

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

In the matter of)	
)	
PUBLIC SERVICE COMPANY OF)	File No. 0002805676
OKLAHOMA dba AEPSC)	
)	
Petition for Reconsideration of Dismissal of)	
Application for Modification of License for)	
Station WNEQ200, Idabel, OK)	
)	

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 Public Service Company of Oklahoma, doing business as AEPSC (AEPSC), requesting reconsideration of our dismissal of AEPSC’s application proposing to increase the elevation of its transmitter for the point-to-point microwave station operating under license WNEQ200 near Idabel, Oklahoma. For the reasons stated below, we dismiss the Petition as untimely.

II. BACKGROUND

2. On November 2, 2006, AEPSC filed an application proposing to raise WNEQ200’s transmitter from 129.5 meters, the elevation at which it was originally licensed, to 132.9 meters.² On January 10, 2007, the Wireless Telecommunications Bureau (Bureau) returned the application with a letter asking the applicant to resolve various administrative and technical issues.³ AEPSC filed an amended application on January 17, 2007.⁴ On January 19, 2007, the Bureau returned the amended application with a second return letter explaining that the amended application did not address all of the issues raised in the first return letter.⁵ AEPSC states that it did not respond to the second return letter because it mistakenly perceived the second return letter as a mere re-issue of the first return letter.⁶ On

¹ The applicant filed an uncaptioned request through our Uniform Licensing System asking us to return its application to a return status. (File No. 0002805676, filed May 16, 2007) (Petition). We interpret the request as a petition for reconsideration.

² See File No. 0002805676.

³ Notice of Return, Ref. No. 4375816 (Jan. 10, 2007).

⁴ Amendment, File No. 000280076 (Jan. 17, 2007).

⁵ Notice of Return, Ref. No. 4389419 (Jan. 19, 2007).

⁶ See Petition at 1.

April 10, 2007, the Bureau dismissed the application.⁷ The Bureau gave public notice of the dismissal on the following day, April 11.⁸ AEPSC filed the Petition on May 16, 2007.⁹

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.¹⁰ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.¹¹ Since public notice of the dismissal was given on April 11, 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 April 11, 2007, the date the public notice was released.¹² Therefore, the last day for filing a petition for reconsideration was May 11, 2007.

4. AEPSC's petition for reconsideration was received on May 16, 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.¹³ Consequently, we conclude that the petition for reconsideration filed by AEPSC must be dismissed as untimely filed. Because AEPSC's application was dismissed without prejudice, however, it is free to file a new application to modify its facilities.

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 Public Service Company of Oklahoma, doing business as AEPSC, on May 16, 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

⁷ Notice of Dismissal, Ref. No. 4508643 (Apr. 10, 2007).

⁸ Wireless Telecommunications Bureau Site-By-Site Action, Report No. 3068, *Public Notice* (Apr. 11, 2007) at 11.

⁹ See *supra* note 1.

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

¹¹ 47 C.F.R. § 1.4.

¹² 47 C.F.R. § 1.4(b)(4).

¹³ 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).