

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

In the Matter of	)	
	)	
Public Safety Technologies, Inc.	)	File No. EB-FIELDWR-15-00019998
Licensee of Station WQJM334	)	NAL/Acct. No: 201632900001
	)	FRN: 0014831887
West Covina, California	)	

**FORFEITURE ORDER**

**Adopted: October 10, 2017**

**Released: October 11, 2017**

By the Regional Director, Region Three, Enforcement Bureau:

**I. INTRODUCTION**

1. We impose a penalty of \$25,000 against Public Safety Technologies, Inc. (PST), licensee of private land mobile radio (PLMR) station WQJM334, West Covina, California (Station), for causing harmful interference to other licensed stations operating on a shared frequency in the Los Angeles area, and for other violations of the Federal Communications Commission's requirements for PLMR stations. In response to an earlier Notice of Violation,<sup>1</sup> PST acknowledged that it operated the Station in a manner that violated the Commission's service rules for PLMR stations.<sup>2</sup> Yet, despite this acknowledgment and an assertion that it would remedy its conduct, PST continued to operate the Station in a manner that caused interference to other PLMR licensees and violated the law. Accordingly, on September 22, 2016, the Commission's Enforcement Bureau issued a Notice of Apparent Liability for Forfeiture (*NAL*), proposing a penalty of \$25,000 against PST.<sup>3</sup>

2. In response to the *NAL*, PST asserts that the Enforcement Bureau should cancel the proposed forfeiture on the grounds that PST played virtually no role in the configuration or operation of the Station and that it acted at the direction of a third-party, Motorola Solutions, Inc., who should be the responsible party instead of PST.<sup>4</sup> We reject PST's argument. As the licensee of the Station, PST is responsible for complying with the Commission's rules pertaining to the operation of the Station. If PST was unable or unwilling to exert sufficient control over the Station to ensure compliance with applicable Commission rules, it could have surrendered its license or sought the Commission's approval to assign the license to a third party. But, PST did not do so. After reviewing PST's response to the *NAL*, we find no basis to cancel, withdraw, or reduce the proposed penalty, and we therefore assess the \$25,000 forfeiture proposed in the *NAL*.

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<sup>1</sup> *Public Safety Technologies, Inc.*, Notice of Violation, V201632900004 (Apr. 7, 2016) (NOV), at [https://apps.fcc.gov/edocs\\_public/attachmatch/DOC-338813A1.pdf](https://apps.fcc.gov/edocs_public/attachmatch/DOC-338813A1.pdf).

<sup>2</sup> *Public Safety Technologies, Inc.*, Response to Notice of Violation (filed Apr. 22, 2016) (on file in EB-FIELDWR-15-00019998) (NOV Response).

<sup>3</sup> *Public Safety Technologies, Inc.*, Notice of Apparent Liability for Forfeiture, 31 FCC Rcd 10477 (EB 2016).

<sup>4</sup> *Public Safety Technologies, Inc.*, Response to Notice of Apparent Liability (Oct. 24, 2016) (on file in EB-FIELDWR-15-00019998) (NAL Response).

## II. BACKGROUND

3. PST is the licensee of several PLMR stations in the Los Angeles area.<sup>5</sup> Frequencies assigned to PLMR stations are available on a shared basis, unless otherwise specified.<sup>6</sup> PST is authorized to operate the Station on five frequencies from a fixed location on San Jose Hill in West Covina, California, including on frequencies 451.350 MHz and 451.600 MHz. In the Station's license, these two frequencies are assigned station class code FB7, which designates operation as a Private Carrier (Non-Profit), a general station class that does not itself convey any exclusive use rights.<sup>7</sup> Accordingly, PST must share the Station's frequencies with other co-channel licensees.

4. As discussed in greater detail in the *NAL*, on several occasions in 2015 and 2016, agents from the Bureau's Los Angeles Field Office (Los Angeles Office) investigated interference complaints filed against PST by a co-channel licensee.<sup>8</sup> During the investigations, agents observed PST transmitting continuously on 451.350 MHz and 451.600 MHz, thereby depriving nearby co-channel licensees of any opportunity to operate on those frequencies. Agents also observed that PST caused harmful interference to another licensee and that PST failed to transmit the Station's call sign as required by Section 90.425(a) of the Commission's rules.<sup>9</sup> PST was given both verbal warnings and a written Notice of Violation describing these violations of the Commission's rules, yet, despite its assurances that it was working to move its clients to a system licensed to a different entity, PST continued to make exclusive use of frequencies that it was only authorized to use on a shared basis.<sup>10</sup>

5. On September 22, 2016, the Bureau issued the PST *NAL* proposing a \$25,000 forfeiture against PST for its apparent willful and repeated violation of Sections 90.403(c), 90.403(e), and 90.425(a) of the Commission's rules by operating continuously on a frequency to which PST was not granted exclusive use (and thereby not sharing the frequency), by failing to take reasonable precautions to avoid causing harmful interference to co-channel licensees operating on shared spectrum, and by failing to transmit the Station's call sign at regular intervals.<sup>11</sup>

6. On October 24, 2016, PST submitted a timely response to the *NAL*. In the *NAL* Response, PST recounts many details surrounding the construction and operation of the Station. In particular, PST asserts that it is merely a small radio communications repair shop that served as a subcontractor to build out a radio network, called COM-Net, for use by public safety agencies in six member communities in southern California.<sup>12</sup> According to the *NAL* Response, PST acquired the license for the Station, which is authorized to operate in the business/industrial pool, as an accommodation for Motorola Solutions, Inc. (Motorola), the prime contractor, and for the COM-Net

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<sup>5</sup> See, e.g., WQJP447, West Covina, California; WQKB675, West Covina, California.

<sup>6</sup> 47 CFR § 90.173(a) ("Except as otherwise specifically provided in this part, frequencies assigned to land mobile stations are available on a shared basis only and will not be assigned for the exclusive use of any licensee.").

<sup>7</sup> Compare 47 CFR §§ 90.7 (defining a private carrier as "[a]n entity licensed in the private services and authorized to provide communications service to other private services on a commercial basis") and 90.403(c) (establishing presumption of spectrum sharing for PLMR stations unless otherwise provided in Part 90 of the Rules) to 47 CFR § 90.187(e) (establishing interference protection in an "exclusive service area" for stations, such as FB8 stations, that the Commission has "authorized for centralized trunked operation").

<sup>8</sup> The *NAL* includes a more complete discussion of the facts and history of this case and is incorporated in its entirety herein by reference. See *NAL*, 31 FCC Rcd at 10477-79, paras. 2-8.

<sup>9</sup> 47 CFR § 90.425(a).

<sup>10</sup> See NOV; NOV Response.

<sup>11</sup> See *NAL*, 31 FCC Rcd at 10479-80, paras. 9-13; 47 CFR §§ 90.403(c), 90.403(e), and 90.425(a).

<sup>12</sup> *NAL* Response at 1.

participants as a hedge against the possible unavailability of usable channels in the public safety pool.<sup>13</sup> According to PST, when Motorola determined that usable public safety pool channels were not available, it decided to build COM-Net around PST's license for the Station.<sup>14</sup> PST then claims that, after one of the participants in the radio network was apprised of complaints filed against PST by other Part 90 licensees, Motorola stripped PST of its access to the Station's transmitter, thereby preventing PST from taking any corrective action.<sup>15</sup> On these grounds, PST seeks a cancellation of the *NAL* or a reduction of the proposed forfeiture.<sup>16</sup>

### III. DISCUSSION

7. The Bureau proposed a forfeiture in this case in accordance with Section 503(b) of the Act,<sup>17</sup> Section 1.80 of the Commission's rules,<sup>18</sup> and the Commission's *Forfeiture Policy Statement*.<sup>19</sup> When we assess forfeitures, Section 503(b)(2)(E) requires that we take into account the "nature, circumstances, extent, and gravity of the violation and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and such other matters as justice may require."<sup>20</sup> As discussed below, we have fully considered PST's response to the *NAL*, which includes a variety of factual arguments, but we find none of them persuasive. We therefore affirm the \$25,000 forfeiture proposed in the *NAL*.

#### A. PST Does Not Contest the Documented Violations of the Commission's Rules

8. First, PST does not contest any of the factual or legal discussion in the *NAL* that supported the Bureau's finding that PST apparently violated the Commission's Part 90 rules. In the *NAL*, the Bureau concluded that PST apparently violated the Commission's rules by operating "the Station on a continuous basis for periods in excess of an hour" on frequencies designated for shared use.<sup>21</sup> PST does not contest this in the *NAL* Response. Instead, PST stated that it relied on the advice from Motorola that the "FB7 classification was appropriate for the type of use by COM-Net."<sup>22</sup> Similarly, PST made no attempt to rebut the Bureau's conclusion that, in causing interference to a co-channel licensee, PST failed to "take reasonable precautions to avoid causing harmful interference."<sup>23</sup> Instead, PST stated that it "merely followed the lead" of Motorola, "was never allowed to carry out deployment matters on its own," and relied on Motorola's assertion that the Station was properly configured and coordinated to avoid

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<sup>13</sup> *NAL* Response at 1-2. Under Part 90 of the Commission's rules, the public safety pool "covers the licensing of the radio communications of governmental entities and the following category of activities: Medical services, rescue organizations, veterinarians, persons with disabilities, disaster relief organizations, school buses, beach patrols, establishments in isolated places, communications standby facilities and emergency repair of public communications facilities." 47 CFR § 90.15.

<sup>14</sup> *Id.* at 2.

<sup>15</sup> *Id.* at 3.

<sup>16</sup> *Id.* at 4.

<sup>17</sup> 47 U.S.C. § 503(b).

<sup>18</sup> 47 CFR § 1.80.

<sup>19</sup> *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, Report and Order, 12 FCC Rcd 17087 (1997) (*Forfeiture Policy Statement*), *recons. denied*, Memorandum Opinion and Order, 15 FCC Rcd 303 (1999).

<sup>20</sup> 47 U.S.C. § 503(b)(2)(E).

<sup>21</sup> *NAL*, 31 FCC Rcd at 10479, para. 10.

<sup>22</sup> *NAL* Response at 2.

<sup>23</sup> *NAL*, 31 FCC Rcd at 10479, para. 12.

interference to other licensees.<sup>24</sup> Finally, in response to the Bureau's finding that the Station failed to transmit its call sign in apparent violation of Section 90.425(a) of the Commission's rules, PST merely stated that it "did not have any knowledge that the call signs were not being properly transmitted."<sup>25</sup> With the *NAL*'s factual findings uncontested, we affirm them here.<sup>26</sup>

#### B. PST Provides No Basis to Cancel the *NAL* or Reduce the Forfeiture

9. Turning to PST's implicit arguments in the *NAL* Response, PST suggested that Motorola convinced it to obtain the license for the Station on their mutual clients' behalf, used PST to construct the Station, and then prevented PST from exercising even a scintilla of control over the Station.<sup>27</sup> Yet, at no time did PST assert that it had conveyed the Station's license to Motorola, nor does it indicate that it attempted to seek the Commission's consent to such an assignment of the Station's license. Licensees are charged with full knowledge of, and compliance with, the Commission's rules.<sup>28</sup> We cannot countenance the cancellation of the *NAL* or a reduction of the proposed forfeiture merely on PST's assertions that the violation of the Commission's rules stemmed from the abdication of its responsibility for operation of the Station to Motorola. Accordingly, we find no basis to cancel the *NAL* or to reduce the forfeiture.

#### IV. CONCLUSION

10. Based on the record and in light of the applicable statutory factors, we conclude that PST willfully and repeatedly violated Sections 90.403(c), 90.403(e), and 90.425(a) of the Commission's rules by operating continuously on a frequency to which PST was not granted exclusive use, by failing to take reasonable precautions to avoid causing harmful interference to co-channel licensees operating on shared spectrum, and by failing to transmit the Station's call sign at regular intervals.<sup>29</sup> We decline to cancel or reduce the \$25,000 forfeiture proposed in the *NAL*.

#### V. ORDERING CLAUSES

11. Accordingly, **IT IS ORDERED** that, pursuant to Section 503(b) of the Act,<sup>30</sup> and Section 1.80 of the Commission's rules,<sup>31</sup> Public Safety Technologies, Inc., **IS LIABLE FOR A MONETARY FORFEITURE** in the amount of Twenty-Five Thousand Dollars (\$25,000) for willfully and repeatedly violating Sections 90.403(c), 90.403(e), and 90.425 of the Commission's rules.<sup>32</sup>

12. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Commission's rules within thirty (30) calendar days after the release of this Forfeiture Order.<sup>33</sup> If the

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<sup>24</sup> *NAL* Response at 2.

<sup>25</sup> *NAL*, 31 FCC Rcd at 10480, para. 13; *NAL* Response at 2.

<sup>26</sup> See, e.g., *Telseven, LLC & Patrick Hines*, Forfeiture Order, 31 FCC Rcd 1629, 1631, para. 7 (2016) (finding violations of the Act and the Commission's rules "[b]ased on the uncontested record of violations documented in the *NAL*").

<sup>27</sup> *NAL* Response at 2-3.

<sup>28</sup> See, e.g., *D.T.V., LLC*, Forfeiture Order, 31 FCC Rcd 2650, 2657 (2016) (finding that a licensee "cannot pass on its responsibility as a licensee to operate within licensed parameters" to third parties acting on the licensee's behalf); *Indus. Broad. Co.*, Memorandum Opinion and Order, 34 FCC 2d 950, 954 (1971) (stating that licensees are charged with knowledge of the rules governing the stations for which they are licensed); *Willapa Broad. Co., Inc.*, Memorandum Opinion and Order, 17 FCC 2d 110, 111 (1969) (stating that licensees are expected to be aware of and comply with the requirements of the Commission's rules).

<sup>29</sup> 47 CFR §§ 90.403(c), 90.403(e), and 90.425(a).

<sup>30</sup> 47 U.S.C. § 503(b).

<sup>31</sup> 47 CFR § 1.80.

<sup>32</sup> 47 CFR §§ 90.403(c), 90.403(e), and 90.425(a).

<sup>33</sup> 47 CFR § 1.80.

forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.<sup>34</sup>

13. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Public Safety Technologies, Inc., shall send electronic notification of payment to Matthew L. Gibson at [matthew.gibson@fcc.gov](mailto:matthew.gibson@fcc.gov), with a copy to [field@fcc.gov](mailto:field@fcc.gov), on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>35</sup> When completing the 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 should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with completed Form 159) must be mailed to the 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.

14. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer – Financial Operations, Federal Communications Commission, 445 12th Street, SW, Room 1-A625, Washington, DC 20554.<sup>36</sup> Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by telephone, 1-877-480-3201, or by e-mail, [ARINQUIRIES@fcc.gov](mailto:ARINQUIRIES@fcc.gov).

15. **IT IS FURTHER ORDERED** that a copy of this Forfeiture Order shall be sent by first class mail and certified mail, return receipt requested, to Richard Young, President, Public Safety Technologies, Inc., 719 Arrow Grand Circle, Covina, California 91722.

FEDERAL COMMUNICATIONS COMMISSION

Lark Hadley,  
Regional Director, Region Three  
Enforcement Bureau

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<sup>34</sup> 47 U.S.C. § 504(a).

<sup>35</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

<sup>36</sup> See 47 CFR § 1.1914.