

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

In the Matter of Application of)
)
SPARTAN CONCRETE, INC.)
) File No. R468549
For Renewal of Industrial/Business License for)
Station KLG699)

ORDER ON RECONSIDERATION

Adopted: December 14, 2000

Released: December 15, 2000

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

1. Introduction. On June 5, 2000, Spartan Concrete, Inc. (Spartan), sent a petition for reconsideration (Petition) concerning the Public Safety and Private Wireless Division, Licensing and Technical Analysis Branch's (Branch) dismissal of its renewal application for Station KLG699. That petition, which was sent to the Commission's Gettysburg, Pennsylvania, licensing facility, requested reinstatement of Spartan's application.1 For the reasons given below, we dismiss Spartan's petition.

2. Background. Spartan states that, on April 19, 2000, it submitted an electronically-filed application for license renewal of Station KLG699.2 Spartan also states that it paid the appropriate fee with a credit card.3 Spartan further states that it is a hardship not to have radio capability for communications with its truck drivers because it is constantly communicating with its drivers concerning additional orders, job locations and tracking of delivery trucks.4 On May 10, 2000, the Branch dismissed Spartan's application because FCC Form 159 and the application fee were not received within 10 days of the receipt of the application.5

3. Discussion. We will dismiss Spartan'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. 20554.6 The Commission maintains different offices for different purposes, and persons filing documents with the

1 Petition for Reconsideration at 1.

2 Id.

3 Id.

4 Id.

5 Form 574D dismissing application, May 10, 2000 (Dismissal Letter).

6 47 C.F.R. § 1.106(i).

Commission must take care to ensure that their documents are filed at the correct location specified in the Commission's Rules.⁷ Applications and other filings not submitted in accordance with the correct addresses or location will be returned to the filer without processing.⁸ A document is filed with the Commission upon its receipt at the location designated by the Commission.⁹ 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.¹⁰

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, Spartan 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 Spartan's Petition should be dismissed as improperly filed.¹¹

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 Spartan Concrete, Inc., on June 5, 2000, IS DISMISSED.

⁷ 47 C.F.R. § 0.401 and 47 C.F.R. § 1.106(i).

⁸ 47 C.F.R. § 0.401.

⁹ 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).

¹⁰ *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 did not comply with the Commission's Rules); 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 did not comply with the Commission's Rules), *aff'd.*, *Order on Reconsideration*, 15 FCC Rcd 10251 (WTB PSPWD 2000).

¹¹ We note that if we considered the Petition on the merits, we would deny the Petition. We were not able to establish that Spartan paid a fee electronically or manually. Therefore, pursuant to Section 1.1112(a)(1)(i), 47 C.F.R. § 1.1112(a)(1)(i), Spartan's license renewal application was properly dismissed. The license for KLG699 expired on April 30, 2000. Currently, Spartan is operating the station pursuant to Special Temporary Authority (STA), which expires on June 6, 2001. Spartan was granted a license for Station WPQY960 on December 7, 2000, to expire December 7, 2005. Spartan has advised us that operation under the license for Station WPQY960 will meet its communications needs. Upon receipt of the new station license, Spartan will return the STA to our Gettysburg licensing facility for cancellation.

6. This action is taken pursuant to delegated authority in 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
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