

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

In the Matter of	)	
	)	
Ron Gossett and Barbara Gossett	)	WT Docket No. 02-55
and Sprint Nextel	)	
	)	
Mediation No. TAM-50018	)	

**ORDER OF MODIFICATION**

**Adopted: September 26, 2007**

**Released: September 27, 2007**

By the Associate Chief, Public Safety and Homeland Security Bureau:

1. *Introduction.* In this *Order*, we delete mobile and base station frequencies from the license for call sign WPEH654, a single-site 800 MHz conventional Specialized Mobile Radio system in Nashville, Tennessee licensed to Ron and Barbara Gossett (Gossetts), thereby terminating the Gossetts’ right to operate on these frequencies. We take this license modification action pursuant to our earlier order regarding the disposition of the Gossetts’ license in the 800 MHz rebanding process.<sup>1</sup>

2. *Background.* In our May 4, 2007, *Memorandum Opinion and Order (MO&O)* in this matter, we addressed the failure by the Gossetts to participate in the rebanding process under the terms of their Frequency Reconfiguration Agreement (FRA) with Sprint Nextel Corporation (Sprint). We found that the Gossetts failed to meet their obligation of good-faith participation in the rebanding process and forfeited their right to retuning of their facility at Sprint’s expense.<sup>2</sup> We therefore held that Sprint was not responsible for the cost of retuning this facility, and ordered the Gossetts to either retune station WPEH654 at their own expense or cease operation and surrender their license.<sup>3</sup> We required the Gossetts to comply with these terms within thirty days of the release of the *MO&O* (*i.e.* June 4, 2007).<sup>4</sup>

3. In the *MO&O*, we also stipulated that if the Gossetts failed to either retune their station or surrender their license, they must show cause why the Commission should not modify their license by terminating their right to operate on their pre-rebanding frequencies.<sup>5</sup> Because the proposed modification to WPEH654 involves the safety of life and property, we required the Gossetts to file any protest within forty days of the release date of the *MO&O*.<sup>6</sup> Otherwise, we stated, the Gossetts would be deemed to have consented to modification of their license as proposed in the *MO&O*, and a final Order would be issued if the modification were found to be in the public interest.<sup>7</sup>

4. *Discussion.* A copy of the *MO&O* was sent to the Gossetts by certified mail. To date, the

<sup>1</sup> Ron and Barbara Gossett, et al., WT Docket 02-55, *Memorandum Opinion and Order*, 22 FCC Rcd 8522 (PSHSB 2007) (*MO&O*).

<sup>2</sup> *Id.* at 8522 ¶ 1.

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

<sup>4</sup> *Id.* Because the thirtieth day after the release of the *MO&O* fell on a Sunday (June 3, 2007), the thirty day deadline fell on the next business day, Monday, June 4, 2007.

<sup>5</sup> *Id.* at 8524 ¶ 7 citing 47 U.S.C. § 316.

<sup>6</sup> *Id.* at 8524 ¶ 7.

<sup>7</sup> *Id.* at 8524 ¶ 12.

Gossetts have not surrendered their license nor have they retuned their facility as directed by the *MO&O*. The Gossetts also did not protest the proposed modification of their license within the requisite time frame. Therefore, as provided in the *MO&O*, we find that the Gossetts have consented to the proposed deletion of pre-rebanding frequencies from their license. Based on the record in this matter, we conclude that it is in the public interest to modify the license for Station WPEH654 by deleting mobile-only frequencies 806-821 MHz and base station frequency 852.1875 MHz, thereby terminating the Gossetts' right to operate on these frequencies.<sup>8</sup>

5. ACCORDINGLY, IT IS ORDERED, 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, that the license for WPEH654 Services Station WPEH654, Nashville, Tennessee, held by Ron and Barbara Gossett, IS MODIFIED by deleting frequency pair mobile only frequencies 806-821 MHz and base station frequency 852.1875 MHz, effective thirty days from the release date of this *Order of Modification*.

6. **IT IS FURTHER ORDERED**, that a copy of this *Order of Modification* shall be sent **BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED**, to the following:

Ron and Barbara Gossett  
5251 Little Marrowbone Road  
Ashland City, TN 37015

Justin O. Kay, Esq.  
Drinker Biddle & Reath LLP  
1500 K St, N.W. Suite 1100  
Washington, DC 20005-1209

7. 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

David L. Furth  
Associate Bureau Chief  
Public Safety and Homeland Security Bureau

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<sup>8</sup> In the *MO&O*, we proposed that if the Gossetts failed to either retune their station at their own expense or surrender their license, we would "modify the license of station WPEH654 to authorize it to operate on the replacement channels designated for it by the TA and to remove their authorization to operate on their current frequencies." See *MO&O*, 22 FCC Rcd at 8524 ¶ 7. In fact, the WPEH654 station license had already been modified to authorize the Gossetts to operate on replacement channels designated by the Transition Administrator, but their authorization to operate on the original frequencies has continued in effect until now. See FCC File No. 0002668534 (filed June 30, 2006). We note that since we issued the *MO&O*, the WPEH654 replacement channels have been designated for termination for failure to certify timely construction. See Wireless Telecommunications Bureau Site Based Licenses Termination *Public Notice*, Report No. 3447 at 3 (Sept. 12, 2007). Our deletion of pre-rebanding frequencies from station WPEH654 in this Order does not give the Gossetts any new rights with respect to the replacement channels or otherwise extend the applicable construction deadline.