

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

In re Application of)	
)	
GLM Communications, Inc.)	File No. DO95960
)	
Request for Waiver to Modify Station KNJK775,)	
Warrensville Township, Ohio)	

ORDER ON RECONSIDERATION

Adopted: August 3, 2000

Released: August 7, 2000

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

I. INTRODUCTION

1. On December 29, 1999, GLM Communications, Inc. (GLM) petitioned for reconsideration¹ of the November 29, 1999 action by the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch (Branch) denying GLM's request for a waiver of the Commission's Rules and dismissing its associated application to modify its license for 800 MHz Specialized Mobile Radio Service (SMR) Station KNJK775, Warrensville Township, Ohio.² For the reasons discussed herein, we dismiss GLM's *Petition*.

II. BACKGROUND

2. On December 4, 1996, GLM filed an application to modify the license for its one-channel SMR Station KNJK775, in the Warrensville Township of Ohio.³ Specifically, GLM sought authority to add to Station KNJK775 six co-located conventional Business Category channels, licensed as community repeaters to various end-users but operated by GLM. The end-user licensees consented to the proposed consolidation. GLM proposed to create a seven-channel trunked SMR system, on which it would provide trunked commercial service to GLM's customers. In order to convert the Business channels to SMR use,

¹ GLM Communications, Inc., *Petition for Reconsideration* (filed Dec. 29, 1999) (*Petition*).

² Letter from Mary Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division, to Eugene Maliszewskyj, Director of Engineering and Licensing – Private Radio, Blooston, Mordkofsky, Jackson and Dickens, dated Nov. 29, 1999 (*Branch Letter*).

³ GLM's initial application was designated as File No. DO63361. In 1997, a new file number, DO95960, was assigned when the application was returned to the Commission with the required frequency coordination. File No. DO63361 was deleted from the Division's database as duplicative. GLM requests that both file numbers be retained pending a final determination. *Petition* at 1 n.1. We deny this request because we believe that the retention of two file numbers for this matter would not in any way enhance GLM's interests and instead would create administrative uncertainty.

GLM needed a waiver of Section 90.621(e) of the Commission's Rules, which does not permit inter-category sharing by SMR applicants.⁴

3. On August 13, 1997, GLM filed a request for special temporary authority (STA) to use the six channels in its proposed trunked SMR system during the pendency of its application and waiver request. On August 21, 1997, the Commercial Wireless Division granted an STA for a period of 180 days, and subsequently granted four extensions of the STA, the most recent of which expired on February 23, 2000.

4. On November 29, 1999, the Branch dismissed GLM's application and denied its waiver request,⁵ on the grounds that GLM had a reasonable alternative under the Commission's current Rules.⁶ On December 29, 1999, GLM requested reconsideration of the Branch's decision. The *Petition* was addressed to the Chief of the Branch, which is located in Gettysburg, Pennsylvania. GLM argues that the Branch did not adequately explain why its waiver request could not be granted, and did not address the effect of the Branch's decision on GLM's continued operations under its STA.

III. DISCUSSION

5. Section 405 of the Communications Act, as amended, sets forth the requirements that a petitioner must satisfy before we may consider the petitioner's pleadings on reconsideration.⁷ Section 405, as implemented by Section 1.106(f) of the Commission's Rules, requires that a petition for reconsideration be filed within thirty days of the release date of the Commission's action.⁸ Furthermore, Section 1.106(i) states that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.⁹

6. The Commission maintains different offices for different purposes, and persons filing documents with the Commission must take care to ensure that their documents are filed at the correct location as specified in the Commission's Rules.¹⁰ A document is filed with the Commission upon its receipt at the location designated by the Commission.¹¹ Accordingly, based on the plain language of the

⁴ See 47 C.F.R. § 90.621(e).

⁵ *Branch Letter* at 1.

⁶ See 47 C.F.R. § 90.151(a) (1996) (currently codified at 47 C.F.R. § 1.925(b)(3)).

⁷ 47 U.S.C. § 405.

⁸ 47 U.S.C. § 405; 47 C.F.R. § 1.106(f).

⁹ 47 C.F.R. § 1.106(i).

¹⁰ 47 C.F.R. § 0.401.

¹¹ 47 C.F.R. § 1.7; First Auction of Interactive Video and Data Service (IVDS) Licenses, Request for Waiver of Applications Deadline, *Memorandum Opinion and Order*, 11 FCC Rcd 1134, 1135 (1996); Complaints Regarding Cable Programming Service Prices, *Amended Order on Reconsideration*, 10 FCC Rcd 12778, 12780 n.14 (CSB 1995).

Commission's Rules, a petition for reconsideration submitted to the FCC's Gettysburg, Pennsylvania office is not properly filed.¹²

7. We conclude that GLM did not satisfy the filing requirement in accordance with Section 1.106 of the Commission's Rules when it submitted its *Petition* to the Branch in Gettysburg, Pennsylvania instead of submitting it to the FCC's Office of the Secretary in Washington, D.C. Because the thirty-day window for the filing of a petition for reconsideration, as determined under Section 1.4 of the Commission's Rules,¹³ closed on December 29, 1999, the *Petition* was not received by the Secretary within the thirty-day period, and no request for waiver of the requisite filing location was submitted, we conclude that the *Petition* should be dismissed.¹⁴ Therefore, we dismiss GLM's Petition for Reconsideration.

8. In addition to reconsideration of the Branch's decision, GLM seeks clarification of the status of its STA¹⁵ and, in the event reconsideration is not granted, requests that the STA be extended an additional ninety days to allow the users to relocate to an alternative system.¹⁶ The status of the STA is that it expired on February 23, 2000, and GLM did not request renewal pending resolution of its petition for reconsideration. Moreover, because the STA has expired, there is nothing before us to be extended.¹⁷

IV. ORDERING CLAUSES

9. Accordingly, **IT IS ORDERED** that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Sections 1.106 and 1.925 of the Commission's Rules, 47 C.F.R. §§ 1.106, 1.925, the Petition for Reconsideration filed by GLM Communications, Inc., on December 29, 1999 **IS DENIED**.

10. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the

¹² See, e.g., Memorandum of Agreement between the Federal Communications Commission and Elkins Institute, Inc., *Order on Reconsideration*, 14 FCC Rcd 5080 (WTB 1999) (determining that a facsimile copy to a division office neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office); Columbia Millimeter Communications, LP, *Order on Reconsideration*, 14 FCC Rcd 2782 (WTB PSPWD 1999) (finding that a petition for reconsideration sent to the Commission's lock box at Mellon Bank neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office), *aff'd*, *Order on Reconsideration*, 15 FCC Rcd 10251 (WTB PSPWD 2000).

¹³ 47 C.F.R. § 1.4(b)(5).

¹⁴ Moreover, we note that the Branch correctly denied GLM's waiver request. GLM argues that the alternative proffered by the Branch – incorporating the SMR channel into a seven-channel trunked Business community repeater through the use of a common trunking control device – is not reasonable because it is more cumbersome administratively than GLM's proposed SMR system. We find unpersuasive GLM's suggestion that an alternative which accomplishes the desired purpose is unreasonable merely because it would not be as easy to administer. *Cf.* State of South Carolina, *Order*, 13 FCC Rcd 22447, 22449 ¶ 5 (WTB PSPWD 1998).

¹⁵ Petition at 3, 5.

¹⁶ *Id.* at 5 n.3.

¹⁷ See 47 C.F.R. § 1.931(a) (requests to extend STAs must be filed ten days prior to the expiration date of the existing STA).

Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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