

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

In the Matter of)
MINNESOTA VALLEY TELEVISION) File Nos. 0002526697, 0002691979
IMPROVEMENT CORPORATION)
Applications for Renewal of License for Broadband)
Radio Service Station WQDZ736, Granite Falls,)
Minnesota)

ORDER ON RECONSIDERATION

Adopted: December 14, 2006

Released: December 15, 2006

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

I. INTRODUCTION

1. On August 1, 2006, Minnesota Valley Television Corporation (MVTV) filed a Petition for Reconsideration. The Petition seeks reconsideration of the Wireless Telecommunications Bureau's (Bureau) dismissal of the application for renewal of Broadband Radio Service (BRS) Station WQDZ736. For the reasons set forth below, we grant the Petition and reinstate the Renewal Application. In addition, we dismiss as moot a second renewal application filed by MVTV on July 24, 2006, after dismissal of the Renewal Application.

II. BACKGROUND

2. MVTV is a non-profit provider of video service and internet access to about 1,100 subscribers in rural western Minnesota. MVTV's license for Station WQDZ736 had an expiration date of March 28, 2006. On March 16, 2006, MVTV filed the Renewal Application. However, on April 4, 2006, the Wireless Telecommunications Bureau (Bureau) returned the Renewal Application because MVTV did not have a Commission Form 602 on file. The Return Letter stated, "When you file FCC

1 Petition for Reconsideration, Minnesota Valley Television Corporation (filed Aug. 1, 2006) (Petition).
2 Letter from Federal Communications Commission, Wireless Telecommunications Bureau to Minnesota Valley Television Improvement Corporation, Ref. No. 4163777 (Jul. 18, 2006) (Dismissal Letter).
3 File No. 0002526697 (Renewal Application).
4 File No. 0002691979 (Second Renewal Application).
5 Petition at 1.
6 See license for BRS Station WQDZ736.
7 Renewal Application.
8 Letter from Federal Communications Commission, Wireless Telecommunications Bureau to Minnesota Valley Television Improvement Corporation, Ref. No. 4044647 (Apr. 4, 2006) (Return Letter).

Form 602, you must update your renewal application to provide an attachment stating that FCC Form 602 was filed and referencing the file number of the ownership disclosure application.”⁹

3. On June 23, 2006, MVTV filed a Form 602.¹⁰ MVTV failed to amend the Renewal Application to report the filing of the Form 602 because of an “inadvertent oversight”.¹¹ On July 15, 2006, the Renewal Application was automatically dismissed because MVTV failed to amend it to include their Form 602.¹²

4. On July 24, 2006, MVTV filed the Second Renewal Application with a waiver to allow consideration of a late-filed renewal application.¹³ On August 1, 2006, MVTV filed the instant Petition requesting reinstatement of the Renewal Application.¹⁴

5. MVTV argues that its failure to amend the Renewal Application to report the filing of the Form 602 is a ministerial error.¹⁵ It argues that the Renewal Application should be reinstated because it is in the public interest for its rural subscribers to continue to receive service.¹⁶

III. DISCUSSION

6. Pursuant to Section 1.2112 of the Commission’s Rules, each applicant for a license must fully disclose certain ownership information.¹⁷ A licensee must use a Form 602 to provide and update this ownership information.¹⁸ Section 1.934 of the Commission’s Rules states that the Commission may dismiss any application in the Wireless Radio Services if the application is found to be defective.¹⁹ Such a dismissal may be without prejudice, meaning that the Commission may accept from the applicant another application for the same purpose at a later time, provided that the application is otherwise timely.²⁰

7. MVTV’s Renewal Application was returned because it did not comply with the Commission’s Rules and provide ownership information in a Form 602.²¹ MVTV’s Renewal Application was dismissed because MVTV failed to amend it in a timely fashion.²² While MVTV’s license was dismissed for a valid reason, it would be unduly harsh for MVTV to lose its license because of a minor error. MVTV did file a timely Form 602 but neglected to amend the Renewal Application to report that filing. Consequently, the Commission was in possession of MVTV’s ownership information during the period in question. Finally, the dismissal of MVTV’s license for WQDZ736 would cause 1,100

⁹ *Id.*

¹⁰ File No. 0002661224.

¹¹ Petition at 2.

¹² Dismissal Letter.

¹³ Second Renewal Application.

¹⁴ Petition.

¹⁵ *Id.* at 2.

¹⁶ *Id.* at 3.

¹⁷ 47 C.F.R. § 1.2112.

¹⁸ 47 C.F.R. § 1.913.

¹⁹ 47 C.F.R. § 1.934.

²⁰ *Id.*

²¹ Return Letter.

²² Dismissal Letter.

subscribers to lose a video and internet access service provider. We therefore grant the Petition and direct reinstatement of the Renewal Application. Since we are reinstating the Renewal Application, we will dismiss the untimely Second Renewal Application as moot.

8. Notwithstanding our decision in this particular case, we caution that a licensee must abide by the Commission's Rules. All licensees are responsible for ensuring they provide the Commission with the appropriate documentation when renewing their license. Thus, we admonish MVTV to conform to this requirement in the future and to take any necessary steps to avoid future occurrences.

IV. CONCLUSION AND ORDERING CLAUSES

9. While MVTV failed to amend its Renewal Application to report the filing of its Form 602, terminating its license is an unduly harsh result for a minor administrative error. Accordingly, we grant the Petition and reinstate the Renewal Application. We also dismiss the Second Renewal Application as moot.

10. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 405(a), and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Minnesota Valley Television Improvement Corporation on August 1, 2006 IS GRANTED.

11. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 309, and Section 1.949 of the Commission's Rules, 47 C.F.R. § 1.949, that the Broadband Division SHALL REINSTATE the application for renewal of license filed Minnesota Valley Television Improvement Corporation (File No. 0002526697).

12. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 309, and Section 1.949 of the Commission's Rules, 47 C.F.R. § 1.949, that the licensing staff of the Broadband Division SHALL PROCESS the application for renewal of license filed by Minnesota Valley Television Improvement Corporation (File No. 0002526697) in accordance with this *Order on Reconsideration* and the Commission's rules and policies.

13. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), 309, and Section 1.949 of the Commission's Rules, 47 C.F.R. § 1.949, that the licensing staff of the Broadband Division SHALL DISMISS the application for renewal of license filed by Minnesota Valley Television Improvement Corporation on July 24, 2006 (File No. 0002691979) in accordance with this *Order on Reconsideration* and the Commission's rules and policies.

14. These actions are 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, 1.106(b)(3).

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble
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Wireless Telecommunications Bureau