

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

In the Matter of	)	
	)	
Walker Creek/Stateline Water Association	)	
	)	FCC File No. A051337
Application for Industrial/Business Station in	)	
the Private Land Mobile Radio Services	)	

**ORDER ON RECONSIDERATION**

**Adopted: December 4, 2000**

**Released: December 6, 2000**

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

1. *Introduction.* We have before us a petition for reconsideration (Petition) filed by the Personal Communications Industry Association (PCIA) on June 26, 2000, on behalf of Walker Creek/Stateline Water Association (Walker Creek).<sup>1</sup> PCIA requests reconsideration of the dismissal of the above-captioned application by the Chief, Licensing and Technical Analysis Branch (Branch), Public Safety and Private Wireless Division.<sup>2</sup> The subject application requested frequency 160.185 MHz to be used for fixed telemetry operations. For the reasons discussed herein, we dismiss the Petition.

2. *Background.* On February 24, 2000, Walker Creek submitted its application<sup>3</sup> requesting use of frequency 160.185 MHz for a fixed telemetry system. Because the frequency requested is not available under the Land Mobile Radio Services Rules for telemetry operations, Walker Creek's application was dismissed.<sup>4</sup>

3. *Discussion.* We will dismiss PCIA's petition because it was not filed at the correct location. 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.<sup>5</sup> The Commission maintains different offices for different purposes, and persons filing documents with the Commission must take care to ensure their documents are filed at the correct location specified in the Commission's Rules.<sup>6</sup>

<sup>1</sup> Petition for Reconsideration (filed June 26, 2000) (Petition).

<sup>2</sup> *Id.*

<sup>3</sup> FCC File No. A051337.

<sup>4</sup> Application Dismissal Letter, dated May 25, 2000, from Chief, Licensing and Technical Analysis Branch to Walker Creek/Stateline Water Association (Dismissal Letter).

<sup>5</sup> 47 C.F.R. § 1.106(i).

<sup>6</sup> 47 C.F.R. §0.401.

Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing.<sup>7</sup> A document is filed with the Commission upon its receipt at the location designated by the Commission.<sup>8</sup> Accordingly, the plain language of the Commission's Rules states that a petition for reconsideration submitted to the Commission's Gettysburg, Pennsylvania, office is not properly filed.<sup>9</sup>

4. The Petition was never filed with the Office of the Secretary. Therefore, we find that the Petition was not timely filed at the proper location. Moreover, PCIA did not file a request for waiver to file its Petition in Gettysburg, as opposed to filing it with the Office of the Secretary. Consequently, absent a waiver, we conclude that PCIA's Petition should be dismissed as improperly filed.<sup>10</sup>

5. 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 Section 1.106(i) of the Commission's Rules, 47 C.F.R. § 1.106(i), the petition for reconsideration filed by the Personal Communications Industry Association on June 26, 2000, IS DISMISSED.

6. 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

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<sup>7</sup> *Id.*

<sup>8</sup> 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).

<sup>9</sup> 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).

<sup>10</sup> We note that if we considered the Petition on the merits, we would deny the Petition. Section 90.35(b)(3) of the Commission's Rules, 47 C.F.R. § 90.35(b)(3), authorizes frequency 160.185 MHz for assignment to base or mobile stations. Fixed use is not authorized on that frequency. In addition, Section 90.238 of the Commission's Rules, 47 C.F.R. § 90.238, which sets forth the frequencies that may be used for telemetry operations, does not include frequency 160.185 MHz.