

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

In the Matter of Application of	)	
	)	
CLAY COUNTY, FLORIDA	)	File No. 0001374248
	)	
Modification to Private Land Mobile Radio	)	
Service License WPDC613	)	
	)	

**ORDER ON RECONSIDERATION**

**Adopted: March 14, 2005**

**Released: March 14, 2005**

By the Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

1. *Introduction.* On April 19, 2004, the City of Ocala, Florida (“Ocala”) filed a petition for reconsideration (Petition)<sup>1</sup> of our action<sup>2</sup> denying Ocala’s Petition to Deny,<sup>3</sup> and our grant of the above-captioned application modifying Station WPDC613 licensed to Clay County, Florida (“Clay County”).<sup>4</sup> For the reasons set forth below, we dismiss Ocala’s Petition.

2. *Background.* On July 7, 2003, Clay County filed an application proposing to modify its private land mobile station WPDC613 by adding four new channels pairs to its currently authorized locations.<sup>5</sup> Clay County amended the application on August 21, 2003 to specify a directional antenna at one of the locations. On September 2, 2003, Clay County amended its application to request a waiver of Section 90.621(b) of the Commission’s Rules.<sup>6</sup> Clay County indicated that it needed a waiver of Section 90.621(b) in order to operate frequency 857.2125 MHz at a location separated by only 67.3 kilometers from co-channel Station WPFX973, licensed to Ocala.<sup>7</sup>

3. On September 9, 2003, Ocala, filed a petition to deny Clay County’s pending application, citing concerns of harmful interference to Ocala’s licensed system.<sup>8</sup> By letter, on March 17, 2004 the Public Safety and Critical Infrastructure Division (“Division”) denied Ocala’s Petition to Deny, stating that Ocala’s engineering exhibits do “not take into account the use of a directional antenna as submitted in

---

<sup>1</sup> Petition for Reconsideration, filed April 19, 2004 (Petition).

<sup>2</sup> Letter from Tracy Simmons, Acting Associate Chief, Licensing Operations, Public Safety and Critical Infrastructure Division, to Mindy Stewart, 800 MHz Systems Manager, City of Ocala (Mar. 17, 2004)(Response Letter).

<sup>3</sup> Petition to Deny, filed September 9, 2003 (Petition to Deny).

<sup>4</sup> The application was granted March 24, 2004.

<sup>5</sup> FCC File No. 0001374248. Clay County’s application proposed adding the frequency pairs 812/857.2125 MHz, 812/857.9875 MHz, 813/858.46250 MHz, and 813/858.9875 MHz.

<sup>6</sup> See waiver request attached to FCC File No. 0001374248 (Waiver Request).

<sup>7</sup> Waiver Request at 1.

<sup>8</sup> Petition to Deny at 1.

Clay County's application."<sup>9</sup> The Division granted Clay County's application on March 24, 2004.

4. On April 19, 2004, Ocala filed a Petition requesting reconsideration of the Petition to Deny, and the grant of Clay County's application.<sup>10</sup> Ocala's Petition contains additional engineering data in support of its case.<sup>11</sup> On June 1, 2004, Clay County filed a response to the Petition.<sup>12</sup>

5. *Discussion.* Ocala's Petition does not comply with our procedural requirements for filing petitions for reconsideration of final Commission actions. In particular, the Petition was not filed with the Secretary of the Commission, as required by Sections 1.106 (i) of the Commission's Rules. This section requires that petitions for reconsideration "be submitted to the Secretary, Federal Communications Commission, Washington, DC 20554."<sup>13</sup> Although Ocala's Petition was filed at the Commission's Gettysburg, Pennsylvania office on April 19, 2004<sup>14</sup>, the Petition was never filed with our Washington, D.C. office. Based on the foregoing and consistent with previous Commission interpretation of its rules,<sup>15</sup> Ocala's Petition fails to satisfy the requirements of Sections 1.106(i) of the Commission's Rules.<sup>16</sup>

6. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Section 1.106(i) of the Commission's Rules, 47 C.F.R. § 1.106(i), the Petition for Reconsideration filed on April 19, 2004 by the City of Ocala, Florida 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

Gregory F. Intoccia  
Associate Chief – Legal  
Public Safety and Critical Infrastructure Division  
Wireless Telecommunications Bureau

---

<sup>9</sup> See Response Letter.

<sup>10</sup> Petition at 1.

<sup>11</sup> See attachment to Petition.

<sup>12</sup> See Clay County's Response to the Petition for Reconsideration Filed by the City of Ocala, Florida, filed on June 1, 2004.

<sup>13</sup> 47 C.F.R. § 1.106(i).

<sup>14</sup> See Petition at 1.

<sup>15</sup> See, e.g., Application of Santiago Communications Team, Inc., *Order on Reconsideration*, 15 FCC Rcd 9382 (PSPWD rel. May 30, 2000); see also S & L Teen Hospital Shuttle, *Order*, 15 FCC Rcd 3055, 3056 n.7 (PSPWD rel. Feb. 18, 2000) (each case indicating that a petition for reconsideration submitted to the Commission's Gettysburg office was improperly filed and, therefore, was dismissed).

<sup>16</sup> Further, we note that the Petition does not satisfy Section 1.11(f) of the Commission's Rules, 47 C.F.R. § 1.115(f), the virtually identical procedural filing requirement for applications for review.

