

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

In the Matter of)	
)	
Kaneland Community Unit School District 302, Illinois)	File No. 0004503662
)	

ORDER

Adopted: July 28, 2011

Released: July 28, 2011

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

1. *Introduction.* On December 17, 2010, the City of Chicago (Chicago) filed a petition for reconsideration of the grant of the above-captioned application to the Kaneland Community Unit School District 302, Illinois (Kaneland).¹ For the reasons set forth below, we dismiss the Petition.

2. *Background.* The Commission granted Kaneland's application to coordinate daily school district and transportation activities on frequency pair 460/465.200 MHz under conventional Public Safety Pool station WQNA401. Chicago asserts that Kaneland's school bus dispatch activities on that frequency will cause interference to Chicago's nearby station KAZ997, which is situated 80 km from Kaneland's station WQNA401.² Chicago contends that it is "highly unlikely that the two uses can coexist given the intense environment that presently exists due to Chicago's extreme [radio] traffic level."³ Chicago requests that the Commission find that Kaneland's use of the frequency pair is not in the public interest. Specifically, Chicago argues that Kaneland should select a frequency pair from the Industrial Business Pool pursuant to Section 90.35 of the Commission's rules, or, in the alternative, the Commission should reissue Kaneland's license on a secondary basis to Chicago's operations (*i.e.* Kaneland must accept interference from Chicago and must not cause interference to Chicago's operations).⁴

3. *Discussion.* Section 1.106(e) of the Commission's rules⁵ requires that any petition for reconsideration based on a claim of interference must be accompanied by an affidavit of a qualified radio engineer showing that interference will occur. Chicago has not presented such an affidavit with its Petition.⁶ Moreover, precedent has established that petitions for reconsideration must demonstrate a material error or omission in the underlying action.⁷ Chicago, however, does not argue that the staff erred

¹ See Petition for Reconsideration filed on December 17, 2010 by the City of Chicago and amended on December 20, 2010 (Petition).

² Petition at 1. Chicago employs the same frequency pair for police and emergency communications. *Id.* Chicago claims that there are over 10,000 units deployed on the frequency pair at issue throughout the entire Chicago region. *Id.*

³ *Id.*

⁴ *Id.* at 2-3.

⁵ 47 C.F.R. § 1.106(e).

⁶ Chicago attached a contour study of the co-channel operations that purportedly demonstrate that "Chicago will likely cause repeated incidents of harmful interference to Kaneland and that Kaneland's buses, roaming outside of its immediate service area [...] will cause harmful interference to Chicago's public safety operations." Petition at 2.

⁷ See *WWIZ, Inc.*, 37 FCC 685, 686 ¶ 2 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. (continued...))

when it granted Kaneland's application consistent with the Rules. Therefore, we dismiss Chicago's Petition as procedurally defective.

4. Had we not found Chicago's Petition procedurally defective, we would have denied it on substantive grounds. Chicago contends that the Kaneland's bus operations should be limited to the Industrial/Business Pool or should be reissued on a secondary basis to Chicago's operations.⁸ Chicago's reliance on Section 90.35 is misplaced because school bus operations are eligible for Public Safety Pool frequencies under Section 90.20(a)(2)(viii) of the Commission's rules.⁹ Furthermore, Chicago acknowledges that Kaneland agreed to "cease operations and seek a new frequency" in the event that Kaneland causes harmful interference to Chicago's use.¹⁰ Essentially, Kaneland has voluntarily agreed to accept secondary status to Chicago's operations. Furthermore, the Commission's frequency coordination rules required Kaneland to obtain frequency concurrence from the designated "Police Coordinator."¹¹ Chicago has not presented evidence of actual interference with its Petition, nor demonstrated that Kaneland failed to comply with the Commission's frequency coordination rules. Under these circumstances, we have no grounds on which to rescind or modify Kaneland's authorization.¹²

5. *Conclusion.* Based on the facts before us and as explained above, we find Chicago's Petition to be procedurally defective, and we dismiss it accordingly.

6. *Ordering Clauses.* ACCORDINGLY, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.106 of the Commission's rules, 47 C.F.R. § 1.106, we hereby DISMISS the petition for reconsideration filed by the City of Chicago on December 17, 2010 regarding Application File No. 0004503662.

7. We take this action under delegated authority pursuant to Sections 0.191(f) and 0.392 of the Commission's rules, 47 C.F.R. §§ 0.191(f) and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Thomas J. Beers
Chief, Policy and Licensing Division
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1965), *cert. denied*, 383 U.S. 967 (1966).

⁸ 47 C.F.R. § 90.35(a)(2).

⁹ 47 C.F.R. § 90.20(a)(2)(viii) ("Persons or organizations operating school buses on a regular basis over regular routes for the transmission of messages pertaining to either the efficient operation of the school bus service or the safety or general welfare of the students they are engaged in transporting.").

¹⁰ Petition at 2.

¹¹ 47 C.F.R. §§ 90.20(c); 90.175.

¹² In the event of harmful interference to Chicago's operations, we reserve the right to modify Kaneland's license.