

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

In the Matter of)
)
GRAND TRUNK WESTERN RAILROAD)
COMMUNICATIONS DEPARTMENT)
)
Licensee of Multiple Address System Station)
WPQX327, Toledo, Ohio)

ORDER OF MODIFICATION

Adopted: February 6, 2003

Released: February 7, 2003

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

1. *Introduction.* In this *Order of Modification*, we modify the license for Microwave Industrial/Business Pool Multiple Address System (MAS) Station WPQX327, Toledo, Ohio. Specifically, we modify Grand Trunk Western Railroad Communications Department's (Grand Trunk) license by adding a special condition to bring the license into compliance with an international agreement.

As explained in further detail below, we take this action pursuant to an earlier order proposing to modify Grand Trunk's license.¹

2. *Background.* On August 13, 1991, the Commission announced that the United States/Canada Radio Technical Liaison Committee (RTLCL)² had finalized an arrangement concerning the use of the 928-929 MHz and 952-953 MHz bands, spectrum principally designated for MAS, in the vicinity of the United States and Canadian border.³ Pursuant to the terms of the Arrangement, the spectrum is divided into three pools: one pool for primary use by the United States, one pool for primary use by Canada, and one pool to be shared between the two countries on a first-in-time basis.⁴ Specifically, the Arrangement provides, *inter alia*, that Canada has full use of the frequencies within the 928.5-928.75 MHz and 952.5-952.75 MHz bands.⁵ The Arrangement further provides that the United States may also use these frequencies in the vicinity of the United States and Canadian border (the "coordination zone") on an

¹ See Grand Trunk Western Railroad Communications Department, *Memorandum Opinion and Order*, 17 FCC Rcd 8015 (WTB PSPWD 2002) (*MO&O*).

² The RTLCL is a joint FCC/DOC (Canada's Department of Communications) committee responsible for examining technical issues concerning the use of radio by the United States and Canada.

³ See United States and Canada Sign Arrangement Concerning the Use of the 928-929 and 952-953 MHz Bands in the Vicinity of the United States and Canadian border, *Public Notice*, DA 91-999 (rel. Aug. 13, 1991) (*Arrangement PN*).

⁴ Arrangement Between the Department of Communications of Canada and the Federal Communications Commission of the United States of America Concerning the Use of the Bands 928 to 929 and 952 to 953 MHz Along the United States-Canada border at 1 (1991) (*Arrangement*).

⁵ *Id.*

unprotected basis, provided its stations are limited to a power flux density (pfd) of -100 dBW/m² at or beyond the Canadian border.⁶

3. On August 7, 2000, Grand Trunk filed an application for authorization to operate an MAS station on frequencies 928.58125/952.58125 MHz in Toledo, Ohio.⁷ Comsearch provided frequency coordination for Grand Trunk's application.⁸ Comsearch determined that Grand Trunk's proposed system met the geographic separation requirements between existing MAS facilities as set forth in Section 101.103 of the Commission's Rules. Comsearch also determined that Grand Trunk's proposed operations would not interfere with any existing, applied-for or proposed point-to-point systems in the 932-941 MHz and/or 952-959 MHz band.⁹ The record does not show that there was any consideration of the Arrangement even though Grand Trunk proposed to operate the station in the coordination zone. The Public Safety and Private Wireless Division's Licensing and Technical Analysis Branch granted Grand Trunk's application on November 2, 2000.

4. In the *MO&O*, we concluded that Grand Trunk's application to operate a MAS station on frequencies 928.58125/952.58125 MHz in Toledo, Ohio, was improperly granted.¹⁰ We found that the authorized parameters for Station WPQX327 are inconsistent with the provisions of the Arrangement. Specifically, Station WPQX327 is authorized to operate on Canadian exclusive frequencies in the vicinity of the United States and Canadian border on a primary basis without a pfd limitation. As stated earlier, United States entities may only operate on the Canadian exclusive frequencies in the coordination zone if the operation is secondary to any Canadian operation and the pfd is limited to -100 dBW/m².¹¹ As a result, we proposed to modify Grand Trunk's license pursuant to Section 316 of the Communications Act of 1934, as amended,¹² by adding a special condition to bring the license into compliance with the Arrangement.

5. *Discussion.* A copy of the *MO&O* was sent to Grand Trunk with the requirement that any protest thereto be submitted within thirty days of its receipt.¹³ Grand Trunk did not protest the proposed modification of its license within the requisite time frame.¹⁴ Therefore, Grand Trunk is deemed to have consented to the proposed modification.¹⁵ Based on the record in this matter, we conclude that it is in the public interest to modify Grand Trunk's license for Station WPQX327 by adding a special condition to bring the license into compliance with the Arrangement.

⁶ *Id.* at 2.

⁷ See FCC File No. 0000206766 (filed Aug. 7, 2000).

⁸ *Id.*, Attachment at 1.

⁹ *Id.*

¹⁰ See *MO&O*, 17 FCC Rcd at 8016 ¶ 4.

¹¹ Arrangement at 2.

¹² 47 U.S.C. § 316.

¹³ See 47 C.F.R. § 1.87(a).

¹⁴ See 47 C.F.R. § 1.87(g)(1).

¹⁵ See 47 C.F.R. § 1.87(h); see also *MO&O*, 17 FCC Rcd at 8017 ¶ 6.

6. 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 Microwave Industrial/Business Pool Multiple Address System Station WPQX327, Toledo, Ohio, held by Grand Trunk Western Railroad Communications Department IS MODIFIED by adding the following special condition effective thirty days from the date of this *Order of Modification*: "This authorization is subject to the following conditions: (1) operation is secondary to any existing or future Canadian co-channel station and (2) the maximum power flux density value produced by the station may not exceed -100 dBW/m² at or beyond the United States/Canadian border."

7. IT IS FURTHER ORDERED that this *Order of Modification* shall be sent by certified mail, return receipt requested, to Grand Trunk Western Railroad Communications Dept, 700 Pershing Street, Pontiac, MI 48340-2699, ATTN: Mark Ryon.

8. 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