



Federal Communications Commission
Washington, D.C. 20554

December 8, 2009

DA 09-2565

Pappammal Kurian
Spectrum Wireless LLC
3475 W Lake Mead Blvd., #105
North Las Vegas, NV 89032

RE: Informal Request for Renewal of Special Temporary Authority for Stations WQEH403, WQEI307, WQEI308, WQEI758, and WQEI759

Dear Ms. Kurian:

This letter addresses the letter request, received June 19, 2009, that you submitted on behalf of Spectrum Wireless LLC for renewal of Special Temporary Authority (STA) for Stations WQEH403, WQEI307, WQEI308, WQEI758, and WQEI759.¹ For the reasons discussed below, we deny the request.

*Background.*² Your former husband, Thomas Kurian, agreed to transfer his FCC licenses to you, pursuant to the Marital Property Settlement Agreement (Settlement Agreement) approved by the District Court of Clark County, Nevada, Family Division on July 1, 2005.³ On November 28, 2005, however, he requested cancellation of thirty-seven of his licenses, on the grounds that the stations had not been constructed or had permanently discontinued station operations.⁴ You objected to the cancellation requests, asserting that they conflicted with the Settlement Agreement. While the cancellation requests were pending, you were granted STAs authorizing operations at the same locations and on the same frequencies as some of the licenses that Mr. Kurian had sought to cancel or had allowed to expire.

On February 12, 2007, the Mobility Division (Division) denied your objection to the cancellation requests, concluding that it was appropriate to rely on the representations of Mr. Kurian, the licensee of record, about the non-construction of the subject stations or permanent discontinuance of their service, especially in the absence of any contrary evidence.⁵ The Division also concluded that your argument that

¹ Letter dated June 10, 2009 from Pappammal Kurian, President, Spectrum Wireless LLC, to Marlene H. Dortch, Secretary, Federal Communications Commission (Request). I previously informed you that the Commission had no record of any request for renewal of the STAs. The Request was subsequently located.

² For more detailed information regarding the background of this matter, see Pappammal Wellington Kurian, *Order on Further Reconsideration and Order on Reconsideration*, 24 FCC Rcd 4827, 4828-29 ¶¶ 3-4 (WTB MD 2009) (2009 Order).

³ Settlement Agreement at 1-2, attached to Kurian v. Kurian, Case No. D30700, *Decree of Divorce* (Dist. Ct. Family Div., Clark County, Nev. July 1, 2005); see also Kurian v. Kurian, Case No. D30700, *Order of the Court* at 2 (Dist. Ct. Family Div., Clark County, Nev. July 12, 2005).

⁴ See 47 C.F.R. § 1.955(a)(2), (3) (authorizations automatically terminate, without specific Commission action, if the licensee fails to meet applicable construction requirements or permanently discontinues station operations).

⁵ See Letter dated Feb. 12, 2007, from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to George L. Lyon, Jr., counsel for Pappammal Wellington Kurian, at 2. With respect to licenses that Mr.

the cancellation requests conflicted with the Settlement Agreement was irrelevant to whether the licenses had canceled for non-construction or permanent discontinuance of operations.⁶ You sought reconsideration, and the Division affirmed the February decision on October 19, 2007.⁷ You then sought reconsideration of the October decision. The Division granted applications to renew the STAs while the petitions for reconsideration were pending.

On April 21, 2009, the Division dismissed your petition for further reconsideration of the October decision as repetitious, and for other procedural deficiencies.⁸ The Division also indicated that, in light of its decision, it would not grant any subsequent renewal applications for the STAs.⁹ You did not seek reconsideration or review of this decision. On June 19, 2009, however, you submitted a letter request for renewal of the STAs for Stations WQEH403, WQEI307, WQEI308, WQEI758, and WQEI759.

Discussion. You argue that the renewal of the STAs is necessary to effectuate the terms of the Settlement Agreement.¹⁰ As noted above, we have rejected the argument that the Settlement Agreement requires continued authorization of stations for which the licenses automatically canceled, and that decision is now a final action. Additionally, the current request presents no new information, and provides no grounds to revisit our conclusion that renewal of the STAs is no longer appropriate in light of the resolution of the underlying matters. Lastly, the request fails to comply with the requirements for submission of STA applications, as set forth in Part 1 of the Commission's Rules.¹¹ Accordingly, we deny your request for renewal of the STAs.

The authorizations for Stations WQEH403, WQEI307, WQEI308, WQEI758, and WQEI759 have expired. Spectrum Wireless LLC therefore has no authority to operate the facilities formerly authorized under those call signs. Any further operation of those facilities by would be in violation of the Commission's rules. If Spectrum Wireless LLC wishes to operate those facilities in the future, it must first file new applications for permanent authorization.

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 Sections 1.41 and 1.931 of the Commission's Rules, 47 C.F.R. §§ 1.41, 1.931, that the request for renewal of the authorizations for Stations WQEH403,

Kurian had allowed to expire, the Division concluded that the cancellation requests were moot, but that the licenses had in fact canceled automatically. *See id.* at 3 n.14.

⁶ *See id.* at 3.

⁷ *See* Pappammal Wellington Kurian, *Order on Reconsideration*, 22 FCC Rcd 18660, 18661-62 ¶ 4 (WTB MD 2007). The Division noted that you cited no Commission precedent for declining to credit the unrefuted representation of the licensee of record because of outside litigation between the parties. *See id.* at 18662 ¶ 4.

⁸ *See 2009 Order*, 24 FCC Rcd at 4830-31 ¶¶ 8-10.

⁹ *See id.* at 4832 n.45.

¹⁰ *See Request* at 1.

¹¹ 47 C.F.R. Part 1. The Commission's rules provide for informal STA requests in emergencies, but this is not such a case. *See* 47 C.F.R. §§ 1.915(b)(1), 1.931(b)(5).

WQEI307, WQEI308, WQEI758, and WQEI759, submitted by Spectrum Wireless LLC on June 19, 2009, IS DENIED.

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

Bcc: MD chron file
S Kimball
S Stone
J Tobias