

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

In the Matter of)	
)	
NEVADA COGENERATION ASSOCIATES)	FCC File No. 0003201759
)	
Station WPMR751, Las Vegas, Nevada)	

ORDER

Adopted: May 12, 2009

Released: May 13, 2009

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

1. *Introduction.* By this Order, we set aside our consent to the above-captioned application to assign the authorization for Station WPMR751, Las Vegas, Nevada, from Nevada Cogeneration Associates (Nevada Cogen) to Thomas K. Kurian (Mr. Kurian), and reissue the authorization to Nevada Cogen. Our action is in response to a request for enforcement action (Request) filed by Nevada Cogen.¹

2. *Background.* On October 17, 2007, the application to assign the authorization for Station WPMR751 from Nevada Cogen to Mr. Kurian was filed through the Commission's Universal Licensing System (ULS).² The application bore the electronic signatures of David A. Ramos (Mr. Ramos), on behalf of Nevada Cogen, and Mr. Kurian.³ The assignment application was consented to and consummated on October 24, 2007.⁴

3. In 2008, the Commission's Enforcement Bureau received a letter from Nevada Cogen, alleging that the assignment application was unauthorized because Mr. Ramos had left Nevada Cogen more than five years earlier, and requesting that the Commission remedy the situation.⁵ In response to a request from the Enforcement Bureau for further information regarding his relationship with Nevada Cogen,⁶ Mr. Kurian confirmed that he had prepared the assignment application, using Nevada Cogen's ULS passwords, and signed it as David A. Ramos.⁷ He asserted that he was authorized to file the application on Nevada Cogen's behalf, pursuant to a 1998 Letter of Agreement (Agreement) between Nevada Cogen and Spectrum Wireless, which was controlled by Mr. Kurian.⁸

¹ Letter dated June 19, 2008, from Jack Richard, Esq., counsel for Nevada Cogeneration Associates, to Gary Schonman and William Knowles-Kellett, Enforcement Bureau (Request).

² See FCC File No. 0003201759.

³ See *id.*

⁴ See *id.*; FCC File No. 0003207896.

⁵ See Request at 1-2.

⁶ Letter dated September 23, 2007, from Gary Schonman, Special Counsel, Investigations and Hearings Division, Enforcement Bureau, to Thomas K. Kurian.

⁷ See Letter dated September 24, 2008 from Thomas K. Kurian, to Marlene H. Dortch, Secretary, and Rebekah Bina, Investigations and Hearings Division Enforcement Bureau (Kurian Letter). Nevada Cogen filed a reply on October 10, 2008. Mr. Kurian filed a rebuttal on October 14, 2008 (Kurian Rebuttal).

⁸ See Kurian Letter at 2.

4. Under the Agreement, Spectrum Wireless would assign the license for Station WPKU307 to Nevada Cogen and provide communications service to Nevada Cogen, but if Nevada Cogen terminated Spectrum Wireless's service, the license would be assigned back to Spectrum Wireless without any further authorization from Nevada Cogen.⁹ The Agreement required Nevada Cogen to provide Mr. Kurian with a pre-signed copy of the assignment application and electronic passwords to effectuate the assignment.¹⁰ Mr. Kurian stated that Nevada Cogen terminated service from Spectrum Wireless in 2007, thus authorizing him to file the assignment application as per the Agreement.¹¹ He also stated that during the process of the assignment of the license to Nevada Cogen, the call sign was changed from WPKU307 to WPMR751 for "unknown reasons."¹²

5. *Discussion.* We treat Nevada Cogen's Request as an informal request for Commission action, pursuant to Section 1.41 of the Commission's Rules,¹³ which does not limit the time period within which such request must be filed.¹⁴ We therefore are unpersuaded by Mr. Kurian's argument that we should deny the Request as an untimely petition for reconsideration of our consent to the assignment application.¹⁵

6. Based on the record before us, we conclude that Mr. Kurian was not authorized to file an application to assign the license for Station WPMR751 to himself. The Agreement pertains solely to Station WPKU307. Station WPMR751 is mentioned nowhere in the Agreement. We disagree with Mr. Kurian's explanation that they are the same station, for which the call sign was changed. They were separate licenses, and our records indicate that the license for Station WPKU307 was cancelled in 1997, prior to the execution of the Agreement. Moreover, even if the Agreement did pertain to Station WPMR751, we note that it would authorize assignment of the license to Spectrum Wireless (which Mr. Kurian no longer controls¹⁶), rather than to Mr. Kurian personally. Therefore, we conclude that Mr. Kurian had no authority to file the instant assignment application,¹⁷ and the purported assignment was void *ab initio*.¹⁸ We therefore will set aside the consent to the assignment application, and the grant of the administrative update application that Mr. Kurian subsequently filed.¹⁹

⁹ Kurian Letter, Exhibit A.

¹⁰ *Id.*

¹¹ *See* Kurian Letter at 2.

¹² *See id.* at 1, 3.

¹³ 47 C.F.R. § 1.41.

¹⁴ *See* Pacific Gas and Electric Company, *Memorandum Opinion and Order*, 18 FCC Rcd 22761, 22763 ¶¶ 6-7 (2003).

¹⁵ *See* Kurian Rebuttal at 2.

¹⁶ *See* Jose N. Francis, *Letter*, DA 09-889 (rel. Apr. 21, 2009).

¹⁷ Mr. Kurian argues that the Commission's longstanding policy of refusing to adjudicate private contractual disputes precludes us from setting aside our consent to the assignment, *see* Kurian Rebuttal at 1-2, but we do not believe that the policy applies where, as here, the matter is governed by the plain terms of the Agreement, with no need to interpret it. *Cf.* Ascom Communications, Inc., *Memorandum Opinion and Order*, 15 FCC Rcd 3223, 3228 ¶ 13 (2000); Mobile Communications Holdings, Inc., *Memorandum Opinion and Order*, 17 FCC Rcd 11898, 11900-01 ¶¶ 8-9 (IB 2002), *aff'd*, *Memorandum Opinion and Order*, 18 FCC Rcd 11650 (2003).

¹⁸ *See, e.g.*, Pacific Wireless Technologies, *Order*, 18 FCC Rcd 7833, 7835 ¶ 3 (WTB CWD 2003) (holding that because the assignment authorization form was signed by an unauthorized person, the assignment was void *ab initio*, and did not convey any rights to the assignee) (citing Tsooris Corporation, *Memorandum Opinion and Order*, 12 FCC Rcd 1675, 1679, ¶ 10 (1997); Clarkliff of San Jose, Inc., *Second Order on Further Reconsideration*, 16 FCC Rcd 14844 (WTB 2001)).

¹⁹ FCC File No. 0003485903.

7. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, that the Request for Enforcement Action filed by Nevada Cogeneration Associates on June 19, 2008, IS GRANTED TO THE EXTENT SET FORTH ABOVE.

8. IT IS FURTHER ORDERED that the Commission's consent to the application for the assignment of the authorization for Station WPMR751 from Nevada Cogeneration Associates to Thomas K. Kurian, FCC File No. 0003201759, and the acceptance of the corresponding notice of consummation, FCC File No. 0003207896, ARE SET ASIDE and the applications SHALL BE RETURNED TO PENDING STATUS AND DISMISSED.

9. IT IS FURTHER ORDERED that the grant of FCC File No. 0003485903 IS SET ASIDE and the application SHALL BE RETURNED TO PENDING STATUS AND DISMISSED.

10. IT IS FURTHER ORDERED that the Wireless Telecommunications Bureau SHALL REISSUE the authorization for Station WPMR751 to Nevada Cogeneration Associates under the same terms and conditions as were reflected on the license prior to October 17, 2007.

11. 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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau