

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

In the Matter of )  
 )  
SOUTHWEST CENTRAL RURAL ) FCC File Nos. 0000225137 and 0000225142  
ELECTRIC COOPERATIVE CORPORATION )  
 )  
Petition for Reconsideration of Dismissal of )  
Renewal Applications for Microwave )  
Industrial/Business Pool Stations WPJA231 )  
and WPJA232 )  
 )

**ORDER ON RECONSIDERATION**

**Adopted: March 13, 2001**

**Released: March 14, 2001**

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

1. *Introduction.* On October 11, 2000, Southwest Central Rural Electric Cooperative Corporation (Southwest), licensee of conventional Industrial/Business Stations WPJA231 and WPJA232, Indiana, Pennsylvania, filed a request for reconsideration of the dismissal by the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch) of the above referenced late-filed renewal applications.<sup>1</sup> For the reasons set forth below, we dismiss Southwest’s petition for reconsideration.

2. *Background.* On August 22, 2000, Southwest’s authorization for WPJA231 and WPJA232 expired. On September 25, 2000, Southwest filed its application for renewal of authorization for WPJA231 and WPJA232. On September 26, 2000, the Branch dismissed Southwest’s late-filed renewal application. In its petition, Southwest states its delay in renewing its licenses was because (a) the contact information was not up to date and the renewal notice<sup>2</sup> was sent to a staff member no longer employed by Southwest, and (b) Southwest experienced technical difficulties in using the Universal Licensing System (ULS).<sup>3</sup>

3. We dismiss Southwest’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>4</sup> The Commission maintains

<sup>1</sup> Letter from Alton Strong Southwest Central Rural Electric Cooperative Corporation (Southwest) to FCC, Gettysburg, Pennsylvania (received October 11, 2000) (Petition).

<sup>2</sup> FCC Renewal Notice letter sent May 28, 2000.

<sup>3</sup> See Petition.

<sup>4</sup> 47 C.F.R. § 1.106(i).

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>5</sup> Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing.<sup>6</sup> A document is filed with the Commission upon its receipt at the location designated by the Commission.<sup>7</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>8</sup>

4. 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, Southwest 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 Southwest's petition should be dismissed as improperly filed.<sup>9</sup>

---

<sup>5</sup> 47 C.F.R. § 0.401.

<sup>6</sup> *Id.*

<sup>7</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>8</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). *See also* Petition for Reconsideration Filing Requirements, *Public Notice*, 15 FCC Rcd 19473 (WTB 2000).

<sup>9</sup> If we considered the merits of Southwest's petition, we would deny the petition. In 1999, the Commission adopted a new policy regarding treatment of late-filed renewal applications in the wireless services. *See* Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, and 101 of the Commission's Rules to Facilitate Development and Use of the Universal Licensing System in the Wireless Telecommunications Service, *Memorandum Opinion and Order on Reconsideration*, WT Docket No. 98-20, 14 FCC Rcd 11476 (1999). Applicants who file renewal applications more than thirty days after the license expiration date may also request that the license be renewed *nunc pro tunc*, but such requests will not be routinely granted, will be subject to stricter review, and also may be accompanied by enforcement action, including more significant fines or forfeitures. In determining whether to grant a late-filed application, we take into consideration all of the facts and circumstances, including the length of the delay in filing, the reasons for the failure to timely file, the potential consequences to the public if the license should terminate, and the performance record of the licensee. To the extent the delay resulted from Southwest's failure to provide the Commission with the name of the correct contact person, Southwest must bear responsibility for that failure. Moreover, to the extent Southwest's failure to timely file was caused by technical difficulties, private microwave services were converted in September 1999. Southwest thus had one year to familiarize itself with ULS and to ensure that it had the software needed to file with ULS. Accordingly, Southwest did not show good cause for a waiver of Section 1.949 of the Commission's Rules, 47 C.F.R. § 1.949.

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 and waiver request filed by Southwest Central Rural Electric Cooperative Corporation on October 11, 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