

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

In the Matter of)
)
HARD ROCK HOTEL, INC.) FCC File No. D141302
)
Application for Industrial/Business Station)
in the Private Land Mobile Radio Services)
)

ORDER ON RECONSIDERATION

Adopted: January 4, 2001

Released: January 8, 2001

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

1. Introduction. On August 14, 2000, Hard Rock Hotel, Inc. (Hard Rock), requested1 reconsideration of a "Notice of Application Dismissal" dated August 2, 2000 from the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch).2 For the reasons set forth below, we dismiss the petition for reconsideration.

2. Background. On March 17, 2000 Hard Rock submitted its application requesting use of three frequency pairs in the 450-470 MHz band at two locations in the Las Vegas, Nevada area.3 On August 2, 2000, the Branch dismissed4 Hard Rock's application because the application did not bear an original handwritten signature in accordance with Section 1.917 of the Commission's Rules.5

3. On August 14, 2000 Hard Rock sent a letter to the Commission's Gettysburg, Pennsylvania office requesting reconsideration of the August 2 action.6

4. Discussion. We will dismiss Hard Rock'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. 20554.7 The Commission maintains different offices for different purposes, and persons filing documents with the

1 Letter from Jon Lee, Engineer Manager, to FCC Gettysburg, Pennsylvania, dated August 14, 2000 (received August 25, 2000) (Petition).

2 Notice of Application Dismissal, FCC Form 574E, dated August 2, 2000, from Chief, Licensing and Technical Analysis Branch to Hard Rock Hotel (Dismissal Letter).

3 Application for Mobile Radio Service Authorization, FCC Form 600, dated March 17, 2000.

4 Dismissal Letter.

5 47 C.F.R. § 1.917 (requiring manually filed applications to bear an original hand-written signature).

6 Petition.

7 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.⁸ Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing.⁹ A document is filed with the Commission upon its receipt at the location designated by the Commission.¹⁰ 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.¹¹

5. The Petition was never filed with the Office of the Secretary. Therefore, we find that the Petition was not timely filed in the proper location. Moreover, Hard Rock did not request a 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 Hard Rock's Petition should be dismissed as improperly filed.¹²

6. Accordingly, IT IS ORDERED pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Sections 1.106(f) and (i) of the Commission's Rules, 47 C.F.R. §§ 1.106 (f) and (i), that the petition for reconsideration submitted by Hard Rock Hotel, Inc. and received in Gettysburg, Pennsylvania on August 25, 2000 IS DISMISSED.

7. 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

⁸ 47 C.F.R. § 0.401.

⁹ *Id.*

¹⁰ 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).

¹¹ *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).

¹² If we considered the merits of Hard Rock Hotel's Petition, it is not clear that we would grant the Petition. While Hard Rock Hotel states that the signature of Patrick J. Rasile, the person who certified the application, is an original signature, we note that the page the signature appears on is a photocopy. Photocopies do not comply with the original signature requirement. *See* City Cellular Telephone Co., slip op. Mimeo No. 436 (CCB May 2, 1986) (photocopy signatures rejected). *See also* Mary Ann Salvatoriello, *Memorandum Opinion and Order*, 6 FCC Rcd 4705 (1991) (facsimile signatures rejected). In any event, Hard Rock is free to reapply for the frequencies in question.