

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

In the Matter of)
)
FARM CREDIT BUILDING & GARAGE LLC)
Station WPXB508, Omaha, Nebraska)
)
Request for Cancellation of License)

ORDER

Adopted: April 7, 2009

Released: April 8, 2009

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

1. *Introduction.* We have before us a request filed by MidAmerican Energy Company (MidAmerican) on February 12, 2009, seeking the cancellation in the Commission's Universal Licensing System (ULS) of the license of Farm Credit Building & Garage LLC (FCB&G) for Industrial/Business Pool Station WPXB508, Omaha, Nebraska (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 February 26, 2003, the Commission granted a license to FCB&G to operate Industrial/Business Pool Station WPXB508, Omaha, Nebraska.² In support of its request that the Commission cancel this license, MidAmerican argues that the license terminated automatically due to a permanent discontinuance of station operations.³ MidAmerican alleges that it was unable to identify a current address or telephone number for FCB&G despite diligent efforts, and that the records of the Nebraska Secretary of State indicate that FCB&G was dissolved as a limited liability company in 2005.⁴ MidAmerican further alleges that conversations with former employees and principals of FCB&G confirmed that the company ceased operations in 2005 and discontinued use of its radio equipment at that time.⁵

3. On February 18, 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 FCB&G provide specified information concerning the operational status of Station WPXB508 within

¹ See MidAmerican Energy Company, Request for Cancellation of License (filed Feb. 12, 2009) (Request).

² FCC File No. 0001128278 (filed Dec. 19, 2002).

³ See Request at 1, 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 WPXB508, 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.* Attached to the Request are a Declaration by Kasey Regan, a Senior Network Analyst with MidAmerican, attesting to MidAmerican's efforts to identify an existing contact for FCB&G, and a copy of Articles of Dissolution executed in the name of FCB&G with the Nebraska Secretary of State, dated July 18, 2005.

⁵ *Id.*

⁶ 47 U.S.C. § 308(b).

thirty days.⁷ The Division Letter stated that if FCB&G failed to respond within thirty days, the Division could conclude that the authorization for Station WPXB508 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 MidAmerican Request is persuasive evidence supporting MidAmerican's claim that Station WPXB508 is not in operation and that its authorization cancelled automatically due to a permanent discontinuance of service.¹⁰ In addition, FCB&G'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 WPXB508.

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 MidAmerican Energy Company on February 12, 2009 IS GRANTED, and the Commission's licensing records SHALL BE MODIFIED to reflect the cancellation of the license for Station WPXB508.

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

⁷ Letter dated Feb. 18, 2009, from Scot Stone, Deputy Chief, Wireless Telecommunications Bureau, to Paulette A. Gacke and Judith E. Wilson (Division Letter). To better ensure that the Division Letter was received by a responsible party, it was addressed to both Ms. Gacke, who was the signatory (under the title Senior Property Manager) for FCB&G's application for this license, at FCB&G's address of record, and to Ms. Wilson, who is listed as the contact for matters pertaining to this license, at the specified address for Ms. Wilson in Gettysburg, Pennsylvania.

⁸ *Id.* at 2.

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 "persuasive evidence that the licensee no longer exists" 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).