

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

In the Matter of )  
 )  
Communications Professionals )  
 )  
Petition for Reconsideration of License Grant for )  
Industrial/Business Station WPPD265 )

**ORDER ON RECONSIDERATION**

**Adopted: December 12, 2000**

**Released: December 14, 2000**

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

1. *Introduction and Background.* On May 16, 2000, Bozcom, Inc., dba B & B Tower Management (Bozcom), licensee of conventional Industrial/Business Station WPOZ2409, Garland, Texas, requested reconsideration<sup>1</sup> of the October 28, 1999, action of the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch) granting a license to Communications Professionals for trunked Industrial/Business Station WPPD265, Cedar Hill, Texas. In its petition, Bozcom alleges that its Station WPOZ409 is directly affected by the operations of Station WPPD265 due to adjacent channel interference.<sup>2</sup> For the reasons set forth below, we dismiss the petition for reconsideration.

2. *Discussion.* Section 405(a) of the Communications Act of 1934, as amended, requires that a petition for reconsideration be filed within thirty days from the date upon which public notice is given of the action complained of.<sup>3</sup> In this case, the date of public notice commences on October 28, 1999, the date appearing on the license mailed to the licensee.<sup>4</sup> Thus, Bozcom's petition, which was received at the Commission's Gettysburg, Pennsylvania, office on May 16, 2000, was not timely filed. The filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late.<sup>5</sup>

3. In addition, Section 1.106(i) of the Commission's Rules provides that a petition for

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<sup>1</sup> Letter from Michelle Boswell, Bozcom, Inc., dba B& B Tower Management, to FCC, Gettysburg, Pennsylvania (received May 16, 2000).

<sup>2</sup> *Id.* at 1.

<sup>3</sup> 47 U.S.C. § 405(a).

<sup>4</sup> 47 C.F.R. § 1.4(b)(5).

<sup>5</sup> See, e.g., Panola Broadcasting Co., *Memorandum Opinion and Order*, 68 FCC 2d 533 (1978); Metromedia, Inc., *Memorandum Opinion and Order*, 56 FCC 2d 909, 909-910 (1975); In the Matter of Memorandum of Agreement Between the Federal Communications Commission and Elkins Institute, Inc., *Order on Reconsideration*, 14 FCC Rcd 5080, 5081 ¶ 3 (WTB 1999) (*Elkins*).

reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.<sup>6</sup> 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.<sup>7</sup> Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing.<sup>8</sup> A document is filed with the Commission upon its receipt at the location designated by the Commission.<sup>9</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>10</sup>

4. In view of the foregoing, we conclude that Bozcom's petition for reconsideration was not timely filed. Further, we find that Bozcom did not satisfy the filing requirement of Section 1.106(i) of the Commission's Rules when it submitted its petition for reconsideration to the Commission's Gettysburg, Pennsylvania, office instead of submitting it to the Office of the Secretary in Washington, D.C. Moreover, we note that no request for waiver of the requisite filing location was submitted. For these reasons, we conclude that the petition for reconsideration should be dismissed.<sup>11</sup>

5. 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 on May 16, 2000, by Bozcom, Inc., dba B & B Tower Management, IS DISMISSED.

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<sup>6</sup> 47 C.F.R. § 1.106(i).

<sup>7</sup> 47 C.F.R. § 0.401.

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

<sup>9</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>10</sup> *See, e.g., Elkins*, 14 FCC Rcd at 5081 ¶ 3 (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>11</sup> While we are dismissing the petition for reconsideration, our action is without prejudice to the right of the Branch to independently investigate this matter and take any appropriate action.

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, 0331.

FEDERAL COMMUNICATIONS COMMISSION

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