



LAND MOBILE COMMUNICATIONS COUNCIL

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MEMBER

AAA February 4, 2009

AAR

AASHTO David Furth, Acting Bureau Chief
AFWA Public Safety and Homeland Security Bureau
Federal Communications Commission
APCO 445 Twelfth Street, SW
API Washington D.C. 20554

ASRI

CSAA James Schlichting, Acting Bureau Chief
Wireless Communications Bureau
EWA Federal Communications Commission
FCCA 445 Twelfth Street, SW
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IAFC

IMSA

Re: Station Operation After License Modification

ITSA

MRFAC Gentlemen:

NASF

PCIA

TIA

UTC

The Land Mobile Communications Council (LMCC)¹ recently learned that the FCC is no longer, as it once did, conditioning a license that is modified to allow the licensee a small window to continue operating under previously licensed parameters once the modified license is issued. What this means is that licensees are placed in

¹ LMCC is a non-profit association of organizations representing virtually all users of land mobile radio systems, providers of land mobile services, and manufacturers of land mobile radio equipment. LMCC acts with the consensus, and on behalf of, the vast majority of public safety, business, industrial, transportation and private commercial radio users, as well as a diversity of land mobile service providers and equipment manufacturers. LMCC includes amongst its membership every one of the FCC's Part 90 certified Frequency Advisory Committees. Membership includes the following organizations: American Association of State Highway and Transportation Officials (AASHTO), American Automobile Association (AAA), American Petroleum Institute (API), Association of American Railroads (AAR), Association of Fish and Wildlife Agencies (AFWA), Association of Public-Safety Communications Officials-International, Inc. (APCO), Aviation Spectrum Resources, Inc. (ASRI), Central Station Alarm Association (CSAA), Enterprise Wireless Alliance (EWA), Forest Industries Telecommunications (FIT), Forestry-Conservation Communications Association (FCCA), Intelligent Transportation Society of America, Inc. (ITSA), International Association of Fire Chiefs (IAFC), International Municipal Signal Association (IMSA), MRFAC, Inc. (MRFAC), National Association of State Foresters (NASF), PCIA-The Wireless Infrastructure Association (PCIA), Telecommunications Industry Association (TIA), United Telecom Council (UTC).

the position of operating in violation of the terms of their license until the licensee implements the modified license if the licensee continues to operate as previously licensed.²

When a modified license is issued, it immediately supersedes and replaces the previous license. Thus, operation of facilities that are not included in the modified license is contrary to the terms of the station license. In the past, the FCC conditioned the modified license to allow the licensee to continue operating under the previously licensed parameters for 90 days.³ Without granting the licensee a short period to continue operating under previously licensed parameters, every licensee- both public safety and non-public safety, that continues to operate under the previous parameters would be in violation of the FCC rules and the terms of its license. Even if the licensee were to discontinue operating facilities immediately upon receipt of the modified license, the licensee would have been in violation of the terms of its license for the period between when the modified license was issued and the date the license is received by the licensee.

Many, if not most, licensees do not order equipment or arrange for a change to their facilities (e.g, relocation of a base or mobile relay station, increase in power, or frequency change) until after they receive the modified license. Doing so is risky since there is no guarantee that the FCC will grant a modification application as initially filed. We note that Section 90.159 of the FCC rules, providing for conditional operating authority under certain conditions while an application is pending, states that conditional operating authority is accepted with the express understanding that the applicant assumes all risks associated with operation under conditional authority. Thus, licensees are often unwilling to risk purchasing new equipment or relocating facilities until the modified license is received from the FCC.

Once a license is issued licensees depend on operation of their radio systems for the efficient management of their businesses. Public safety agencies similarly may not be able to cease operations without risking the safety of their police, fire, and emergency medical personnel. Placing a special condition on the license allowing a brief period to operate under previously licensed parameters may also have the beneficial effect of placing the licensee on notice that it must move quickly to place the newly licensed facilities into operation or lose its operating authority.

It has been suggested that a licensee concerned about unauthorized operation after a license modification should apply to add facilities rather than modify them. This would allow the licensee to continue operating as previously licensed, while allowing up to a year to begin operating under the new license. The licensee may then modify the license again to delete the facilities that have been discontinued. However, this adds a further complication to the licensing process since it would require the filing of an additional application by the licensee and processing of that application by the FCC.

² The instructions for the Form 601 state that when a license is modified, the FCC will issue a new license and previous versions of the license will no longer be valid, regardless of the expiration date shown.

³ See the footnote 14 on the attached list of special conditions that appears to have been issued in 1997. We do not know whether the Commission continued issuing licenses with this special condition after PLMRS license processing under the Universal Licensing System began.

LMCC recommends that the FCC reinstitute the process of conditioning a modified license to allow the licensee a 90 day period to operate under previously licensed parameters.

LMCC would be pleased to discuss this matter further with Commission staff at their convenience.

Sincerely,

A handwritten signature in cursive script that reads "Al Ittner". The signature is written in black ink and is positioned to the left of the typed name.

Al Ittner
President

SPECIAL CONDITIONS / ADMINISTRATIVE NOTES

NUMBERS NOT LISTED ARE RESERVED

10. To be used for ambulance and rescue squad work only.
12. Operations authorized in accordance with the Railroad Frequency Assignment Plan.
13. Authorized in accordance with Rule Sections 90.176, 90.621(g), and 90.621(h).
14. Licensee has 90 days to continue operating under parameters of previous authorization.
22. This grant does not extend the period within which you must construct and place the station in operation and as applicable, meet loading requirements. That period begins from the date of your original authorization.
23. This license is for demonstration purposes only and may not be used for day to day business activity. This system is for secondary use and the mobiles licensed herein will not count toward the total mobile loading of these frequencies.
31. The use of radio for demonstration purposes in connection with the sale of radio equipment is limited by the following conditions:
 - a. The equipment shall be under the control of the licensee at all times. Purchasers or prospective customers shall not be permitted to operate the equipment in any manner in the absence of authorized employees of the licensee.
 - b. No person other than the licensee shall use the assigned call sign(s).
 - c. No representation shall be made by the licensee to any person that a radio transmitter may be utilized prior to the issuance of an authorization by the Commission.
 - d. Demonstration of radio equipment and/or coverage surveys should be completed within two weeks.
 - e. Equipment demonstrated under the terms of this license shall be on frequencies available under Part 90 of the Rules.
 - f. The technical parameters of the radio service in which the frequency(ies) is allocated shall be observed.
35. Antenna structures for land, base and fixed stations authorized by the Wireless Telecommunications Bureau for operation at temporary unspecified locations may be erected without specific prior approval of the Commission where such antenna structures do not exceed a height of 60.96 meters (200 feet) above ground level; provided that the overall height of such antennas more than 6.10 meters (20 feet) above ground, including their supporting structures (whether natural formation or man-made), do not exceed any of the slope ratios set forth in Section 17.7(b). Any antenna to be erected in excess of the foregoing limitations requires prior Commission approval. Licensees seeking such approval should file application for modification of license. In addition, notification to the Federal Aviation Administration is required whenever the antenna will exceed 60.96 meters (200 feet) above the ground and whenever notification is otherwise required by Section 17.7 of the Commission's Rules. Such notification should be given by filing FAA Form 7460-1, Notice of Proposed Construction or Alteration, in duplicate, with the nearest office of the Federal Aviation Administration, which form is available from that office.
38. Authorized on a secondary basis.
39. Authorized on a secondary basis. Any modification of this authorization will require that the Commission re-coordinate with IRAC.
40. For intersystem communications as limited by Rule Section 90.21(c)(2).
41. A license issued to a partnership, association, corporation or governmental entity may not be used for personal communications; See Rule Section 95.179(b).
42. Maximum allowable Output Power for Control/Mobile stations is 100 watts.
45. Secondary site subject to the condition that no interference is caused to co-channel users in an adjacent communications area.
46. A license issued to an individual may be used only by the licensee and members of the immediate family who reside in the same household, see Rule Section 95.179.
47. This authorization is granted subject to the condition that no harmful interference is caused to co-channel Canadian stations. No protection is afforded to your transmissions from interference that may be caused by these authorized Canadian operations. Furthermore, this authorization is conditioned on compliance with any current or future sharing arrangements, agreements, or treaties between the United States and Canada.
48. A review of your previous authorization showed Output Power(s) in excess of the Commission's Rules. Your current authorization reflects the maximum output(s) allowed for your station(s). If you have any questions regarding this change, contact the FCC's National Call Center at 1-888-225-5322.
49. Effective Radiated Power (ERP) has been reduced to comply with the Commission's Rules.

(Continued on reverse)

FCC 574L(SC)

July 1997