



# PUBLIC NOTICE

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## **Wireless Telecommunications Bureau Clarifies Unified Policy for Dismissing and Returning Applications**

By this Public Notice, the Wireless Telecommunications Bureau (Bureau) clarifies the application of its unified policy governing the dismissal or return of defective applications in all Wireless Radio Services (unified policy) regarding renewal of license applications and construction notifications. Generally, timely filed renewal applications and construction notifications that are otherwise defective will be returned to the applicants for correction, rather than dismissed by the Bureau. However, those renewal applications and construction notifications that fail to comply with the applicable fee and signature requirements will be dismissed.

By way of background, in the *ULS Report and Order*, the Commission adopted a uniform rule with respect to the dismissal or return of defective applications in all Wireless Radio Services, and eliminated previously inconsistent service-specific rules.<sup>1</sup> In accordance with the *ULS Report and Order*, the Bureau announced implementation of the unified policy for dismissing or returning defective applications in a Public Notice released on February 24, 1999.<sup>2</sup> In that *Public Notice*, the Bureau stated that, effective May 1, 1999,<sup>3</sup> it would begin dismissing defective applications and pleadings rather than returning them to the applicants for correction.

Pursuant to the unified policy, and pursuant to Section 1.934(d) of the Commission's Rules,<sup>4</sup> the Bureau may dismiss without prejudice any application that:

<sup>1</sup> 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 Service, WT Docket No. 98-20, *Report and Order*, 13 FCC Rcd 21027 (1998) (*ULS Report and Order*). The Universal Licensing System (ULS) is an interactive licensing system developed by the Bureau to consolidate and replace eleven licensing databases previously used to process applications and grant licenses in the wireless services.

<sup>2</sup> See Wireless Telecommunications Bureau Announces Unified Policy for Dismissing and Returning Applications and Dismissing Pleadings Associated with Applications, *Public Notice*, 14 FCC Rcd 5499 (WTB 1999).

<sup>3</sup> On April 29, 1999, the Bureau released a Public Notice delaying the implementation of the unified policy. See Wireless Telecommunications Bureau Postpones Effective Date of Unified Dismissal Policy for Applications in the Wireless Services, *Public Notice*, 14 FCC Rcd 6923 (WTB 1999). The Bureau stated that the unified policy would take effect for each wireless radio service either on July 1, 1999 or six months after conversion of the specific radio service to the ULS, whichever is later. *Id.*

<sup>4</sup> 47 C.F.R. § 1.934(d).

- Is not signed;
- Does not contain an adequate fee (including fees for waiver requests and requests for fee exemption);
- Requires a specific FCC Form or Schedule to be submitted and the Form or Schedule is missing;
- Requires a specific showing under the Rules (*e.g.*, frequency coordination, an engineering study, a certificate of service to other licensees) and the showing is missing, invalid, or inconsistent with other information provided in the application and renders it unprocessable;
- Proposes operations not permitted under the Rules and does not properly request a waiver;
- Proposes use of a radio antenna structure that requires FCC Antenna Structure Registration and the Registration Number of the structure is not provided by the applicant (see Policy on Antenna Structure Registration *infra*); or
- Is missing information or contains information inconsistent with the Bureau's licensing records and renders the application unprocessable (excluding cases where the applicant provides in its application evidence that the Bureau's records are inaccurate).

Applications that are dismissed and subsequently refiled will lose their original place in the processing line and therefore be considered newly-filed applications. As newly filed applications, they may be deemed untimely filed with respect to a filing window or other competing applications and may be dismissed accordingly. In addition, these refiled applications must be accompanied by a new filing fee.<sup>5</sup>

The Bureau anticipated that, under the unified policy, the number of applications returned to the applicant would be greatly reduced. The Bureau, however, retained its discretion to return a defective application in lieu of dismissing it. By Public Notice released on June 28, 1999, the Bureau revised the unified policy to reflect its determination to “return for correction, rather than dismiss, timely filed renewal applications and timely filed notifications of construction (*i.e.*, where dismissal could result in expiration or termination of a license).”<sup>6</sup> The Bureau also noted that “[m]any of the filing errors routinely made by applicants involve missing signatures, missing or invalid answers to mandatory questions, missing or incorrect fees, and technical information inconsistent with the applicant’s authorization,” and that using the ULS would nearly eliminate the filing of applications with these types of errors because the applicant receives real-time feedback online and is prompted to and must correct errors prior to submitting the application electronically.<sup>7</sup> The Bureau then urged licensees in radio services where electronic filing via ULS is an option, but not mandatory, to file electronically because “[l]icensees who continue to file applications manually will risk dismissal of their applications for the [aforementioned] reasons.”<sup>8</sup>

It has come to our attention that there is confusion among licensees regarding the application of the revised unified policy with respect to timely filed renewals and timely filed notifications of construction. Accordingly, we hereby clarify that renewal applications and construction notifications that fail to comply

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<sup>5</sup> In certain instances, applicants may request a refund of their original filing fees pursuant to 47 C.F.R. § 1.113.

<sup>6</sup> Wireless Telecommunications Bureau Revises and Begins Phased Implementation of its Unified Policy for Reviewing License Applications and Pleadings, *Public Notice*, 14 FCC Rcd 11182 (WTB 1999) (*Revised Unified Dismissal Policy Public Notice*).

<sup>7</sup> *Revised Uniform Dismissal Policy Public Notice*, 14 FCC Rcd at 11185.

<sup>8</sup> *Id.* at 11186.

with the applicable fee and signature requirements will be dismissed by the Bureau as defective, rather than returned to the applicants for correction, even if timely filed. As noted by the Commission in the *ULS Report and Order*, “we will automatically dismiss any application that is defective because the applicant failed to sign the application, failed to pay the required filing fee, or filed outside of the applicable filing window. These defects are fatal to the consideration of the application.”<sup>9</sup> We take this action to facilitate the processing of wireless applications by clarifying our filing rules and subjecting all wireless applicants and licensees to consistent rules regarding dismissals and returns.

**For Further Information or Assistance:**

For more information concerning the Bureau’s unified dismissal policy, consult the information center on the ULS web page at <http://www.fcc.gov.wtb/uls>. For general information about the ULS, including answers to frequently asked questions regarding submitting applications, finding the status of pending applications, and searching the ULS database, the Commission recommends first consulting the ULS web page at <http://www.fcc.gov.wtb/uls>. Contact the Technical Support Hotline [202-414-1250 (TTY 202-414-1255), or via e-mail at [ulscomm@fcc.gov](mailto:ulscomm@fcc.gov)] about questions concerning computer access to the ULS, TIN registration, uploading files, or submitting attachments in the ULS. Contact ULS Licensing Support and Forms Information [1-888-CALLFCC (225-5322), choose option #2; or (717) 338-2888] for questions about which application purpose(s) are appropriate for a particular filing, what information is being requested on a ULS form or schedule, or any other ULS-related licensing matter. E-mail questions may be sent to [ulshelp@fcc.gov](mailto:ulshelp@fcc.gov).

For further information regarding this Public Notice, contact Brian Michael Wondrack, Esquire, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau, at (202) 418-0653, TTY (202) 418-7233, or via email at [bwondrac@fcc.gov](mailto:bwondrac@fcc.gov).

By the Deputy Chief, Wireless Telecommunications Bureau.

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<sup>9</sup> *ULS Report and Order*, 13 FCC Rcd at 21068 ¶ 90.