

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

In the Matter of)
)
WINCOMM, INC.)
)
Cancellation of Certain Multiple Address System)
Stations for Failure to Timely Construct and)
Operate Facilities)
)

ORDER

Adopted: October 20, 2000

Released: October 25, 2000

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

1. In this *Order*, we address the status of ninety-eight multiple address system (MAS) stations for which Wincomm Inc. (Wincom) received license authorizations. As discussed in further detail herein, we find that the subject ninety-eight MAS licenses issued to Wincomm have either expired or cancelled. Thus, we find that Wincomm no longer has valid authorizations to operate the ninety-eight MAS stations.

2. By way of background, between 1995 and 1996, Wincomm was authorized to operate ninety-eight MAS licenses in thirty-six states. Section 101.63 of the Commission’s Rules provides that MAS stations must be placed in operation within eighteen months from the initial date of grant.¹ Further, if the licensee fails to place the stations in operation in a timely manner, the authorization cancels automatically.²

3. On October 9, 1998, CellNet Data Systems, Inc. (CellNet) petitioned the Commission to revoke the MAS licenses issued to Wincomm, pursuant to Section 1.41 of the Commission’s Rules, on the basis that Wincomm no longer exists, did not construct the stations and has not operated the stations as required. On November 22, 1999, the Licensing and Technical Analysis Branch (Branch) of the Public Safety and Private Wireless Division (Division) mailed a certified letter to Wincomm, pursuant to Section 308(b) of the Communications Act of 1934,³ as amended.⁴ In the November 1999 Letter, the Branch requested Wincomm to certify that it exists as a legal entity and that it had constructed and operated the MAS stations licensed to it. The Branch mailed the letter to the address provided by Wincomm on its most

¹ See 47 C.F.R. § 101.63. See also 47 C.F.R. § 1.946.

² *Id.* See also 47 C.F.R. § 1.955(a)(2).

³ 47 U.S.C. § 308(b).

⁴ See Letter, dated Nov. 22, 1999, from Mary M. Shultz, Chief, Licensing and Technical Analysis Branch, Public Safety and Private Wireless Division to John N. Kyle II and James Gallagher, Wincomm, Inc. (November 1999 Letter).

recent application.⁵ On December 9, 1999, the U.S. Postal Service returned the letter, stamped “Return to Sender,” with the annotation “Moved, Left No Address.”⁶

4. Based on the information before us in the instant matter, we find that Wincomm is no longer authorized to operate the subject ninety-eight MAS stations. Specifically, we find that Wincomm’s licenses for ninety-one of the MAS stations have expired on their terms with Wincomm having failed to submit renewal of license applications for the stations.⁷ With respect to the remaining seven MAS stations,⁸ we believe that these stations were not constructed and placed in operation in compliance with Section 101.63 of the Commission’s Rules. Our belief is primarily premised upon Wincomm’s failure to certify that it had constructed and operated its MAS stations in compliance with the Commission’s Part 101 rules in response to CellNet’s allegations. Given that the November 1999 Letter was returned with the notation that the addressee, Wincomm, had moved without providing a forwarding address, we have additional reason to question whether Wincomm has constructed and is operating the subject MAS facilities.

5. We also note that we have no record of any change of address for Wincomm. We remind licensees that Section 1.5 of the Commission’s Rules requires that each licensee “furnish the Commission with an address to be used in serving documents or directing correspondence to that licensee.”⁹ As the licensee of record, Wincomm was responsible for making any necessary arrangements to assure the prompt delivery of documents or correspondence from the Commission.¹⁰ Thus, we do not believe that our inability to give Wincomm actual delivery of the November 1999 Letter is a sufficient reason for us not to find that the remaining seven stations are neither constructed nor operational given the totality of circumstances presented in this matter. We also believe that Wincomm’s failure to renew the other ninety-one MAS stations is a factor indicating that these seven stations are not operational. After reviewing all of the facts and circumstances before us, we find that ninety-one of Wincomm’s licenses for MAS stations have expired on their terms and the remaining seven licenses cancelled automatically on the basis that the record is devoid of any documentation that they were constructed and placed in operation consistent with the requirements of Section 101.63 of the Commission’s Rules.¹¹

6. 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 1.946, 1.955(a)(2), and 101.63, 47 C.F.R. §§ 1.946, 1.955(a)(2), and 101.63, the seven MAS licenses authorized to Wincomm, Inc. listed in Appendix B have CANCELLED automatically.

7. IT IS FURTHER ORDERED that, pursuant to Section 4(i) of the Communications Act of

⁵ The letter was sent to the attention of John N. Kyle II and James Gallagher, Wincomm, Inc., Suite B14, 6065 NW 167th St., Miami Lakes, Florida 33011. *See* November 1999 Letter.

⁶ *See* November 1999 Letter.

⁷ *See* Appendix A for the listing of the MAS licenses that have expired and their associated expiration dates.

⁸ *See* Appendix B for the listing of the MAS licenses that have cancelled automatically.

⁹ 47 C.F.R. § 1.5(a).

¹⁰ 47 C.F.R. § 1.5(b).

¹¹ 47 C.F.R. § 101.63(b). *See also* 47 C.F.R. §§ 1.946(c), 1.955(a)(2).

1934, as amended, 47 U.S.C. §§ 154(i), and Section 1.955(a)(1) of the Commission's Rules, 47 C.F.R. § 1.955(a)(1), the ninety-one MAS licenses authorized to Wincomm, Inc. listed in Appendix A have EXPIRED.

8. IT IS FURTHER ORDERED that the Petition for Revocation filed by CellNet Data Systems, Inc. on October 9, 1998, is DISMISSED AS MOOT.

9. 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

APPENDIX A

<u>Call Sign</u>	<u>Location</u>	<u>License Expiration Date</u>
WNTX568	Harrisburg, Pennsylvania	January 31, 2000
WNTX578	Dallas, Texas	February 7, 2000
WNTX579	Naples, Florida	February 7, 2000
WNTX662	Chicago, Illinois	March 6, 2000
WNTX664	Arlington, Virginia	March 6, 2000
WNTX750	El Paso, Texas	March 7, 2000
WNTX975	Toms River, New Jersey	March 21, 2000
WNTY749	Lorain, Ohio	March 7, 2000
WNTY751	Eugene, Oregon	May 16, 2000
WNTY752	Salem, Oregon	May 16, 2000
WNTY753	Chattanooga, Tennessee	May 16, 2000
WNTY757	Springfield, Missouri	May 16, 2000
WNTY758	Biloxi, Mississippi	May 16, 2000
WNTY759	Jackson, Mississippi	May 16, 2000
WNTY761	Lincoln, Nebraska	May 16, 2000
WNTY762	Omaha, Nebraska	May 16, 2000
WNTY763	Goffstown, New Hampshire	May 16, 2000
WNTY764	Roanoke, Virginia	May 16, 2000
WNTY765	Appleton, Wisconsin	May 16, 2000
WNTY766	Green Bay, Wisconsin	May 16, 2000
WNTY767	Madison, Wisconsin	May 16, 2000
WNTY768	Charleston, West Virginia	May 16, 2000
WNTY769	Huntington, West Virginia	May 16, 2000
WNTY770	Wheeling, West Virginia	May 16, 2000
WNTY771	Johnson City, Tennessee	May 16, 2000
WNTY772	Knoxville, Tennessee	May 16, 2000
WNTY773	Amarillo, Texas	May 16, 2000
WNTY775	Brownsville, Texas	May 16, 2000
WNTY777	Lubbock, Texas	May 16, 2000
WNTY778	McAllen, Texas	May 16, 2000
WNTY779	Provo, Utah	May 16, 2000
WNTY781	Kileen, Texas	May 16, 2000
WNTY782	Tucson, Arizona	May 16, 2000
WNTY784	Santa Cruz, California	May 16, 2000
WNTY786	Melbourne, Florida	May 16, 2000
WNTY788	Topeka, Kansas	May 16, 2000
WNTY789	Lafayette, Louisiana	May 16, 2000
WNTY790	New Bedford, Massachusetts	May 16, 2000
WNTY791	Battle Creek, Michigan	May 16, 2000
WNTY793	Kalamazoo, Michigan	May 16, 2000
WNTY794	Lima, Ohio	May 16, 2000
WNTY816	Trenton, New Jersey	May 16, 2000
WNTY817	York, Pennsylvania	May 16, 2000
WNTY819	Lancaster, Pennsylvania	May 16, 2000

<u>Call Sign</u>	<u>Location</u>	<u>License Expiration Date</u>
WNTY820	Allentown, Pennsylvania	May 16, 2000
WNTY821	Fayetteville, North Carolina	May 16, 2000
WNTY822	Wilmington, Delaware	May 16, 2000
WNTY823	Poughkeepsie, New York	May 16, 2000
WNTY611	Columbus, Georgia	May 22, 2000
WNTY613	Savannah, Georgia	May 22, 2000
WNTY614	Anchorage, Alaska	May 22, 2000
WNTY615	Huntsville, Alabama	May 22, 2000
WNTY617	Fort Smith, Arizona	May 22, 2000
WNTY619	Johnstown, Pennsylvania	May 22, 2000
WNTY620	Little Rock, Arkansas	May 22, 2000
WNTY621	Bakersfield, California	May 22, 2000
WNTY622	Salinas, California	May 22, 2000
WNTY623	Santa Barbara, California	May 22, 2000
WNTY624	Visalia, California	May 22, 2000
WNTY625	Daytona Beach, Florida	May 22, 2000
WNTY626	Sarasota, Florida	May 22, 2000
WNTY627	Peoria, Illinois	May 22, 2000
WNTY628	Springfield, Illinois	May 22, 2000
WNTY629	Evansville, Indiana	May 22, 2000
WNTY630	South Bend, Indiana	May 22, 2000
WNTY631	Scranton, Pennsylvania	May 22, 2000
WNTY632	Charleston, South Carolina	May 22, 2000
WNTY633	Columbia, South Carolina	May 22, 2000
WNTY634	Greenville, South Carolina	May 22, 2000
WNTY635	Makakilo, Hawaii	May 22, 2000
WNTY636	Davenport, Iowa	May 22, 2000
WNTY637	Terre Haute, Indiana	May 22, 2000
WNTY638	Wichita, Kansas	May 22, 2000
WNTY639	Lexington, Kentucky	May 22, 2000
WNTY640	Baton Rouge, Louisiana	May 22, 2000
WNTY641	Portland, Maine	May 22, 2000
WNTY642	Muskegon Heights, Michigan	May 22, 2000
WNTY643	Asheville, North Carolina	May 22, 2000
WNTY644	Hickory, North Carolina	May 22, 2000
WNTY618	Erie, Pennsylvania	September 5, 2000
WNTY750	Springfield, Ohio	August 16, 2000
WNTY774	Austin, Texas	August 16, 2000
WNTY783	Graton, California	August 16, 2000
WNTZ673	Muncie, Indiana	July 25, 2000
WNTZ773	Pinellas Park, Florida	August 1, 2000
WNTZ774	Charlotte, North Carolina	August 1, 2000
WNTZ775	Reading, Pennsylvania	August 1, 2000
WNTZ870	Champaign, Illinois	August 8, 2000
WNTZ871	Bloomington, Illinois	August 29, 2000
WNTZ872	Kokomo, Indiana	August 29, 2000
WNTY787	Rockford, Illinois	August 16, 2000

APPENDIX B

Call SignLocation

WNTY756
WNTX974
WNTY754
WNTY755
WNTY780
WNTY792
WPJA842

Duluth, Minnesota
East Cleveland, Ohio
Lansing, Michigan
Saginaw, Michigan
Maumee, Ohio
Flint, Michigan
Camas, Washington