



**FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

April 8, 2013

DA 13-640

Pat Simpson
General Manager
Gulf Air Center, Inc.
3190 Airport Drive
Gulf Shores, AL 36542

RE: Application to Assign the License for aeronautical advisory (unicom) station KFT9 from Gulf Capitol Holdings, LLC, to Gulf Air Center, Inc. – FCC File No. 0005611039

Dear Mr. Simpson:

This letter dismisses the above-referenced application to assign the license for aeronautical advisory (unicom) station KFT9 at Jack Edwards National Airport (the Airport), Gulf Shores, Alabama, from Gulf Capital Holdings, LLC (Gulf Capital), to Gulf Air Center, Inc. (Gulf Air Center).¹

Background. The Airport does not have a control tower, remote communications outlet station, or Federal Aviation Administration (FAA) flight service station. Under the Commission's Rules, therefore, only one unicom station may be authorized to operate at the Airport.² In addition, eligibility to obtain a license to operate a unicom station at an uncontrolled airport, whether through an application for a new license or an application for the assignment of an existing unicom license, is restricted to "State or local government entities, and to nongovernmental organizations (NGOs) that are authorized to apply for the license by a State or local government entity whose primary mission is the provision of safety services."³

Unicom operations at the Airport had been authorized under Gulf Capital's license for station KFT9. In June 2012, the Airport Authority of the City of Gulf Shores (Airport Authority) informed the Commission that Gulf Capital had filed for bankruptcy, and its assets had been purchased by Gulf Air Center, which assumed control of the station.⁴ In August 2012, in response to an inquiry from the Wireless Telecommunications Bureau's Mobility Division (Division),⁵ Gulf Air Center confirmed that it had obtained the station from Gulf Capital as part of a Bankruptcy Court-approved asset purchase, and stated that it had applied for assignment of the license.⁶ That application, however, had been dismissed,

¹ FCC File No. 0005611039 (filed Jan. 21, 2013).

² See 47 C.F.R. § 87.215(b).

³ See 47 C.F.R. § 87.215(c)-(d).

⁴ See Letter, dated June 13, 2012, from Jerri Thompson, Airport Manager, Airport Authority, to Kim Kleppinger, FCC.

⁵ Letter, dated Aug. 15, 2012, from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to Pat Simpson, General Manager, Gulf Air Center.

⁶ See Letter, dated Aug. 27, 2012, from T. Deven Moore, Counsel for Gulf Air Center, to Jeffrey Tobias, FCC, at 1.

and Gulf Air Center lacked Commission authorization to operate the station.⁷

In September 2012, both the Airport Authority⁸ and Gulf Air Center⁹ filed applications for special temporary authority (STA) to operate a unicom station at the Airport. The Airport Authority submitted letters from the Mayor of Gulf Shores and the FAA Airports District Office for Alabama and Mississippi supporting grant of the Airport Authority's application and denial of Gulf Air Center's application.¹⁰

In October 2012, Gulf Air Center filed an application to assign the license for station KFT9 from Gulf Capital to Gulf Air Center.¹¹ The application was returned for amendment because, *inter alia*, it lacked written certification of support from a State or local government entity whose primary mission is the provision of safety services.¹²

In November 2012, the Division denied Gulf Air Center's STA request, granted the Airport Authority's STA request pending resolution of Gulf Air Center's assignment application, and directed Gulf Air Center to cooperate with the Airport Authority to ensure a secure transition to new temporary management of the unicom service formerly authorized under the license for station KFT9.¹³ The Airport Authority currently operates the unicom station at the Airport under call sign WQQF844.

In January 2013, Gulf Air Center withdrew its assignment application and, shortly thereafter, filed the instant assignment application. The instant application includes a letter from the Mayor of Orange Beach, Alabama, endorsing Gulf Air Center's qualifications to operate the unicom station and requesting that we accept the application.¹⁴ The Airport Authority opposes the application.¹⁵

Discussion. In determining to limit eligibility for unicom licenses to governmental entities or their designees, the Commission stated that "[t]his public service eligibility nexus will ensure that new licensees have a vested interest in public safety, and will maximize the possibility that adequate ongoing resources will be made available for operating unicom stations in a manner that promotes public safety."¹⁶ It added that it anticipated that many, if not most, new unicom licensees would be state or local government agencies charged with protecting public safety, and that although private sector entities could still acquire unicom licenses, they would "be able to do so only with the appropriate designation by the relevant state or local government agency."¹⁷

⁷ See Notice of Immediate Dismissal, Ref. No. 0004098963, dated Jan. 23, 2010.

⁸ FCC File No. 0005399141 (filed Sept. 18, 2012).

⁹ FCC File No. 0005424321 (filed Sept. 27, 2012, amended Sept. 28, 2012).

¹⁰ See Letter, dated Oct. 29, 2012, from Robert Craft, Mayor, City of Gulf Shores, to Federal Communications Commission; Letter, dated Oct. 18, 2012, from William J. Schuller, P.E., Program Manager, FAA Airports District Office, to Vic Roberts, Chairman, Airport Authority of the City of Gulf Shores.

¹¹ FCC File No. 0005462138 (filed Oct. 24, 2012).

¹² See Return Letter, Ref. No. 5474271, dated Nov. 7, 2012.

¹³ See Letter, dated Nov. 8, 2012, from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to Jerri Thompson, Airport Manager, Airport Authority, and Pat Simpson, General Manager, Gulf Air Center, at 3.

¹⁴ See Letter, dated Jan. 10, 2013, from Tony Kennon, Mayor, City of Orange Beach, to Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau.

¹⁵ See Letter from Jerri Thompson, Airport Manager, Airport Authority, to Scot Stone (filed Mar. 8, 2013).

¹⁶ See Review of Part 87 of the Commission's Rules Concerning the Aviation Radio Service, *Report and Order and Further Notice of Proposed Rule Making*, WT Docket No. 01-289, 18 FCC Rcd 21432, 21463 ¶ 63 (2003).

¹⁷ *Id.*

We conclude, particularly in light of the contrary letter from the Mayor of Gulf Shores, that the City of Orange Beach is not a “relevant state or local government agency” for this purpose, for it does not have geographic jurisdiction over the airport. We recognize that Orange Beach is near Gulf Shores, but it remains that the Airport is in Gulf Shores, while Gulf Air Center’s letter of support comes from a separate jurisdiction.¹⁸

We accordingly find that the captioned application to assign the license for unicom station KFT9 to Gulf Air Center is defective under Section 1.934(d) of the Rules due to the absence of a letter from a relevant government agency authorizing Gulf Air Center to apply for the license, and we dismiss it as such.¹⁹ Given this disposition, we will entertain an application from the Airport Authority for a new unicom license at the Airport.

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 303(l) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(l), and Sections 1.934(d) and 87.215 of the Commission’s Rules, 47 C.F.R. §§ 1.934(d), 87.215, application FCC File No. 0005611039, filed January 21, 2013, SHALL BE DISMISSED consistent with this action and the Commission’s rules.

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

cc: Jerri Thompson
Airport Manager
Airport Authority of the City of Gulf Shores
P.O. Box 919
Gulf Shores, AL 36542

¹⁸ We have been offered no reason to believe that the Mayor of Gulf Shores no longer favors the Airport Authority as the entity that should be authorized to operate the unicom station in question. Indeed, that Gulf Air Center solicited a letter of support from the Mayor of Orange Beach suggests that an attempt to obtain such a letter from the Mayor of Gulf Shores would be unavailing.

¹⁹ See 47 C.F.R. § 1.934(d)(1)-(2). The instant application also contains requests for waivers of the Commission’s Rules, stemming from the earlier unauthorized assignment of the license for station KFT9 to Gulf Air Center and Gulf Air Center’s subsequent unauthorized operation of the station. Given our holding that the instant application should be dismissed, the waiver requests are moot.