

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

In the Matter of	)	
	)	
COLORADO MATERIALS HOLDING	)	FCC File No. 0002036574
CORPORATION	)	
	)	
Licensee of Trunked 900 MHz Business (YU)	)	
Station WPRK272	)	

**ORDER ON RECONSIDERATION**

**Adopted: July 31, 2007**

**Released: August 1, 2007**

By the Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this *Order on Reconsideration*, we grant the Petition for Further Reconsideration (PFFR) filed by Colorado Materials Holding Corporation ("Colorado Materials") on February 20, 2007.<sup>1</sup> Colorado Materials seeks reconsideration of a January 19, 2007 *Letter Order* by the Wireless Telecommunications Bureau's Mobility Division that denied its petition for reconsideration of the cancellation of its license for trunked 900 MHz Business Radio Service Station WPRK272.<sup>2</sup> For the reasons discussed below, we grant the PFFR.

2. *Background.* On February 7, 2005, an application was filed via the Commission's Universal Licensing System seeking cancellation of the license for Station WPRK272.<sup>3</sup> The application bore the electronic signature of Randle W. Case, Chief Executive Officer. The application was granted and the license cancelled on February 8, 2005. On March 4, 2005, Rich Duran sought reconsideration of the cancellation on behalf of Colorado Materials.<sup>4</sup> The petition for reconsideration broadly asserted that Colorado Materials neither filed a cancellation application nor authorized anyone to file a cancellation application on its behalf, but the petition did not specifically deny either that Case had filed the cancellation application or that he was authorized to do so.<sup>5</sup> Staff of the Wireless Telecommunications Bureau's Public Safety and Critical Infrastructure Division<sup>6</sup> contacted Colorado Materials by telephone to request more specific information,<sup>7</sup> but Colorado Materials never supplemented the petition for

<sup>1</sup> Application for Review or, Alternatively, Petition for Further Reconsideration, filed by Colorado Materials Holding Corporation (filed Feb. 20, 2007) ("PFFR"); Addendum to Application for Review, filed February 21, 2007, by Colorado Materials Holding Corporation ("Addendum"). We choose to treat the PFFR as a petition for further reconsideration, because it relies on information upon which the designated authority was afforded no prior opportunity to pass. See 47 C.F.R. § 1.115(c); see also, e.g., Paul J. Broyles, *Letter*, 19 FCC Rcd 22043, 22043 (MB VD 2004); AM Broadcast Station KTNC, *Memorandum Opinion and Order*, 15 FCC Rcd 19114, 19114 n.1 (EB 2000).

<sup>2</sup> Richard Duran, *Letter*, 22 FCC Rcd 567 (WTB MD 2007) ("*Letter Order*").

<sup>3</sup> See FCC File No. 0002036574 (filed Feb. 7, 2005).

<sup>4</sup> See Petition for Reconsideration filed by Colorado Materials Holding Corporation (filed Mar. 4, 2005).

<sup>5</sup> See *id.* at 1.

<sup>6</sup> Pursuant to a Commission reorganization effective September 25, 2006, certain duties of the Public Safety and Critical Infrastructure Division were assumed by the Mobility Division. See Establishment of the Public Safety and Homeland Security Bureau, *Order*, 21 FCC Rcd 10867 (2006).

<sup>7</sup> Duran states that he has no recollection of receiving any telephone calls from the Commission regarding this matter. See PFFR, Attachment C.

reconsideration. Consequently, the Mobility Division denied the petition for reconsideration, because Colorado Materials had not demonstrated that Case had not electronically signed the application or that Case was not authorized to sign the license cancellation application.<sup>8</sup>

3. *Discussion.* We believe that the Public Safety and Critical Infrastructure Division did not err in processing and granting the cancellation application based on the information then before it. Nor do we believe that the Mobility Division erred in denying the petition for reconsideration based on the information then before it.

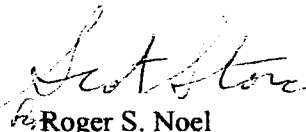
4. In its PFFR, however, Colorado Materials provides, in support of its assertion that it did not authorize the cancellation of its license for Station WPRK272, sworn declarations from Case and Duran stating that they neither filed nor authorized the filing of a cancellation application.<sup>9</sup> In light of this new information, we conclude that Colorado Materials did not authorize the cancellation application.<sup>10</sup> Accordingly, we grant the PFFR, and rescind the grant of the cancellation application.<sup>11</sup> Because the license expiration date has passed,<sup>12</sup> Colorado Materials must file a renewal application in order to reactivate the license.

5. ACCORDINGLY, 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, IT IS ORDERED that the petition for further reconsideration filed by Colorado Materials Holding Corporation on February 20, 2007 IS GRANTED, and the grant of application FCC File No. 0002036574 to cancel the license for Station WPRK272 IS RESCINDED.

6. IT IS FURTHER ORDERED that Colorado Materials Holding Corporation is hereby granted a waiver of Section 1.949(a) of the Commission's Rules, 47 C.F.R. § 1.949(a), and is, thus, permitted to file a renewal application for Station WPRK272. This waiver IS CONDITIONED on Colorado Materials Holding Corporation filing a renewal application within sixty days of release of this *Order on Reconsideration*. Any renewal application filed after such time will be dismissed as untimely.

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 COMMUNICATION COMMISSION



Roger S. Noel  
Chief, Mobility Division  
Wireless Telecommunications Bureau

<sup>8</sup> See *Letter Order*, 22 FCC Rcd at 567-68.

<sup>9</sup> PFFR, Attachments C and D; Addendum.

<sup>10</sup> We conclude that consideration of the new information is in the public interest, see 47 C.F.R. § 1.106(c)(2), in order to do justice to Colorado Materials, see, e.g., Linda Crook, *Memorandum Opinion and Order*, 3 FCC Rcd 1867, 1868 ¶ 6 (Rev. Bd. 1988).

<sup>11</sup> See *Comtex Communications, Inc., Order*, 15 FCC Rcd 11730, 11732 ¶¶ 7, 9 (WTB PSPWD 2000) (reinstating a license that had been terminated pursuant to an unauthorized cancellation request).

<sup>12</sup> The license for Station WPRK272 was set to expire on October 25, 2005.