

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

In re Application of	)	
	)	
STRATOPHONE, LLC	)	File No. 0000083325
	)	
for Authorization to Operate in	)	
the Air-Ground Radiotelephone	)	
Service on 454.750 MHz	)	
at Three Lakes, WI	)	
	)	
	)	
In re Application of	)	
	)	
SKYTEL COMMUNICATIONS, INC.	)	File No. 0000069725
	)	
for Authorization to Operate in	)	
the Air-Ground Radiotelephone	)	
Service on 454.750 MHz	)	
at Sugar Camp, WI	)	
	)	
	)	
In re Authorization of	)	
	)	
SKYTEL COMMUNICATIONS, INC.	)	Call Sign WPQX257
	)	
to Operate in the Air-Ground	)	
Radiotelephone Service on	)	
454.750 MHz	)	
at Sugar Camp, WI	)	

**ORDER**

**Adopted: September 24, 2001**

**Released: September 25, 2001**

By the Chief, Policy and Rules Branch, Commercial Wireless Division, Wireless Telecommunications Bureau:

1. In this order, we address a Petition for Reconsideration (“Petition”) filed by Stratophone, LLC (“Stratophone”) on June 30, 2000. Stratophone seeks reconsideration of the decision of the Commercial Wireless Division’s Licensing and Technical Analysis Branch (LTAB) on June 2, 2000 to dismiss Stratophone’s above-captioned application to operate in the Air-Ground Radiotelephone Service on 454.750 MHz at Three Lakes, Wisconsin.<sup>1</sup>

<sup>1</sup> See FCC File No. 0000083325 filed on February 18, 2000.

2. LTAB dismissed Stratophone's application on the ground that the proposed transmitter location was within 800 kilometers (497 miles) of station KNLW627, formerly licensed to LMR International, Inc. (LMR) at Sugar Camp, Wisconsin, in violation of section 22.813(a) of the Commission's rules.<sup>2</sup> Prior to the dismissal of Stratophone's application, Stratophone's application and the above-captioned application filed by Skytel Communications, Inc. (Skytel) on January 14, 2000 for 454.750 MHz were mutually exclusive because Stratophone's application was filed within thirty days of the date on which Skytel's application was listed in a Public Notice as accepted for filing.<sup>3</sup> Following the dismissal of Stratophone's application, the Commission granted Skytel's application for operation on 454.750 MHz.<sup>4</sup> For the reasons set forth below, we grant Stratophone's petition for reconsideration and reinstate its application to pending status, and we set aside the October 31, 2000 grant of Skytel's authorization under call sign WPQX257 and return its application to pending status.

3. In its Petition, Stratophone states that LMR's station under call sign KNLW627 was not timely constructed in accordance with section 22.815 of the Commission's rules,<sup>5</sup> and therefore LMR's authorization automatically terminated.<sup>6</sup> Our review of Commission records indicates that the authorization for station KNLW627 in fact terminated on August 4, 1999, approximately six months prior to the filing of Stratophone's application. Therefore, Stratophone's proposed transmitter location did not violate section 22.815(a) and the Branch's dismissal of Stratophone's application was an administrative error. It is well settled that administrative agencies have the authority to correct inadvertent, ministerial errors.<sup>7</sup> Accordingly, the above-captioned application of Stratophone is hereby reinstated and returned to pending status.

4. We also conclude that the October 31, 2000 grant of Skytel's authorization under call sign WPQX257 was an administrative error resulting directly from the improper dismissal of Stratophone's mutually exclusive application. Accordingly, we set aside Skytel's authorization and return its application under File No. 0000069725 to pending status.<sup>8</sup> Both Stratophone's and Skytel's applications will be held in pending status as mutually exclusive applications pursuant to section 22.131 of the Commission's rules.<sup>9</sup>

5. Accordingly, IT IS ORDERED that, pursuant to authority delegated by sections 4(i) and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 405, and by sections

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<sup>2</sup> 47 C.F.R. § 22.813(a).

<sup>3</sup> See 47 C.F.R. § 22.131(b)(3); *Public Notice*, Report No. 435 (Jan. 19, 2000).

<sup>4</sup> See FCC File No. 0000069725 filed on January 14, 2000.

<sup>5</sup> 47 C.F.R. § 22.815.

<sup>6</sup> Petition at 1; See 47 C.F.R. § 1.955(a)(2).

<sup>7</sup> *Chlorine Institute v. OSHA*, 613 F.2d 120, 123 (5<sup>th</sup> Cir.), *cert. denied*, 449 U.S. 826 (1980); see *American Trucking Ass'n. v. Frisco Transportation Co.*, 358 U.S. 133, 145-46 (1958).

<sup>8</sup> *Id.*

<sup>9</sup> 47 C.F.R. § 22.131.

0.331 and 1.106 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.106, the petition for reconsideration filed by Stratophone, LLC on June 30, 2000, is hereby GRANTED.

6. IT IS FURTHER ORDERED that, pursuant to authority delegated by section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and by sections 0.331 of the Commission's rules, 47 C.F.R. § 0.331, the associated application of Stratophone, LLC (FCC File Number 0000083325) is RETURNED to pending status.

7. IT IS FURTHER ORDERED that, pursuant to authority delegated by section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and by sections 0.331 of the Commission's rules, 47 C.F.R. § 0.331, the grant of the license for call sign WPQX257 is hereby SET ASIDE and the underlying application of Skytel Communications, Inc. (FCC File Number 0000069725) is RETURNED to pending status.

FEDERAL COMMUNICATIONS COMMISSION

Paul D'Ari  
Chief, Policy and Rules Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau