

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

In the Matter of)
)
DALE SWIDER)
Station WPMW995, Rancho Palos Verdes,)
California)
)
Request for Cancellation of License)

ORDER

Adopted: December 7, 2009

Released: December 8, 2009

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

1. *Introduction.* We have before us a request filed by Enterprise Electronics (Enterprise) on July 29, 2009, seeking the cancellation in the Commission’s Universal Licensing System (ULS) of the license of Dale Swider (Swider) for Industrial/Business Pool Station WPMW995, Rancho Palos Verdes, California (Request).¹ For the reasons set forth below, we grant the Request and will modify the Commission’s licensing records to reflect the cancellation of the license.

2. *Background.* On March 12, 2004, the Commission renewed Swider’s license to operate Industrial/Business Pool Station WPMW995, Rancho Palos Verdes, California.² In support of its request that the Commission cancel this license, Enterprise argues that the license terminated automatically due to a permanent discontinuance of station operations.³ Enterprise alleges that it actively monitored the usage of the frequencies assigned to Station WPMW995 for over a year, but detected no transmissions.⁴ Enterprise further alleges that the tower owner informed Enterprise that there are no facilities operating on those frequencies at that location.⁵

3. On October 2, 2009, the Wireless Telecommunications Bureau’s Mobility Division (Division), acting pursuant to Section 308(b) of the Communications Act of 1934, as amended,⁶ requested that Swider provide specified information concerning the operational status of Station WPMW995 within thirty days.⁷ The Division Letter stated that if Swider failed to respond within thirty days, the Division

¹ See Motion for Investigation and Cancellation of License (filed July 29, 2009) (Request).

² FCC File No. 0001641700 (filed Mar. 3, 2004).

³ See Request at 2 (citing 47 C.F.R. §§ 90.157(a), 1.955(a)(3)). Section 90.157(a) of the Commission’s Rules provides that a Part 90 authorization, such as the license for Station WPMW995, cancels upon permanent discontinuance of operations. For the purpose of this section, any station that has not operated for one year or more is considered to have permanently discontinued operations. Section 1.955(a)(3) provides generally that authorizations terminate automatically, without Commission action, if service is permanently discontinued under the applicable rule for the type of service in question.

⁴ *Id.* at 2.

⁵ *Id.* Attached to the Request is an email from American Tower Corporation.

⁶ 47 U.S.C. § 308(b).

⁷ Letter dated Oct. 2, 2009, from Scot Stone, Deputy Chief, Wireless Telecommunications Bureau, to Dale Swider (Division Letter).

could conclude that the authorization for Station WPMW995 had terminated due to permanent discontinuance of operation.⁸ No response to the Division Letter has been received to date.

4. *Discussion.* Section 90.157 of the Commission's Rules provides that a license for a private land mobile radio station cancels automatically upon discontinuance of operation for a period of one year or more.⁹ The information provided in the Enterprise Request is persuasive evidence supporting Enterprise's claim that Station WPMW995 is not in operation and that its authorization cancelled automatically due to a permanent discontinuance of service.¹⁰ In addition, Swider's failure to respond to the Division Letter presumptively indicates that the station is not constructed or operational.¹¹ Therefore, we will update the Commission's Universal Licensing System to reflect the cancellation of the license for Station WPMW995.

5. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 90.157 of the Commission's Rules, 47 C.F.R. § 90.157, the Request for Cancellation of License filed by Enterprise Electronics on July 29, 2009 IS GRANTED, and the Commission's licensing records SHALL BE MODIFIED to reflect the cancellation of the license for Station WPMW995.

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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁸ *Id.* at 1.

⁹ See 47 C.F.R. § 90.157(a).

¹⁰ See, e.g., National Ready Mixed Concrete Co., *Memorandum Opinion and Order*, 23 FCC Rcd 5250, 5253-54 ¶¶ 11 (2008) (explaining that "an undisputed statement from the site owner/manager that the putative licensee no longer maintains a transmitter at the authorized site" is sufficient to demonstrate permanent discontinuance of station operations under Section 90.157).

¹¹ See, e.g., Milton H. Pintell, *Order on Reconsideration*, 20 FCC Rcd 19315, 19316 ¶ 5 (WTB PSCID 2005).