

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

In the matter of
LODI TRUCK SERVICE, INC.
Petition for Reconsideration of Cancellation of
Licenses for Stations WEH205 and WGY470,
Modesto, CA and Vacaville, CA
File Nos. 0003308756, 0003308757

ORDER ON RECONSIDERATION

Adopted: August 26, 2009

Released: August 27, 2009

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

I. INTRODUCTION

1. We have before us a Petition for Reconsideration¹ filed by Lodi Truck Service, Inc. (Lodi Truck Service), requesting reconsideration of our cancellation of licenses for two industrial/business pool microwave stations operating under WEH205 and WGY470 (the Stations) in Modesto, CA and Vacaville, CA. For the reasons stated below, we dismiss the Petition as untimely.

II. BACKGROUND

2. On January 30, 2008, Lodi Truck Service filed the above-captioned applications requesting cancellation of the licenses for its Stations.² The next day, the Bureau granted the requested cancellations and sent confirmation to Lodi Truck Service.³ The Bureau gave public notice of the cancellations on February 6, 2008.⁴ On March 10, 2008, the Bureau received Lodi Truck Service's Petition.⁵

III. DISCUSSION

3. Section 405(a) of the Communications Act, as implemented by Section 1.106(f) of the Commission's Rules, requires that a petition for reconsideration and any supplements thereto be filed within thirty days from the date of public notice of Commission action.⁶ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.⁷ Since public notice of

1 The applicant filed an uncaptioned request asking us to reactivate its station licenses (filed Mar. 10, 2008) (Petition). We interpret the request as a petition for reconsideration. The applicant later filed a supplement to the Petition. Supplemental Information (filed Jun. 20, 2008) (Supplement).

2 File Nos. 0003308756, 0003308757 (Jan. 30, 2008).

3 Notice of License Cancellation, Ref. Nos. 4308238, 4308239 (Jan. 31, 2008).

4 Wireless Telecommunications Bureau Site-By-Site Action, Report No. 3804, Public Notice (Feb. 6, 2008) at 11.

5 Petition.

6 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

7 47 C.F.R. § 1.4.

the license cancellations was given on February 6, 2008, pursuant to Section 1.4(b)(4) of the Commission's Rules, the first day to be counted in computing the thirty-day period was February 7, 2008. The last day for filing a petition for reconsideration and any supplement was March 7, 2008.

4. We received Lodi Truck Service's Petition on March 10, 2008. Therefore, we find that the Petition was late-filed. Moreover, the Commission has consistently held that it is without authority to extend or waive the statutory thirty-day filing period for filing petitions for reconsideration specified in Section 405(a) of the Communications Act.⁸ Consequently, we must dismiss Lodi Truck Service's Petition and Supplement as untimely filed.

IV. ORDERING CLAUSES

5. Accordingly, IT IS ORDERED that 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, the petition for reconsideration filed by Lodi Truck Service, Inc., on March 10, 2008, and the Supplemental Information filed on June 20, 2008 ARE 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

⁸ See *Reuters Ltd. V. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986). See also Petition for Amendment of the Commission's Rules to Establish First and Second Class Radiotelephone Operator Licenses, *Order*, 10 FCC Rcd 3196 (1995). We note the filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late. See, e.g., *Panola Broadcasting Co., Memorandum Opinion and Order*, 68 FCC 2d 533 (1978); *Metromedia, Inc., Memorandum Opinion and Order*, 56 FCC 2d 909, 909-01 (1975).