

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

In the Matter of Applications of	)	
	)	
21 <sup>st</sup> CENTURY WIRELESS GROUP, INC., and	)	FCC File No. 0000566321
	)	
WEERTS CONSTRUCTION, INC.	)	FCC File No. 0000566320
	)	
For Business Radio Service Stations WPTL333	)	
and WPTL317 in the Brighton, Colorado Area	)	

**ORDER ON RECONSIDERATION**

**Adopted: May 3, 2002**

**Released: May 7, 2002**

By the Chief, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. On August 20, 2001, 21<sup>st</sup> Century Wireless Group (21<sup>st</sup> Century) and Weerts Construction, Inc. (Weerts) applied for authorizations to operate private land mobile radio (PLMR) stations in Brighton, Colorado.<sup>1</sup> On October 24, 2001, the applications were granted, 21<sup>st</sup> Century was issued a license with call sign WPTL333, and Weerts was issued a license with call sign WPTL317. On November 21, 2001, Quicksilver Express Courier (Quicksilver) filed petitions for reconsideration of the grants of the licenses for Stations WPTL333 and WPTL317.<sup>2</sup> For the reasons discussed below, we grant Quicksilver's Petitions, return the 21<sup>st</sup> Century and Weerts applications to pending status, and dismiss the applications.

2. On August 20, 2001, 21<sup>st</sup> Century and Weerts applied for licenses to operate Business Radio Service stations in Brighton, Colorado on 859.8125 and 858.8125 MHz respectively,<sup>3</sup> pursuant to Section 90.613 of the Commission's Rules.<sup>4</sup> The Personal Communications Industry Association, an FCC-certified frequency coordinator for the PLMR Services, provided frequency coordination

---

<sup>1</sup> See 21<sup>st</sup> Century Wireless Group Application, FCC File No. 0000566321 (filed Aug. 20, 2000) (21<sup>st</sup> Century Application); Weerts Construction, Inc. Application, FCC File No. 0000566320 (filed Aug. 20, 2000) (Weerts Application).

<sup>2</sup> Petition for Reconsideration in the Matter of 21<sup>st</sup> Century Wireless Group, Inc. and Petition for Reconsideration in the Matter of Weerts Construction, Inc. (filed November 21, 2001) (collectively "the Petitions"). The petitions are unopposed.

<sup>3</sup> See 21<sup>st</sup> Century Application; Weerts Application.

<sup>4</sup> 47 C.F.R. § 90.613.

recommendations for 21<sup>st</sup> Century's and Weerts' applications.<sup>5</sup> The applications did not contain requests for a waiver of the Commission's Rules. The Commission granted 21<sup>st</sup> Century's and Weerts' applications on October 24, 2001.<sup>6</sup> On November 21, 2001, Quicksilver filed the instant reconsideration petitions.

3. In its Petitions, Quicksilver asserts that it is the licensee of trunked Specialized Mobile Radio Station WNZU663, which has been authorized to operate on 859.8125 and 858.8125 MHz in Plainview, Colorado, since 1993. Quicksilver argues that we should set aside the grants of 21<sup>st</sup> Century's license for Station WPTL333 and Weerts' license for Station WPTL317, which operate on the same frequencies as WNZU663, because they are located less than 55 miles from the stations licensed to Quicksilver, in violation of Section 90.621(b) of the Commission's Rules.<sup>7</sup> Quicksilver further asserts that neither 21<sup>st</sup> Century nor Weerts has obtained Quicksilver's concurrence to be short-spaced to Quicksilver's system.<sup>8</sup>

4. We have reviewed the record in this proceeding and agree with Quicksilver that the licenses for Stations WPTL333 and WPTL317 should not have been granted. 21<sup>st</sup> Century and Weerts proposed to operate on frequencies licensed to Quicksilver at a site 47.2 kilometers from Quicksilver's station. Section 90.621(b)(4) of the Commission's Rules provides that the minimum separation between co-channel facilities operating in the 806-824/851-869 MHz bands is 88 kilometers.<sup>9</sup> This limitation is inapplicable where the applicant submits, with its application, letters of concurrence from each co-channel licensee within the specified separation, agreeing to accept any interference resulting from the reduced separation between their systems.<sup>10</sup> Alternatively, applicants may request a waiver of the minimum separation requirement. Applicants that seek a waiver must serve their request on all co-channel licensees within the applicable area, and file an analysis of interference potential from mobile transmitters to existing co-channel base station receivers.<sup>11</sup> Neither 21<sup>st</sup> Century nor Weerts obtained Quicksilver's concurrence to operate their stations fewer than 88 kilometers from Quicksilver's Plainview site. Furthermore, the applications, which violate the separation requirement of Section 90.621(b)(4), were not accompanied by requests for a waiver thereof, nor did they include the requisite interference analyses. Therefore, the applications were defective and should not have been granted.<sup>12</sup> We therefore grant

---

<sup>5</sup> Frequency Coordination Numbers PC20011240515 and PC20011240514.

<sup>6</sup> See FCC File Nos. 0000566321 and 0000566320.

<sup>7</sup> Petitions at 2. See 47 C.F.R. § 90.621(b).

<sup>8</sup> Petitions at 2.

<sup>9</sup> 47 C.F.R. § 90.621(b)(4). See *Northwest Airlines, Inc., Order on Reconsideration*, 16 FCC Rcd 2525, 2526-7 ¶ 5 (WTB PSPWD 2001).

<sup>10</sup> 47 C.F.R. § 90.621(b)(5). See *Nextel Communications, Inc., Order*, 16 FCC Rcd 7892, 7898 ¶ 12 (WTB CWD 2001); see also *Hawaiian Wireless Partners, Order*, 11 FCC Rcd 21192, 21194 n.11 (WTB 1996).

<sup>11</sup> See 47 C.F.R. § 90.621(b)(4). See *Nextel Licensee Holdings 4, Inc., Order*, 14 FCC Rcd 6985, 6988 ¶ 9 (1999).

<sup>12</sup> See *Kennebunkport FM Limited Partnership, Chester P. Coleman, Radio Kennebunkport, Inc., Lindsay Collins and Stuart Richter, Kennebunkport Media, and Maine Street Broadcasting, Inc., Hearing Designation Order*, 3 FCC Rcd 6415 (1988); see Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Fort Myers Villas, Florida), *Report and Order*, 3 FCC Rcd 6312 (1988).

Quicksilver's Petitions and return 21<sup>st</sup> Century and Weerts' applications to pending status for subsequent dismissal as violative of Section 90.621(b)(4) of the Commission's Rules. .

5. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petitions for reconsideration filed on November 21, 2001 by Quicksilver Express Courier ARE GRANTED.

6. IT IS FURTHER ORDERED that pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§154(i), 309, and Section 90.621 of the Commission's Rules, 47 C.F.R. § 90.621, the grant of the licenses for Stations WPTL333 and WPTL317 ARE HEREBY SET ASIDE, FCC File Nos. 0000566321 and 0000566320 SHALL BE RETURNED to pending status, and the applications WILL BE DISMISSED consistent with the terms of this *Order on Reconsideration*.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

D'wana R. Terry  
Chief, Public Safety and Private Wireless Division  
Wireless Telecommunications Bureau