



LAND MOBILE COMMUNICATIONS COUNCIL

November 4, 2015

Admiral David G. Simpson, (Ret.)
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Public Safety and Homeland Security Bureau
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Roger Sherman
Chief
Wireless Telecommunications Bureau
Federal Communications Commission
445 12th Street, S.W.
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Re: *Ex Parte* Letter
WT Docket No. 99-87
Request for Confirmation - FCC Rule Section 90.187(d)(1)(ii)(D)
Frequency Coordination Procedures Associated with
Non-Compliant Wideband Licenses

Gentlemen:

For purposes of ensuring that the FCC's certified frequency advisory committees (FACs) are performing their responsibilities in compliance with the above-referenced rule, the LMCC seeks confirmation of how the rule applies to spectrum analyses conducted with the intent to certify exclusive use channels in the 150-470 MHz bands. This rule states, "[A]fter January 1, 2013, licensees with an authorized bandwidth exceeding 12.5 kHz will not be deemed affected licensees, unless the licensee meets the efficiency standard set forth in § 90.203(j)(3) or the licensee was granted a waiver of § 90.209(b)."

During the FCC panel at the 2015 annual LMCC meeting,¹ the FCC specifically clarified that, pursuant to that rule, FACs could ignore systems still licensed exclusively for non-compliant wideband channels when processing applications seeking FB8

¹ This meeting was held on April 14, 2015, at the Mandarin Oriental Hotel, Washington, D.C.

frequencies, provided the incumbent did not meet the efficiency equivalency standard or have a waiver extending its time to narrowband.² Both B/ILT and Public Safety FACs are processing requests for exclusive use channels (FB8/MO8) that are integral to maximizing the efficiency of state-of-the-art trunked communication systems without regard to licenses that identify *only* the non-compliant emission designators³. Some and perhaps all coordinators attempt to avoid instances of interference by notifying applicants for FB8/MO8 channels of the presence of a wideband-only license that would be considered an affected license if it were authorized for narrowband operation. However, it is our understanding that such a wideband-only license is not an affected licensee under § 90.187(d)(1)(ii)(D), has no spectrum rights, and would be obligated to vacate the channel in order to address the interference it might receive and/or cause. The LMCC hereby requests FCC confirmation of this interpretation of that rule.

Finally, the ULS tool developed by the FCC to facilitate the removal of non-compliant emission designators from licenses that also reflect compliant narrowband emissions prior to license renewal is a valuable capability. However, almost three years after the narrowband mandate, the FCC should eliminate the tool that allows licensees to modify from exclusively non-compliant to compliant emission designators without prior frequency coordination.⁴ That change must be considered a major modification of the license requiring prior coordination to avoid the possibility of impinging on the rights of entities that have obtained coordination for exclusive use channels.

We appreciate the opportunity to bring this matter to the your attention, and look forward to receiving confirmation that (1) non-compliant licensees with wideband-only authorizations do not qualify as affected licensees for purposes of analyses conducted pursuant to 90.187 of the FCCs Rules, irrespective of the operational status of their systems; and (2) non-compliant licensees – those that reflect only non-compliant emission designators – may not now bring their licenses into compliance with the narrowbanding mandate absent evidence of frequency coordination.

² The coordination of an application for non-exclusive, i.e., shared, channels would not be affected by the presence of a wideband-only license unless that license was authorized for FB8 channels, a highly unlikely situation.

³ Licenses that reflect a multitude of emission designators, one or more of which comply with the narrowbanding mandate while others do not, continue to be considered by all FACs as affected licenses, but the non-compliant emission designator is ignored during the frequency selection process.

⁴ The narrowband mandate was a more than fifteen-year exercise that afforded licensees multiple advance notices and warnings from the FCC of the repercussions of non-compliance ranging from simple admonishments to meaningful forfeitures. Enforcement Bureau actions against non-compliant licensees have not materialized for a variety of reasons, mostly due to lack of resources. It is the LMCC's view that there are very few licensees who have modified their equipment to narrowband capability, but have failed to amend their authorizations to show a compliant emission designator. If such systems do exist, they *should not* be considered an "affected licensee," having failed to modify their licenses to reflect their actual operating parameters almost three years after the narrowbanding deadline.

We look forward to hearing from you, and please contact us if we may provide further information regarding this matter.

Sincerely,

Mark E. Crosby

Mark E. Crosby
Secretary
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MEC:

cc: LMCC Membership
David Furth
Tracy Simmons
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