



to Glendale to operate Station WNGQ365 at Santiago Peak, and Station WNHN211 at Mount Lukens on the 853.8875 MHz frequency. Both licenses were issued to Glendale for the purpose of operating community repeaters.<sup>5</sup> On June 8, 1993, Station WNGQ365 was converted to authorize commercial operation in the conventional 800 MHz Specialized Mobile Radio (SMR) service.<sup>6</sup> As part of this conversion, the Mount Lukens site was added to the Station WNGQ365 license. Glendale, however, did not cancel the license for WNHN211, which authorized operations at Mount Lukens on a primary basis. Apparently because WNHN211 remained in the Commission's system as a valid license, the Mount Lukens site was authorized to operate on a secondary basis under call sign WNGQ365. As a result, the same Mount Lukens site was authorized for operation under both licenses on the same frequency.

4. In November 1994, Matson Development Corporation (Matson), the predecessor-in-interest to Lone Star Radio, Inc. (Lone Star), entered into an agreement with Glendale's General Manager, Paul Northup, apparently acting on behalf of Glendale, to assign Stations WNGQ365 and WNHN211 from Glendale to Matson (1994 Agreement).<sup>7</sup> Pursuant to the Agreement, the license for Station WNHN211 was to be assigned to Matson<sup>8</sup> and then to the LAPD.<sup>9</sup> On February 20, 1996, the LAPD was granted a license, now KGE571, which includes the Mount Lukens site originally licensed on a primary basis on Station WNHN211. According to Lone Star, however, the assignment application from Glendale to Matson for Station WNGQ365 was never processed,<sup>10</sup> but WNGQ365 discontinued providing service on approximately November 1, 1995. Rather than resubmitting the assignment application, Lone Star decided to allow Glendale's license for Station WNGQ365 to expire on its scheduled expiration date, June 8, 1998.<sup>11</sup> Because Lone Star chose not to file an assignment application, Glendale remained the licensee in the Commission's database for Station WNGQ365.

5. In July 1997, because of Mr. Kohli's declining health, Ms. Frumeh Labow was appointed Conservator of his estate.<sup>12</sup> According to GEI, Ms. Labow was unaware of the license for Station

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<sup>5</sup> Both stations were authorized to operate in the GB radio service. In its Petition, GEI explains that Glendale installed radio repeaters and rented and maintained repeater sites located on certain mountain tops around Los Angeles, and in Riverside and Orange Counties. Kohli obtained the license for Stations WNGQ365 and WNHN211 in connection with these activities. Petition at 4-5 and Ex.1, Declaration of A. Verne Tjarks at 1-2 (Tjarks Declaration).

<sup>6</sup> Station WNGQ365 was converted to operate in the GX radio service.

<sup>7</sup> According to GEI Mr. Kohli had involuntarily withdrawn from his business affairs because of serious illness in November 1994, leaving his businesses, including Glendale, in the hands of its employees. Petition at Ex.1, Tjarks Declaration at 2-3.

<sup>8</sup> Lone Star December 1 Letter at 1; Letter from Russell H. Fox, Counsel for Lone Star to Paul D'Ari, Chief, Policy and Rules Branch, Commercial Wireless Division at Ex.B, Declaration of Paul Matson at 2 (Matson Declaration) at 2 (Sept. 6, 2002) (Lone Star 308(b) Reply). According to Matson, the File No. for the application was 501399. *Id.*

<sup>9</sup> Letter from Russell H. Fox, Counsel for Lone Star Radio, Inc. to Secretary, FCC at 1-2 (Dec. 1, 2000) (Lone Star December 1 Letter). GEI includes as attachments to its Petition two FCC Forms 1046 signed by Harry Kohli, Sr. and dated September 2, 1994, authorizing assignment of WNGQ365 and WNHN211 to Lone Star. Petition at Ex. 1, Attachments C and G. Tjarks asserts, however, that the signatures are not those of Kohli's. Petition at Ex.1, Tjarks Declaration at 8-9.

<sup>10</sup> Lone Star 308(b) Reply at Ex.B, Matson Declaration at 2. According to Matson, the file number for the assignment application was FCC File No. 501400. *Id.*

<sup>11</sup> Lone Star December 1 Letter at 2.

<sup>12</sup> The Superior Court of California, County of Los Angeles, appointed Ms. Labow as Conservator of Harry Kohli's estate in July 1997. Letter of Conservatorship from John A. Clarke, Clerk, to Ronald Gold, Gold & Murphy, Attorney for Frumeh Labow (July 16, 1997); Petition at 6-7.

WNGQ365 until she received a renewal notice from the Branch in May 1998.<sup>13</sup> That same month, in response to the renewal notice, Ms. Labow filed a renewal application for the station.<sup>14</sup> The Branch granted the uncontested renewal application as of June 8, 1998, for a ten-year term. In July 1998, the Superior Court of Los Angeles County created the Kohli Family Trust and appointed A. Verne Tjarks as Trustee, who incorporated Glendale Electronics as Glendale Electronics, Inc. (GEI).<sup>15</sup> In January 2000, Tjarks, who states that he had no knowledge of the 1994 Agreement, submitted an application seeking the assignment of the license for WNGQ365 from Glendale Electronics to GEI.<sup>16</sup>

6. On February 4, 2000, while GEI's assignment application was pending and after learning that the authorization for WNGQ365 had been renewed, Lone Star submitted a copy of an FCC Form 405A allegedly signed almost six years earlier by Harry Kohli on September 2, 1994, requesting cancellation of the station license for WNGQ365.<sup>17</sup> According to Lone Star, the cancellation notice was part of the 1994 Agreement between Lone Star and Glendale, but that because Lone Star had elected to let the license expire, it had not submitted the September 2, 1994 cancellation notice to the Commission.<sup>18</sup> Based on that notice, the Branch cancelled the license for WNGQ365 on March 28, 2000, and on April 7, 2000, informed Tjarks of the cancellation. On April 14, 2000, Tjarks wrote a letter to Commission staff, asserting that neither he, Kohli, nor GEI had submitted the cancellation notice.<sup>19</sup> On June 15, 2002, apparently no longer able to locate a copy of the cancellation notice, the Branch reinstated the station license,<sup>20</sup> and on June 29, 2000, granted assignment of WNGQ365 to GEI.

7. On December 1, 2000, Lone Star filed a letter seeking cancellation of the license for WNGQ365, this time arguing that the station had not been in operation since November 1, 1995.<sup>21</sup> On February 9, 2001, the LAPD filed a letter in support of Lone Star's December 1 Letter.<sup>22</sup> Both parties argued that the June 2000 reinstatement of the license and assignment to GEI was erroneous because the station had permanently discontinued operations and, as a result, the license had cancelled automatically. Based on the information provided in the letters, the Branch issued a letter on March 7, 2001, stating that the license for WNGQ365 had automatically cancelled pursuant to Section 90.157 of the Commission's rules. Section 90.157 provides that a station license cancels automatically upon permanent discontinuance of operations, and any station that has not operated for one year or more is considered to have been permanently discontinued.<sup>23</sup>

8. GEI filed its Petition on April 6, 2001, seeking reconsideration of the March 7, 2001

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<sup>13</sup> Petition at 7 and Petition at Ex.1, Tjarks Declaration at 6; Letter from John J. McVeigh, Counsel for GEI, to Paul D'Ari, Chief, Policy and Rules Branch, Commercial Wireless Division at 2 (August 23, 2002) (GEI 308(b) Response).

<sup>14</sup> Petition at 7.

<sup>15</sup> Superior Court appointed Tjarks as Trustee on July 21, 1998. Petition at 7-8 and Ex.1, Tjarks Declaration at 4. The Kohli Family Trust wholly owns GEI. *Id.*

<sup>16</sup> Petition at 8 and Ex.1 Attachment A.

<sup>17</sup> Lone Star December 1 Letter at 2 and Ex.2.

<sup>18</sup> Lone Star 308(b) Reply at 6.

<sup>19</sup> Letter from A. Verne Tjarks, Glendale Electronics, Inc. to FCC, Gettysburg, Pennsylvania (Apr. 14, 2000).

<sup>20</sup> Letter from Terry L. Fishel, Deputy Chief, Licensing and Technical Analysis Branch, Commercial Wireless Division to A. Verne Tjarks, Glendale Electronics, Inc. (June 15, 2000); *see* Petition at Ex.1, Tjarks Declaration at 7.

<sup>21</sup> Lone Star December 1 Letter at 2-3.

<sup>22</sup> LAPD February 9 Letter at 1-2.

<sup>23</sup> 47 C.F.R. § 90.157.

cancellation. On April 19, 2001, Lone Star and the LAPD filed Oppositions to GEI's Petition<sup>24</sup> and GEI filed a Reply to the Oppositions on May 2, 2001.<sup>25</sup> After reviewing the facts and allegations in this proceeding, on June 19, 2002, the Branch issued a letter under Section 308(b) of the Communications Act, as amended,<sup>26</sup> seeking additional information from GEI on whether operations for Station WNGQ365 had been permanently discontinued.<sup>27</sup> GEI filed its response on August 23, 2002, and Lone Star filed a reply on September 6, 2002.

### III. DISCUSSION

9. We find that the license for Station WNGQ365 automatically cancelled pursuant to Section 90.157 of the Commission rules, because the station permanently discontinued operations for more than one year. Upon review of the facts presented in this case, we conclude that Station WNGQ365 was non-operational from November 1995, to at least May 1998. We base these findings on a number of factors reflected in the record of this proceeding. First, Paul Northup, the former General Manager of Glendale, signed a declaration stating that he had personal knowledge that Stations WNGQ365 and WNHN211 were not operational from "on or about" November 1, 1995, to October 1997.<sup>28</sup> Second, GEI

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<sup>24</sup> Opposition to Petition for Reconsideration filed by Lone Star Radio, Inc. (Apr. 19, 2001); Opposition to Petition for Reconsideration filed by the Los Angeles Police Department (Apr. 19, 2001).

<sup>25</sup> Reply to Oppositions to Petition for Reconsideration filed by Glendale Electronics, Inc. (May 2, 2001) (Reply). GEI filed a Motion for Leave to File Reply contending that it was filing its Reply one day late. That, however, is incorrect. The Reply was filed in a timely manner. See 47 C.F.R. § 1.4(h). On May 25, 2001, Lone Star filed a response to GEI's Reply. Commission rules, however, do not provide for the filing of a response to a reply to the opposition to a petition to deny. See 47 C.F.R. § 1.939(f) (stating that "[t]he applicant and any other interested party may file an opposition to any petition to deny and the petitioner may file a reply thereto"). We therefore will not consider the arguments presented in Lone Star's May 25, 2001 response.

<sup>26</sup> 47 U.S.C. § 308(b).

<sup>27</sup> Letter from Paul D'Ari, Chief, Policy and Rules Branch, Commercial Wireless Division to John J. McVeigh, Counsel for GEI (June 19, 2002) (GEI 308(b) Letter). In the GEI 308(b) Letter, we directed GEI to "[s]tate whether the station has ever discontinued operations for any period of time between November 1, 1995, and the date of [the] letter, and, if so, specify: (a) the date(s) on which the station discontinued operation; and (b) the date(s) on which operations resumed." GEI 308(b) Letter at 1. In addition to seeking information on station facilities, we directed GEI to provide billing records showing that Station WNGQ365 was operational between November 1, 1995, and the date of the letter, June 19, 2002. GEI 308(b) Letter at 1.

<sup>28</sup> Lone Star 308(b) Reply at Ex.A, Declaration of Paul Northup at 3 (Northup Declaration). In his Declaration, Mr. Northup states that he personally removed WNGQ365 and WNHN211 from service "on or about November 1, 1995," and did not put the stations back into operation during his tenure as General Manager of Glendale. *Id.* Lone Star initially submitted a letter dated February 2, 1999, and signed by Paul Northup stating that he resigned as General Manager in October 1998. Lone Star December 1 Letter at Ex.2, Letter from Paul D. Northup to "To Whom It May Concern" dated February 2, 1999. GEI states that Mr. Northup's statement that he resigned in 1998, is incorrect. Rather, GEI contends that Mr. Northup tendered his resignation on October 10, 1997. Petition at Ex.1, Tjarks Declaration at 5; GEI 308(b) Response at 3. According to Lone Star, once Mr. Northup's recollection was refreshed, he realized he had actually resigned in October 1997, and corrected his statement in his Declaration. Lone Star 308(b) Reply at 5, n.8.

We do not believe that Lone Star or Mr. Northup intended to mislead the Commission or conceal the mistake in the date of Mr. Northup's resignation. We therefore find that this misstatement does not rise to the level of a misrepresentation. See *In the Matter of Edwin L. Edwards, Sr., Memorandum Opinion and Order and Notice of Apparent Liability*, 16 FCC Rcd 22236, 22251, ¶ 28 (2001) (finding that a party's misstatement about the amount of a station's debt was not intended to deceive the Commission and therefore was not a misrepresentation warranting either forfeiture or a hearing). We also note that this change in facts does not affect the outcome of this proceeding. We remind Lone Star, however, that accuracy in filings is an extremely important matter and that it must ensure that Commission filings made in the future are accurate and complete. See *id.*

does not refute Mr. Northup's declaration and admits that the station facilities were dismantled, although it claims it does not know when the equipment was removed or by whom.<sup>29</sup> Third, GEI states that its "best estimate" of when it restored the station facilities is the week of May 13, 1998.<sup>30</sup> Fourth, GEI states that it does not have any billing records for any unaffiliated subscribers from November 1, 1995, to May 13, 1998.<sup>31</sup> Finally, GEI does not offer any information to suggest it provided service to any subscriber during this time period.<sup>32</sup> Accordingly, we affirm the Branch's decision that the license for WNGQ365 automatically cancelled, pursuant to Section 90.157, because it permanently discontinued providing service for more than one year.

10. One of GEI's major arguments is that any attempted transfer of the stations by Glendale's former General Manager to Lone Star was fraudulent. GEI specifically contends that Paul Northup did not have the authority to enter into the 1994 Agreement, and that the signature on the September 2, 1994 cancellation notice is not Mr. Kohli's.<sup>33</sup> These contentions, however, are irrelevant to our determination

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<sup>29</sup> GEI 308(b) Response at 3 and 5; *see* Petition at Ex.1, Tjarks Declaration at 11 (acknowledging that radio frequency equipment had been removed, but arguing that the person who removed the facilities had no legal authority to do so). GEI acknowledges that it only became aware of the license for WNGQ365 in 1998 and, after investigation, found that most of the station facilities had already been removed. GEI explains that after receiving the renewal notification for Station WNGQ365 in May 1998, Ms. Labow contacted Abel Montes, a field engineer to investigate the status of the facilities. GEI acknowledges that Mr. Montes advised Ms. Labow that most of the equipment had "disappeared from the Mount Lukens and Santiago Peak sites," and that no repeaters were connected at either site. Petition at 7. In its 308(b) Response, GEI states that Mr. Montes found an 800 MHz antenna attached to coaxial cable and a cable that was attached to a multicoupler at the Mount Lukens site. He also states that he found an 800 MHz antenna attached to coaxial cable at the Santiago Peak site, but no multicoupler. Mr. Montes further states that he found no repeaters connected to the cables at either site. GEI 308(b) Response at 2 and 5, and Ex.A, Declaration of Abel Montes at 1 (Montes Declaration). After Mr. Montes explained to Ms. Labow that repeaters had to be connected and operational at both sites to be in compliance with Commission rules, Ms. Labow instructed Mr. Montes to reconstruct the station facilities. Petition at 7; GEI 308(b) Response at Ex.A, Montes Declaration at 1.

The LAPD also states that Motorola, Inc., the equipment provider for Station KGE571, conducted coverage tests and loading analyses on channel 853.8875 MHz throughout 1998 and 1999. According to the LAPD, Motorola representatives indicated that they did not detect interference that would have resulted if GEI's system had been in operation at either the Mount Lukens or Santiago Peak sites. LAPD February 9 Letter at 3; LAPD Opposition at 5.

<sup>30</sup> GEI 308(b) Response at 6 and 10, and at Ex.A, Montes Declaration at 1-2. GEI states that Mr. Montes "installed a used Motorola Micor Model C55 RCB 7106 AT repeater at each site." *Id.* GEI also states that because the equipment "came from Mr. Montes's personal inventory and from Glendale Electronics inventory, ... there are no invoices connected with restoring the Station to operational status." *Id.* at 10 and 11.

<sup>31</sup> In the 308(b) Letter in seeking information on station operations, we cited 47 C.F.R. § 90.155(f). In response, GEI asserts that Commission rules do not require a station to be operational after the initial construction period. GEI specifically argues that Section 90.155(f) only requires licensees to commence service to at least one unaffiliated customer during the initial construction period, and not after the initial construction period. GEI 308(b) Response at 6-10. While Section 90.155(f) may apply to whether a station has commenced service for purposes of Commission rules, a conventional SMR system must be operational after the construction period to maintain its license. Failure to provide service to at least one unaffiliated end-user results in automatic cancellation of the license. 47 C.F.R. § 90.633(d); *see* In the Matter of Nationwide Radio Communications, Inc., *Memorandum Opinion and Order*, 16 FCC Rcd 8129, 8132, ¶ 8 (2001) (finding that a license automatically cancelled because the system, which did not have at least one associated mobile operating on the channel, was not operational).

<sup>32</sup> GEI 308(b) Response at 6; Petition at 7; GEI 308(b) Response at 6 and Ex.A, Montes Declaration at 2-3.

<sup>33</sup> Petition at 5-6, 8-9; Reply at 6-10. According to GEI, Northup executed the agreement while Kohli was incapacitated in the hospital; the 1994 Agreement concerns the assignment of licenses issued to Northup, when, in fact, the licenses were issued to Kohli; the agreement involved a payment to Northup of \$150,000 and certain equipment in return for the authorizations; and Northup signed the agreement as an individual, not on behalf of Harry Kohli. Petition at 5-6. Lone Star counters that it had been informed that "the signatures on all of the forms

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that Glendale's license for WNGQ365 automatically cancelled. Regardless of the 1994 Agreement, Lone Star never obtained approval from the Commission for assignment of the license for Station WNGQ365 from Glendale to Lone Star and the license for WNGQ365 cancelled automatically because the station's operations were permanently discontinued, not because the licensee or any other entity submitted an FCC Form 405A canceling the station license.<sup>34</sup>

11. We also deny GEI's argument that the Branch Letter deprived GEI of its statutory right to due process under Section 312(c) of the Communications Act of 1934, as amended, because the Commission did not issue an order to show cause why the license for Station WNGQ365 should not be revoked.<sup>35</sup> We find that Section 312 is inapplicable in this case. Section 312 identifies the conditions under which the Commission may revoke a license and the due process rights of licensees in those instances. The Branch Letter clearly states that the station license was "cancelled in accordance with 47 C.F.R. § 90.157," which provides for the automatic cancellation of a station license upon permanent discontinuance of operations. GEI's license was therefore not revoked. Rather, Section 90.157 was a condition on GEI's license, and the license was only valid as long as the station did not permanently discontinue operations.<sup>36</sup> GEI's license for Station WNGQ365 automatically cancelled by operation of law in accordance with Section 90.157 of the Commission's rules because operations were permanently discontinued for more than one year.<sup>37</sup>

12. GEI also argues that Section 90.157 of the Commission's rules, which provides that any station that has not operated for one year or more "is considered" to have been permanently discontinued, creates a rebuttable presumption.<sup>38</sup> GEI contends that the language "is considered" creates a rebuttable presumption that gives the Commission discretion to decide under what circumstances a station has

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were Kohli's and that Kohli had approved the transaction." Lone Star 308(b) Reply at 6. Specifically, in his Declaration attached to Lone Star's 308(b) Reply, Mr. Northup represents that his duties as General Manager of Glendale included, among other things, entering into contracts on behalf of Kohli and, once Mr. Kohli became ill, selling the assets related to Kohli's radio communications business. *Id.* at Ex.A, Northup Declaration at 1-2. Mr. Northup further represents that Mr. Kohli fully concurred in all of the negotiations and ultimate sale of the assets. *Id.* Lone Star and Paul Northup further state that the proceeds from the transaction were used to operate Kohli's radio communications business. Lone Star 308(b) Reply at 7 and Ex.A, Northup Declaration at 2.

<sup>34</sup> We also note that it is longstanding Commission policy not to adjudicate private contractual disputes where forums for those disputes exist in state court. *See Listeners Guild, Inc. v. FCC*, 813 F.2d 465, 469 (D.C. Cir. 1987) (citing *Agreements Between Broadcast Licensees and the Public*, 57 F.C.C. 2d 42 (1975); *Carnegie Broadcasting Co.*, 5 F.C.C. 2d 882, 884 (1966); *Transcontinental Television Corp.*, 44 F.C.C. 2d 2451, 2461 (1961)). To the extent the dispute between GEI and Paul Northup is a contractual matter, we find that it is inappropriate for our resolution here.

<sup>35</sup> Petition at 10-12.

<sup>36</sup> *See* Amendment of Part 90 of the Commission's Rules Concerning the Construction, Licensing, and Operation of Private Land Mobile Radio Stations, *Notice of Proposed Rulemaking*, 5 FCC Rcd 6401, 6401, ¶ 6 (1990) (stating that "[t]he rule governing discontinuance of station operation, like the rule regarding construction, is a condition on a station's authorization. The license is valid only as long as the station had not discontinued operation on a permanent basis, *i.e.*, for one year or more") (*Part 90 NPRM*).

<sup>37</sup> GEI states that Section 90.631(f), which both Lone Star and the LAPD cited as a basis for automatic cancellation of GEI's license, does not apply in this instance because GEI's station is conventional, not trunked. Petition at 13. We agree that Section 90.631 is inapplicable in this case. As GEI notes, however, the Branch Letter properly cited Section 90.157 as the basis for automatic cancellation of GEI's license. The fact that Lone Star and the LAPD cited an incorrect rule section is immaterial to the cancellation of the license for Station WNGQ365.

<sup>38</sup> 47 C.F.R. § 90.157.

permanently discontinued operations.<sup>39</sup> We do not need to address this issue because, even if Section 90.157 creates a rebuttable presumption, GEI would fail to rebut any presumption that service under WNGQ365 was permanently discontinued for one year or more. We find that GEI would fail to rebut any such presumption because the fact that WNGQ365 was non-operational for at least two and one-half years is not disputed and during that time period, Glendale did not inform the Commission that it had stopped operations and made no attempt to reconstruct facilities or initiate service.<sup>40</sup>

13. Finally, we deny GEI's request for waiver of Section 90.157 of the Commission's rules.<sup>41</sup> Pursuant to section 1.925(b)(3) of the Commission's rules, a waiver request may be granted if it is shown that: (1) the underlying purpose of the rule would not be served, or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (2) in view of unique or unusual factual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.<sup>42</sup> GEI argues that a waiver is warranted in this case on humanitarian grounds because depriving the Kohli Trust of the license would "diminish its worth substantially" and would "hasten the day when Mr. and Mrs. Kohli will become indigent, utterly dependent on public welfare for their existence."<sup>43</sup> GEI, however, does not explain how this unfortunate situation meets the Commission's waiver standard. The underlying purpose of the rule is to ensure that spectrum is used in an effective and efficient manner. As the Commission has explained, stations "must be constructed, placed in operation, and remain in operation to assure efficient use of scarce spectrum."<sup>44</sup> Reinstating the license for WNGQ365 would not promote the efficient use of spectrum. In fact, reinstating WNGQ365 and allowing operations to commence at either the Santiago Peak or Mount Lukens site would create unlawful interference with the LAPD's Station KGE571, which is validly licensed and provides service for "critical police communications."<sup>45</sup> In addition, none of the facts presented in this case rise to the level of "unique or unusual."

14. We also find that the case GEI cites from 1966, *In re Application of WMOZ, Inc.*,<sup>46</sup> to support its request for waiver based on the health and financial status of the Kohlis,<sup>47</sup> is inapplicable. In *WMOZ, Inc.*, the Commission denied the station's renewal application because the licensee's flagrant misconduct demonstrated that he did not possess the character qualifications to be a broadcast licensee. The Commission further found that, taking into consideration the licensee's serious health issues, it would allow the station to be assigned to a different entity that was considered to be a qualified licensee.<sup>48</sup> In

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<sup>39</sup> Petition at 13-14.

<sup>40</sup> *See supra* at ¶ 9.

<sup>41</sup> Petition at 15-16.

<sup>42</sup> 47 C.F.R. § 1.925(b)(3).

<sup>43</sup> Petition at 15-16.

<sup>44</sup> *Part 90 NPRM*, 5 FCC Rcd at 6401, ¶¶ 2-3.

<sup>45</sup> LAPD Opposition at 5 and 12. The LAPD uses their system "to dispatch emergency calls for service and to transmit police mobile data messages, including car-to-car communications sent from mobile data terminals in vehicles, messages sent from vehicular terminals to dispatchers and vice versa, and transmission of critical information, such as police records data, results of drivers' license checks, and information on stolen vehicles." *Id* at 12.

<sup>46</sup> 3 F.C.C. 2d 637 (1966).

<sup>47</sup> Petition at 16.

<sup>48</sup> 3 F.C.C. 2d at 638-39, ¶ 4. Specifically, the Commission found that allowing the assignment supported its policy of "rid[ding] the airways of those who have been false to the trust we have reposed in them." *Id*.

this case, GEI is not being disqualified as a licensee for an existing license. Rather, GEI wants a license that automatically cancelled many years ago to be reinstated. We are therefore not persuaded that grant of this waiver request would be in the public interest.

#### **IV. ORDERING CLAUSE**

15. Accordingly, IT IS ORDERED that, pursuant to Section 4(i), 303(r), and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 303(r), 405, and Sections 0.331 and 1.106 of the Commission's rules, 47 C.F.R. §§ 0.331, 1.106, the Petition for Reconsideration filed by Glendale Electronics, Inc. on April 6, 2001, IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Paul D'Ari  
Chief, Policy and Rules Branch  
Commercial Wireless Division  
Wireless Telecommunications Bureau