

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

In the Matter of)
)
UNION COUNTY, FLORIDA)
)
Licensee of Private Land Mobile Radio Station)
WQPL308)

ORDER PROPOSING MODIFICATION

Adopted: January 14, 2015

Released: January 14, 2015

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 Union County, Florida (Union County), licensee of Private Land Mobile Radio (PLMR) Station WQPL308 to delete frequency 155.985 MHz. We take this action to promote the public interest, convenience, and necessity by resolving an ongoing interference issue.¹ Union County has thirty days from the date of this order to submit a written statement protesting the proposed modification and proposing an alternate method for resolving the interference.²

II. BACKGROUND.

2. On April 18, 2012, the Association of Public Safety Communications Officials International, Inc., (APCO), an FCC-certified frequency coordinator, submitted an application on behalf of Union County to license a new PLMR station in the county on four paired public safety pool VHF frequencies and one unpaired public safety pool VHF frequency.³ Included in that application was a request to operate on frequency 155.985 MHz at a repeater base station location within the county.⁴ Union County also requested to operate mobile units on this frequency for talk-around purposes within a 40.0 kilometer radius around the base station.⁵ Frequency 155.985 MHz is a mobile-only frequency under Commission rules but may be assigned for base station use on a secondary, non-interference basis.⁶ On June 19, 2012, the Public Safety and Homeland Security Bureau (PSHSB) granted Union County's application under call sign WQPL308.⁷

¹ See 47 U.S.C. §316(a)(1).

² See 47 C.F.R. §1.87(a).

³ See FCC File No. 0005169253 (filed Apr. 18, 2012).

⁴ *Id.*

⁵ *Id.*

⁶ See 47 C.F.R. §90.20(c)(3). See also 47 C.F.R. §90.173(h).

⁷ See call sign WQPL308.

3. In a letter to the PSHSB dated October 23, 2013, APCO states that it received an e-mail from Baker County Emergency Services, Florida (Baker County), licensee of PLMR station WPYF789, asking APCO to investigate interference Baker County was receiving on frequency 155.9775 MHz.⁸ Baker County has been licensed on a primary basis on frequency 155.9775 MHz under call sign WPYF789 since October 26, 2011. APCO also coordinated Baker County's application.⁹

4. APCO states that frequency 155.9775 MHz is the "input frequency" to Baker County's repeater at the Sanderson and MacLenny towers.¹⁰ It notes that the distance between the Baker County site and Union County site is 59.3 kilometers.¹¹

5. When it coordinated Union County's application, APCO observes that it performed a routine engineering analysis to verify that Union County's interference contours would not overlap Baker County's service contour.¹² APCO states, however, that "[a]fter more extensive research and engineering studies" it found that Union County's repeater station operation on frequency 155.985 MHz is causing interference to Baker County despite the fact that Baker County's frequency is offset 7.5 kHz from Union County's frequency.¹³ APCO submits that Baker County's "adjacent channel rejection appears to be insufficient to reject the offending [Union County] system."¹⁴

6. APCO concludes that Union County should change the transmit frequency of its repeater station since it was licensed after Baker County and because its repeater operation on a mobile-only frequency is licensed on a secondary basis.¹⁵ APCO states that it conducted frequency searches and found that Union County can operate on frequency 159.2025 MHz as a replacement for frequency 155.985 MHz.¹⁶ APCO represents that it notified Union County by email on March 14, 2013 "about the replacement frequency" and "offered to process the application for Union County and waive [its] frequency coordination fees."¹⁷

7. APCO indicates it received a response from Union County on March 25, 2013 in which "Union County stated that they were licensed properly, and they do not have the funding to make changes to their system."¹⁸ APCO sent the interference complaint and related documents to the Commission's Enforcement Bureau on April 8, 2013 pursuant to APCO's Memorandum of Understanding (MOU) with the Commission regarding interference issues.¹⁹

⁸ See Letter from Christine Phelps, Licensing/Interference Specialist, AFC APCO's Spectrum Management Division to John Evanoff, Attorney, Federal Communications Commission (Oct. 23, 2013) (APCO Letter).

⁹ See FCC File No. 0004802234 (filed Jul. 14, 2011).

¹⁰ APCO Letter at 1.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ APCO states that the "offending" Union County signal can be measured with a signal level as high as -67 dBm on Baker County's receiver "on frequency." *Id.*

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.* In 1998 the FCC announced it signed a Memorandum of Understanding between the FCC Compliance and Information Bureau, the FCC Wireless Telecommunications Bureau, and the Association of Public Safety

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8. On May 15, 2013, PSHSB licensing staff attempted to schedule a conference call between Baker County, Union County, APCO and Enforcement Bureau staff to resolve the outstanding interference problem.²⁰ According to PSHSB licensing staff, Union County failed to respond.²¹ On July 2, 2013, PSHSB licensing staff emailed Union County's representative to schedule another conference call to discuss the interference problem and its resolution.²² Union County did not respond.

9. On October 23, 2013, APCO submitted the interference complaint to PSHSB for further action.

III. DISCUSSION.

10. As an initial matter, Union County is operating a base station on frequency 155.985 MHz which is a mobile only channel under Section 90.20(c)(3) of the Commission's rules.²³ Base stations can operate on mobile only channels (*e.g.* 155.985 MHz) but are "secondary" in accordance with Section 90.173(h) of the Commission's rules.²⁴ Section 90.7 of the Commission's rules defines secondary as "[r]adio communications which may not cause interference to operations authorized on a primary basis and which are not protected from interference from those primary operations."²⁵

11. Although the Commission may immediately terminate secondary operations should interference occur,²⁶ PSHSB licensing staff did not do so and instead attempted to resolve the interference matter with Union County's participation. Section 90.173(b) of the Commission's rules provides that "[l]icensees of stations suffering or causing harmful interference are expected to cooperate and resolve this problem by mutually satisfactory arrangements."²⁷ "If the licensees are unable to do so, the Commission may impose restrictions including specifying the transmitter power, antenna height, or area

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Communications Officials that "streamlines the resolution of interference complaints that affect public safety communications." *See* FCC Compliance and Information Action, Rept. No. CI 98-12, 1998 WL 396675 (July 17, 1998) (MOU). The Commission said that the "MOU greatly supports the Commission's mandates under the Telecommunications Act of 1996 and will conserve the Commission's resources it would otherwise expend in the research and verification of a licensee-filed complaint." *Id.*

²⁰ Email from Al Knerr, FCC, to John Walker, Union County, Florida, *et al.* (May 15, 2013).

²¹ Email from Al Knerr, FCC, to John Walker, Union County, Florida (July 2, 2013).

²² *Id.*

²³ 47 C.F.R. § 90.20(c)(3).

²⁴ "[B]ase stations may be authorized to operate on a secondary basis on frequencies below 450 MHz which are available to mobile stations. 47 C.F.R. § 90.173(h).

²⁵ 47 C.F.R. § 90.7.

²⁶ *See, e.g.,* Dennis Enyeart, *Order*, 16 FCC Rcd 5441, 5442 (WTB 2001) (secondary short-spaced stations may be required to terminate operations should interference occur).

²⁷ 47 C.F.R. § 90.173(b). *See, e.g.,* Allegany County, *Order*, 28 FCC Rcd 8957 (PSHSB 2013).

or hours of operation of the stations concerned.”²⁸ To date, Union County has failed to respond to PSHSB licensing staff or propose any potential changes in the technical parameters of its system.²⁹

12. APCO recommends that Union County replace frequency 155.985 MHz with frequency 159.2025 MHz, which APCO believes should alleviate the interference being encountered by Baker County.³⁰ APCO notes that frequency 159.2025 MHz is a “PH” frequency, and the closest licensed user is 133.41 miles away. There is a 7.5 kHz offset licensed user at 68.03 miles.³¹ APCO indicates it will waive its frequency coordination fees. Given the inability of the parties to resolve the problem despite the ongoing interference to Baker County’s fire service communications, Commission action is warranted to carry out our mandate to promote the safety of life.³²

13. We believe that Section 316(a)(1) of the Communications Act of 1934, as amended, provides the appropriate vehicle for resolving this matter.³³ Section 316(a) permits the Commission to modify a station license if the action will promote the public interest, convenience, and necessity.³⁴ Because Union County’s secondary operations are causing interference to Baker County’s primary operations, and Union County has failed to negotiate a mutually satisfactory solution with Baker County, we believe that a modification of Union County’s license to remove authorization for frequency 155.985 MHz is appropriate.

14. In accordance with Section 1.87(a) of the Commission's Rules,³⁵ we will not issue a modification order until Union County has received notice of our proposed action and has had an opportunity to interpose a protest and/or indicate operational restrictions which would successfully mitigate the interference with Baker County’s licensed radio operations. To protest the modification, Union County must, within thirty days of the release date of this *Order Proposing Modification*, submit a written statement with sufficient evidence to show that the proposed modification would not be in the public interest. Any such statement should propose an alternate method for resolving the interference to Baker County. During this time, Union County may also voluntarily modify its license to replace frequency 155.985 MHz with frequency 159.2025 MHz as suggested by APCO. The protest must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W.,

²⁸ 47 C.F.R. § 90.173(b). “Further the use of any frequency at a given geographical location may be denied when, in the judgment of the Commission, its use in that location is not in the public interest; the use of any frequency may be restricted as to specified geographical areas, maximum power, or such other operating conditions, contained in this part or in the station authorization.” 47 C.F.R. § 90.173(b).

²⁹ Under Sections 308 and 403 of the Communications Act of 1934, as amended, U.S.C. §§308, 403, licensees are required to reply to Commission correspondence. Failure to do so is actionable. *See, e.g., Daniel Granda, Memorandum Opinion and Order*, 22 FCC Rcd 3966 (E.B. 2007); Ronald Brasher, *Decision*, 19 FCC Rcd 18462, 18470 (2004).

³⁰ Frequency 159.2025 MHz is authorized for base or mobile operations and with a bandwidth not to exceed 11.25 kHz. 47 C.F.R. § 90.20(d)(27).

³¹ APCO Letter at 1. PH refers to the Highway Maintenance Coordinator. 47 C.F.R. § 90.20(c)(2)(i).

³² 47 U.S.C. § 151.

³³ *See* 47 U.S.C. § 316(a)(1). *See, e.g., Clayton County, Georgia, Memorandum Opinion and Order*, 16 FCC Rcd 14880 (WTB 2001) (proposing to modify public safety licenses pursuant to Section 316 in order to resolve interference).

³⁴ *See* 47 U.S.C. § 316(a)(1); *California Metro Mobile Communications, Inc. v. FCC*, 365 F.3d 38 (D.C. Cir. 2004) (upholding the FCC’s authority to delete a frequency from a license pursuant to Section 316).

³⁵ *See* 47 C.F.R. § 1.87(a).

Room TW-A325, Washington, D.C. 20554.³⁶ If no protest is filed, Union County will have waived its right to protest the modification, will be deemed to have consented to the modification and will be subject to enforcement action should the continued unlawful operation of the channel continue.

IV. CONCLUSION.

15. For the reasons stated above, we propose to modify Union County's license for WQPL308 by removing the authorization on frequency pair 155.985 MHz and replacing it with frequency 159.2025 MHz.

16. ACCORDINGLY, IT IS PROPOSED that, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, the license for Private Land Mobile Radio Service Station WQPL308 BE MODIFIED to delete frequency 155.985 MHz and add frequency 159.2025 MHz to Station WQPL308.

17. IT IS FURTHER ORDERED that, pursuant to Section 4(i) Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.87(i) of the Commission's Rules, 47 C.F.R. § 1.87(i), that this *Order Proposing Modification* SHALL BE SENT by certified mail, return receipt requested to Union, County of, P.O. Box 266, Lake Butler, Florida 32054, Attention: Director EMS.

18. 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 COMMUNICATION COMMISSION

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

³⁶ 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. Hand-delivered or messenger-delivered documents for the Commission's Secretary are accepted only at our new location at 236 Massachusetts Avenue, N.E., Suite 110, Washington, D.C. 20002. Other messenger-delivered documents, including documents sent by 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. See FCC Announces a New Filing Location for Paper Documents and a New Fax Number for General Correspondence, *Public Notice*, 16 FCC Rcd 22165 (2001).