178557 (contains, inter alia, two subsequent amendments to the April 24, 2012 STA Request, filed by Monroe on April 25, 2012 and April 26, 2012). The Wireless Bureau granted the STA Request on April 27, 2012 under the call sign WQPF205. *See* FCC File No. 0005178557.

¹¹ *See* FCC File No. 0005178557.

¹² *See* FCC File No. 0005210427.

¹³ *See supra* note 4.

¹⁴ Letter from Eileen Coyle, President, Monroe Medi-Trans, Inc., to Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (Oct. 17, 2012) (LOI Response) (on file in EB-SED-12-00002427).

¹⁵ *Id.* at 3. Monroe subsequently reported that it discovered that the license for station WNXA527 had expired on April 23, 2012. *See* Letter from Timothy Coyle, Vice President, Monroe Medi-Trans, Inc., to Jennifer Burton, Spectrum Enforcement Division, FCC Enforcement Bureau (Apr. 16, 2013) (on file in EB-SED-12-00002427).

renewal applications, including the addition of license expiration dates to Monroe's corporate calendar.¹⁶ The Bureau and Monroe executed a tolling agreement to toll the statute of limitations.¹⁷

III. TERMS OF AGREEMENT

5. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

6. **Jurisdiction.** Monroe agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

7. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

8. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Monroe agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Monroe concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in the Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Monroe with respect to its basic qualifications, including its character qualifications, to be a Commission licensee or to hold Commission licenses or authorizations.

9. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Monroe shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Monroe complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his/her duties under this Consent Decree, the Compliance Officer shall have specific knowledge of the Licensing Rules prior to assuming his/her duties.

¹⁶ See LOI Response at 4.

¹⁷ See, e.g., Tolling Agreement Extension, executed by and between John D. Poutasse, Chief, Spectrum Enforcement Division, FCC Enforcement Bureau, and Timothy S. Coyle, Vice President, Monroe Medi-Trans, Inc. (Aug. 22, 2013) (on file in EB-SED-12-00002427).

10. **Compliance Plan.** For purposes of settling the matters set forth herein, Monroe agrees that it shall within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Licensing Rules, Monroe shall implement the following procedures:

- (a) **Operating Procedures on Licensing Rules.** Within sixty (60) calendar days after the Effective Date, Monroe shall establish Operating Procedures that all Covered Employees must follow to help ensure Monroe's compliance with the Licensing Rules. As part of the Operating Procedures, the Compliance Officer shall designate a Covered Employee to be responsible for developing and maintaining a database of all FCC licenses held by Monroe and the expiration date of each such license. In addition, Monroe shall incorporate the expiration dates of its FCC licenses into Monroe's corporate calendar. The Compliance Officer shall ensure that Monroe timely files applications for renewal for any FCC licenses that Monroe intends to operate after the license's expiration date.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Licensing Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure Monroe's compliance with the Licensing Rules. Monroe shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete. Monroe shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** Monroe shall establish and implement a Compliance Training Program on compliance with the Licensing Rules and the Operating Procedures. As part of the Compliance Training Program, the Covered Employees shall be advised of Monroe's obligation to report any noncompliance with the Licensing Rules under paragraph 11 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the Effective Date shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. Monroe shall repeat the compliance training at least annually, and shall periodically review and revise its Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness.

11. **Reporting Noncompliance.** Monroe shall report any noncompliance with the Licensing Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after the discovery of such noncompliance. Such reports shall include a detailed explanation of (i) each instance of noncompliance; (ii) the steps that Monroe has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Monroe has taken or will take to prevent the recurrence of any such noncompliance. All such reports of noncompliance shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications

Commission, 445 12th Street, S.W., Room 3-C366, Washington, DC 20554, with a copy submitted electronically to Jennifer Burton at Jennifer.Burton@fcc.gov and to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

12. **Compliance Reports.** Monroe shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date, and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Monroe's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Licensing Rules. In addition, each Compliance Report shall include a certification by Monroe's Compliance Officer, as an agent of and on behalf of Monroe, stating that the Compliance Officer has personal knowledge that Monroe (i) has established and implemented the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 11 hereof.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must comply with Section 1.16 of the Rules¹⁸ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Monroe, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully (i) each instance of noncompliance; (ii) the steps that Monroe has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Monroe has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted to the Chief, Spectrum Enforcement Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, S.W., Room 3-C366, Washington, DC 20554, with a copy submitted electronically to Jennifer Burton at Jennifer.Burton@fcc.gov and to JoAnn Lucanik at JoAnn.Lucanik@fcc.gov.

13. **Termination Date.** Unless stated otherwise, the requirements of paragraphs 9 through 12 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

14. **Voluntary Contribution.** Monroe agrees that it will make a voluntary contribution to the United States Treasury in the amount of nine thousand dollars (\$9,000) within thirty (30) calendar days after the Effective Date. Monroe shall also send electronic notification of payment to Jennifer Burton at Jennifer.Burton@fcc.gov, JoAnn Lucanik at JoAnn.Lucanik@fcc.gov, and Samantha Peoples at

¹⁸ 47 C.F.R. § 1.16.

Sam.Peoples@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card and must include the NAL/Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.¹⁹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that Monroe should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If Monroe has questions regarding payment procedures, it should contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

15. **Waivers.** Monroe waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues an Adopting Order as defined herein. Monroe shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Monroe nor the Commission shall contest the validity of the Consent Decree or of the Adopting Order, and Monroe shall waive any statutory right to a trial *de novo*. Monroe hereby agrees to waive any claims it may have under the Equal Access to Justice Act²⁰ relating to the matters addressed in this Consent Decree.

16. **Invalidity.** In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

17. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order

¹⁹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²⁰ Equal Access to Justice Act, Pub L. No. 96-481, 94 Stat. 2325 (1980) (codified at 5 U.S.C. § 504); *see also* 47 C.F.R. §§ 1.1501-1.1530.

specifically intended to revise the terms of this Consent Decree to which Monroe does not expressly consent), that provision will be superseded by such Rule or Commission order.

18. **Successors and Assigns.** Monroe agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

19. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute either an adjudication on the merits or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

20. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

21. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

22. **Authorized Representative.** The individual signing this Consent Decree on behalf of Monroe represents and warrants that he is authorized by Monroe to execute this Consent Decree and to bind Monroe to the obligations set forth herein. The FCC signatory represents that he is signing this Consent Decree in his official capacity and that he is authorized to execute this Consent Decree.

23. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

John D. Poutasse
Chief
Spectrum Enforcement Division
Enforcement Bureau

Date

Timothy Coyle
Vice President
Monroe Medi-Trans, Inc. dba Monroe Ambulance

Date