

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

In the Matter of)	
)	
TOWN & COUNTRY SHOPPING CENTER)	FCC File No. R456160
)	
For Renewal and Reinstatement of License for)	
Station WNQU834, Denver, Colorado)	

ORDER ON RECONSIDERATION

Adopted: November 3, 2000

Released: November 6, 2000

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

1. *Introduction.* On March 31, 2000, Town & Country Shopping Center (T&C), licensee of Station WNQU834, Denver, Colorado, requested¹ reconsideration of the March 20, 2000 action of the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch).² The Branch returned T&C's above-captioned renewal application as untimely. For the reasons set forth below, we dismiss the petition for reconsideration.

2. *Background.* On November 30, 1999, the license for Station WNQU834 expired. A few days later, in early December 1999, T&C filed an application for renewal of license. On December 8, 1999, the Branch sent T&C an "application return notice" on FCC Form 250. That notice informed T&C that the seventy-five dollar (\$75.00) fee submitted was not accompanied by an application and that the fees had increased to eighty dollars (\$80.00).³ On December 13, 1999, the Branch sent a second application return notice on FCC Form 250 stating that no fee was included with submission of the application.⁴ T&C states that it mailed the application and check in the same envelope, so it appears that they inadvertently became separated while being processed by the Branch.⁵

3. On March 13, 2000, T&C resubmitted the application for renewal along with a new check in the correct amount of eighty dollars (\$80.00).⁶ On March 20, 2000, the Branch returned the application

¹ Letter from Edward P. Nicks, Integrated Properties to FCC, Gettysburg, Pennsylvania (received March 31, 2000) (Petition).

² Renewal Application Return Notice for Private Land Mobile and General Mobile Radio Services, FCC Form 574N, dated March 20, 2000.

³ Application Return Notice, FCC Form 250, dated Dec. 8, 1999.

⁴ Application Return Notice, FCC Form 250, dated Dec. 13, 1999.

⁵ Petition at 1.

⁶ T&C states that it did not promptly address these notices due to the holidays and budget deadlines that had to be met. *Id.*

because it was not filed within thirty days of the license expiration date⁷ and instructed T&C to file an application for a new license. In response, T&C sent a letter dated March 27, 2000 to the Commission's Gettysburg, Pennsylvania office requesting reconsideration of the March 20, 2000 action.

4. *Discussion.* 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.⁸ Section 405, as implemented by Section 1.106(f) of the Commission's Rules, requires a petition for reconsideration to be filed within thirty days of public notice of the Commission's action.⁹ In this case, the date of public notice is the date the Branch sent the return notice to T&C because the return notice was not published in the Federal Register, released, or placed on public notice.¹⁰ In addition, Section 1.106(i) of the Commission's Rules provides that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.¹¹

5. 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 specified in the Commission's Rules.¹² Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing. A document is filed with the Commission upon its receipt at the location designated by the Commission.¹³ Accordingly, the plain language of the Commission's Rules states that a petition for reconsideration submitted to the FCC's Gettysburg, Pennsylvania office is not properly filed.¹⁴

⁷ See Biennial Regulatory Review -- Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, 97, and 101 of the Commission's Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Memorandum Opinion and Order on Reconsideration*, WT Docket No. 98-20, 14 FCC Rcd 11476, 11486 ¶ 22 (1999) (renewal applications filed more than 30 days after the license expiration date will not be routinely granted).

⁸ 47 U.S.C. § 405.

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

¹⁰ 47 C.F.R. § 1.4(b)(5).

¹¹ 47 C.F.R. § 1.106(i).

¹² 47 C.F.R. § 0.401.

¹³ 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 Services Prices, *Amended Order on Reconsideration*, 10 FCC Rcd 12778, 12780 n.14 (CSB 1995).

¹⁴ 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).

6. We conclude that T&C did not satisfy the filing requirement in accordance with Section 1.106 of the Commission's Rules when it submitted its petition for reconsideration to the Commission's Gettysburg, Pennsylvania office, instead of the Office of the Secretary in Washington, D.C. The thirty-day window for filing a petition for reconsideration has closed, and the Petition was not received by the Secretary within the thirty-day period. In addition, we note that no request for waiver of the requisite filing location was submitted. Thus, we conclude that that petition should be dismissed.¹⁵

7. 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 petition for reconsideration filed by Town & Country Shopping Center on March 31, 2000 IS DISMISSED.

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

John J. Schauble
Chief, Policy and Rules Branch
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹⁵ We note that we would reach the same result were we to consider the merits of the Petition, as T&C's application was not properly submitted to the Commission until March 13, 2000, more than three months past the license expiration date. Whether the check and application were separated in the initial filing in December 1999 is irrelevant, as that check was made for the wrong fee amount. Applicants must stay apprised of changes in our fee rules, and their failure to do so is not a valid excuse for submitting the wrong payment amount with an application. *See, e.g.,* WLOS Licensee, Inc., *Order on Reconsideration*, 15 FCC Rcd 11047, 11048 ¶ 4 (WTB PSPWD 2000).