

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

In the Matter of
PUERTO RICO STATE POLICE
Licensee of Private Land Mobile Radio Station
WQSG942

ORDER PROPOSING MODIFICATION

Adopted: December 4, 2014

Released: December 4, 2014

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 Puerto Rico State Police (PR State Police) for Private Land Mobile Radio (PLMR) station WQSG942 by deleting the frequencies listed in Attachment I, Table A1 from the license. We take this action in furtherance of ensuring compliance with our rules and policies.

II. BACKGROUND

2. On July 26, 2013, the PR State Police filed an application seeking to license a new PLMR station, and associated mobiles, at three fixed locations in Puerto Rico using numerous channels from the 800 MHz band.1 Included with the application was a letter from the PR State Police's frequency coordinator, the Association of Public Safety Communications Officials, International (APCO), certifying, incorrectly, that the channels listed on the application - channels that were taken from the Commission's Vacated Channel Search Engine (VCSE) - were available for licensing to the PR State Police.2

3. Staff from the Commission's Public Safety and Homeland Security Bureau (Bureau) granted the application on September 18, 2013 based upon APCO's certification. More recently, however, Bureau staff determined that channels from the VCSE listed on the PR State Police application were not available for licensing when the application was filed. These channels remain unavailable for licensing today.

4. The VCSE contains a detailed list of channels by geographic region relinquished by Sprint as part of the band reconfiguration process.3 Channels listed in the VCSE become available for licensing to

1 See ULS application no. 0005872455 (PR State Police Application).

2 See letter from Farokh Latif, AFC Director, APCO International, Inc. to Federal Communications Commission (Dec. 5, 2012) (attached to PR State Police Application) (APCO Certification).

3 See Public Safety and Homeland Security Bureau and Wireless Telecommunications Bureau Establish New 800 MHz Vacated Channel Search Engine for Identifying Vacated Channels in the 800 MHz Interleaved Band That (continued....)

public safety entities in stages and only after the Bureau releases a public notice announcing a date upon which a qualified frequency coordinator may file an application on behalf of an eligible applicant.⁴ Applications filed prior to the availability date are to be dismissed.⁵ Applications for vacated channels must include a statement from an eligible frequency coordinator certifying that it searched the VCSE and verified that the frequencies and locations being applied for are available for licensing.⁶

5. The PR State Police's application included a letter from APCO certifying that the channels listed on the application from the VCSE were "available for licensing to the applicant at the sites on the attached application in accordance with the rules and procedures outlined in Public Notice DA 12-1839."⁷ APCO attached a contour study purporting to demonstrate that the proposed 22 dBu F(50,10) contour would remain within Sprint's previous 22 dBu F(50,10) contour licensed under call sign WPDF797.⁸

6. APCO's contour study, however, is pertinent only to PR State Police frequency 857.1625 MHz.⁹ Although APCO's contour study is accurate, frequency 857.1625 MHz remains unavailable for licensing because Sprint's overlaying EA-based license (call sign WPSA954) includes frequency 857.1625 MHz but remains unavailable for licensing on that frequency.¹⁰ The Bureau notified APCO in March 2013 – prior to the time the application was filed – that site-based channels listed in the VCSE remain unavailable for licensing if the overlaying EA-based license is unavailable.¹¹

7. No contour studies were included for any of the other VCSE channels listed on the PR State Police application. Staff has confirmed that all remain unavailable for licensing.

8. To ensure that no applicant applies to license a channel needed for the band reconfiguration program, channels listed in the VCSE remain unavailable for licensing until the Bureau announces their availability. In this case, the channels from the VCSE for which the PR State Police applied are assigned as replacement channels to PLMR licensee Communications Leasing Corporation (Communications Leasing). The PR State Police's operation on these channels would create multiple co-channel short-

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Will Be Available for Licensing to Public Safety and Critical Infrastructure Industry Entities, *Public Notice*, 23 FCC Rcd 16481 (PSHSB WTB 2008).

⁴ See Public Safety and Homeland Security Bureau Announces Application and Licensing Procedures for Channels in Non-Border Regions Relinquished by Sprint Nextel Corporation in the 809.5-815/854.5-860 MHz Band, *Public Notice*, 27 FCC Rcd 14785 (PSHSB 2012).

⁵ *Id.* at 14787.

⁶ *Id.* at 14787-88.

⁷ APCO Certification at 1.

⁸ See attachment to PR State Police Application labeled "Contour Study."

⁹ *Id.*

¹⁰ See EA-based call sign WPSA954 for market BEA174 - Puerto Rico and the U.S. Virgin Islands.

¹¹ See letter from Michael J. Wilhelm, Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau, Federal Communications Commission to Public Safety Communications Council (Mar. 14, 2013).

spacings to Communications Leasing which has already re-tuned to these channels as required by the band reconfiguration program.¹²

III. DISCUSSION

9. Based on the information before us, we conclude that license call sign WQSG942 should be modified by deleting the frequencies listed in Attachment I, Table A1 from the license. We propose this modification in order to bring Station WQSG942 into compliance with our policy regarding the availability of channels listed in the VCSE and the Commission's co-channel spacing requirements.

10. Because the channels listed on the PR State Police application from the VCSE were unavailable for licensing, the application should not have been certified by APCO and Bureau staff should have dismissed it. Staff instead relied on APCO's certification that the channels were available.

11. The PR State Police's operation on these channels would create a short-spacing to co-channel licensee Communications Leasing. Therefore, the PR State Police's facilities would likely cause harmful interference to Communications Leasing if the PR State Police were to operate on these channels. Therefore, we find it in the public interest to remove the frequencies listed in Attachment I, Table A1 from the PR State Police license, call sign WQSG942.

12. In accordance with Section 1.87(a) of the Commission's Rules,¹³ we will refrain from modifying the license, call sign WQSG942, until the PR State Police has received notice of this proposed action and has had an opportunity to file a protest. To protest the license modifications, the PR State Police must, within thirty days of the release date of this *Order Proposing Modification*, submit a written statement protesting the proposed modifications and detailing what alternative action the Bureau should take to bring the station into compliance with our rules and policies.

13. The PR State Police's statement must be filed with the Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., Room TW-A325, Washington, DC 20554.¹⁴ In addition, please provide an electronic copy of the statement to Brian Marengo, Policy and Licensing Division, Public Safety and Homeland Security Bureau, at Brian.Marengo@fcc.gov.

14. If no timely protest is filed, the PR State Police will have waived its right to protest the proposed modifications and will be deemed to have consented to the modifications. The license for call sign WQSG942 will then be modified to remove the frequencies listed in Attachment I, Table A1.

¹² See Attachment I, Table A2. The minimum co-channel spacing is 113 kilometers unless a licensee satisfies the ERP and antenna height criteria in a short-spacing table. See 47 C.F.R. § 90.621(b).

¹³ 47 C.F.R. § 1.87(a).

¹⁴ 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.

V. ORDERING CLAUSES

15. 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 WQSG942, held by the Puerto Rico State Police, BE MODIFIED by deleting the frequencies listed in Attachment I, Table A1.

16. IT IS ORDERED that this *Order Proposing Modification* shall be sent by certified mail, return receipt requested, to the Puerto Rico State Police, ATTN Sgt. Luis O. Amaro Velazquez, #601 Ave. Franklin D. Roosevelt, Hato Rey, San Juan, PR 00936-8166.

17. 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

Attachment I

Table A1 – Frequencies to Be Deleted From Call Sign WQSG942

Call Sign	Location No.	Station Class Code	Latitude, Longitude	Address/ Area of Operation	Frequency (MHz) (to be deleted)
WQSG942	2	FB2	18° 27' 54.0" (N) 66° 07' 03.0" (W)	Corner of San Jose Street and San Francisco Street, Old San Juan	854.1375
WQSG942	4	FB2	18° 17' 37.0" (N) 66° 10' 01.0" (W)	Rd 879, km 2.13, Bo. Guaraguao Bayamon	854.1625 857.0625
WQSG942	5	FB2	18° 16' 46.8" (N) 65° 56' 40.6" (W)	Rd 945, km 16.0, Bo. Massa Il Goyo Marquez Sector Gurabo	854.1875 854.7125 857.1625 858.0375
WQSG942	6	MO	--	Statewide: PR	809.1375 809.1625 809.1875 809.7125 812.0625 812.1625 813.0375

Table A2 – Co-Channel Short-Spacings to Communications Leasing Corporation

PR State Police Call Sign	Location No.	PR State Police VCSE Frequency (MHz)	Communications Leasing Call Sign	Location No.	Communications Leasing Replacement Frequency (MHz)	Distance Between Base Stations (km)
WQSG942	2	854.1375	WNHR752	1	854.1375	97.9
WQSG942	2	854.1375	WNHR752	2	854.1375	88.1
WQSG942	4	854.1625	KNHJ379	1	854.1625	39.8
WQSG942	4	857.0625	KNHJ379	1	857.0625	39.8
WQSG942	5	854.1875	KNHJ379	1	854.1875	16.6
WQSG942	5	854.7125	WNBN929	3	854.7125	111.8
WQSG942	5	857.1625	WNHR751	1	857.1625	75.7
WQSG942	5	857.1625	WNHR751	4	857.1625	48.2
WQSG942	5	858.0375	KNHJ379	1	858.0375	16.6