

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

In the matter of)	
)	
PHOENIX UNION HIGH SCHOOL DISTRICT)	File Nos. 0002347379, 0002347934,
)	0002347943
Petition for Reconsideration of Pending)	
Termination of Licenses for Stations WQEF776,)	
WQEF777, and WQEF779, Phoenix, AZ)	
)	

ORDER ON RECONSIDERATION

Adopted: March 13, 2009

Released: March 16, 2009

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

I. INTRODUCTION

1. We have before us a Petition for Reconsideration¹ filed by Phoenix Union High School District (Phoenix Union), requesting reconsideration of our placing in termination pending status² three industrial/business pool microwave stations operating under licenses WQEF776, WQEF777, and WQEF779 (the Stations) in Phoenix, Arizona. For the reasons stated below, we dismiss the Petition as untimely.

II. BACKGROUND

2. On January 17, 2006, the Wireless Telecommunications Bureau (the Bureau) issued licenses for the Stations.³ On April 17, 2007, construction/coverage reminder letters were sent to Phoenix Union.⁴ On August 22, 2007, license auto-termination letters were sent and the Stations entered termination pending status.⁵ Accordingly, on the same day, the Bureau provided public notice of the pending license terminations.⁶ On September 25, 2007, the Bureau received Phoenix Union's Petition.⁷

¹ See File Nos. 0002347379, 0002347934, 0002347943 (filed Sep. 25, 2007) (Petition).

² When a licensee fails to file a notification that it has completed construction by an applicable buildout deadline, the license, location, or frequency is placed in "termination pending" status. For a license, location, or frequency in that status, the Bureau presumes that the licensee did not meet buildout requirement. If the licensee does not file a petition for reconsideration within 30 days after public notice of the termination pending status demonstrating that it met that buildout requirement, the status of the license, location, or frequency is changed to "terminated" as of the buildout deadline. See Wireless Telecommunications Bureau Announces Deployment Of "Auto-Term," the Automated Feature in its Universal Licensing System That Identifies Unconstructed Stations Resulting in Automatic Termination of Licenses, *Public Notice*, 21 FCC Rcd 163 (WTB 2006).

³ See File Nos. 0002347379, 0002347934, 0002347943.

⁴ Construct/Coverage Reminders, Ref Nos. 4518771, 4518772 (Apr. 17, 2007).

⁵ Auto Termination letters, Ref. Nos. 4643702, 4643703, 4643704 (Aug. 22, 2007).

⁶ Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 3395, *Public Notice* (Aug. 22, 2007) at 2.

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 be filed within thirty days from the date of public notice of Commission action.⁸ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.⁹ Because public notice of the impending license terminations was given on August 22, 2007, 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 August 22, 2007. Therefore, the last day for filing a petition for reconsideration was September 24, 2007.

4. We received Phoenix Union's Petition on September 25, 2007. Therefore, we find that the Petition was filed late. 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.¹⁰ Consequently, we must dismiss Phoenix Union's Petition 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 Phoenix Union High School District, on September 25, 2007 IS 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

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⁷ See *supra* note 1.

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

⁹ 47 C.F.R. § 1.4.

¹⁰ 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, 909-910 (1975).