

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

In the Matter of Application of )
BYRON PUBLIC SCHOOL DISTRICT #531 ) File No. 20020927AAB
For Renewal of Educational Broadband Service )
Station WLX511, Rochester, Minnesota )

ORDER ON RECONSIDERATION

Adopted: November 27, 2006

Released: November 28, 2006

By the Deputy Chief, Broadband Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. On October 29, 2004, the Byron Independent School District #531 (School District) filed a petition for reconsideration of an October 18, 2004 letter issued by the Broadband Division of the Wireless Telecommunications Bureau (Division) dismissing its application for renewal of Educational Broadband Service (EBS) Station WLX511, Rochester, Minnesota. For the reasons set forth below, we dismiss the Petition.

II. BACKGROUND

2. On September 27, 2002, the School District filed the above-referenced application. On July 29, 2004, the Division returned the Application, noting the following deficiencies: (a) the Commission's records did not contain any evidence that the station had been constructed; (b) the Application did not contain information that the Station was being used for educational purposes; and (c) the School District was required to request a waiver because the Application was not timely filed. The School District had sixty days to respond to the Return Letter. The School District did not respond to the Return Letter. On October 18, 2004, the Application was dismissed. On October 29, 2004, the School District filed the Petition with the Commission's Gettysburg office.

3. In its Petition, the School District fails to explain why it did not respond to the Return Letter. The School District states Station WLX511 was placed into service on August 19, 1994. The School District also states that at the time of the filing of the renewal application, the Station was

1 Petition for Reconsideration, filed October 28, 2004 (Petition).

2 Letter to Byron Independent School District, Ref. No. 3091029 (Oct. 18, 2004) (Dismissal Letter).

3 File No. 20020927AAB (Application).

4 Letter to Byron Independent School District, Ref. No. 2942582 (Jul. 29, 2004) (Return Letter).

5 Id.

6 Dismissal Letter.

7 Petition.

8 Petition at 1.

broadcasting PBS-related and other educational programming to receive sites in the Rochester market.<sup>9</sup> The School District also explains that it had originally filed a timely renewal application that was dismissed for lack of an FCC registration number and that it was “unaware of what happened with the application process at that time”.<sup>10</sup>

### III. DISCUSSION

4. The School District’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>11</sup> Although the Petition was filed at the Commission’s Gettysburg, Pennsylvania office on October 28, 2004,<sup>12</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>13</sup> the School District’s Petition fails to satisfy the requirements of Sections 1.106(i) of the Commission’s Rules.

### IV. ORDERING CLAUSES

5. 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 October 29, 2004 by Byron Independent School District #531 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  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau

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<sup>9</sup> Petition at 1.

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

<sup>11</sup> 47 C.F.R. § 1.106(i).

<sup>12</sup> See Petition at 1.

<sup>13</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).