



Federal Communications Commission
Washington, D.C. 20554

December 7, 2011

BY CERTIFIED MAIL – RETURN RECEIPT REQUESTED

KAMO Electric Cooperative Inc.
PO Box 577
500 S KAMO Drive
Vinita, OK 74301
ATTN Walter C Kenyon

DA 11-1988

Re: KAMO Electric Cooperative Inc. Request for Waiver of
Construction Deadline Station WQMM964; File No.
0004906927

Dear Mr. Kenyon:

On October 11, 2011, the KAMO Electric Cooperative Inc. (KAMO) filed a request for a waiver of Section 90.155 of the Commission's Rules¹ with respect to its Industrial/Business Pool, Trunked (YG) Station WQMM964.² KAMO explains in its waiver request that it failed to timely construct its station due to unavoidable delays. For the reasons discussed below, we deny the Waiver Request, and find that the license WQMM964 automatically terminated on September 28, 2011.

The Mobility Division (MD) granted KAMO a license for Station WQMM964 on September 28, 2010.³ Section 90.155 of the Commission's rules requires that all YG stations authorized under Part 90, including Station WQMM964, be placed into operation within twelve (12) months from the date of grant or the authorization cancels automatically.⁴ In addition, Section 1.946(d) of the Commission's rules requires a licensee who commences service within its construction period to notify the Commission by filing an FCC Form 601 within 15 days of the expiration of the applicable construction deadline.⁵ Finally, a licensee may request an extension of a construction deadline, but the request must be filed before the expiration of the construction period.⁶

We note that a waiver may be granted, pursuant to section 1.925 of the Commission's rules, if the petitioner establishes that: 1) the underlying purpose of the rule would not be served or would be frustrated by application of the instant case, and that grant of the waiver would be in the public interest; or 2) where the petitioner establishes unique or unusual factual circumstances, that application of the rules would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁷ Alternatively, a licensee may be granted an extension of time to meet its construction requirements, pursuant to section 1.946(e), if the failure to construct is due to involuntary

¹ 47 C.F.R. § 90.155.

² FCC File No. 0004906927 (filed Oct. 11, 2011) (Waiver Request).

³ FCC File No. 0004316561 (filed July 8, 2010).

⁴ 47 C.F.R. § 90.155; *see also id.* § 1.946(c).

⁵ 47 C.F.R. § 1.946(d).

⁶ 47 C.F.R. § 1.946(e).

⁷ 47 C.F.R. § 1.925.

loss of its site or other causes beyond its control.⁸ However, Section 1.946 stipulates that the request must be filed before the expiration of the construction period.⁹

On October 11, 2011, thirteen days past the construction deadline, KAMO submitted its requests for waiver of the one-year construction deadline. KAMO explains that in 2010 they began installing a microwave backbone to accommodate its wide area system and encountered some “unavoidable delays” – *i.e.* the need to change tower supplier, difficulty negotiating new tower sites, severe winter, flooding and road restrictions due to severe winter.¹⁰ Accordingly, KAMO indicates that it needed time to negotiate with commercial tower companies and equipment vendors and deploy the system’s equipment. KAMO requests an extension until September 28, 2012.

We deny KAMO’s request to waive the construction deadline. First we note that KAMO failed to timely file its request to extend or waive the construction deadline, therefore, its authorization terminated automatically on the date the construction period expired.¹¹ Further, Section 1.946(e)(2) states that extensions of time to construct facilities will not be granted for failure to obtain antenna sites, or to order equipment in a timely manner,¹² which are the reasons offered by KAMO for not constructing its station. We therefore deny KAMO’s request to waive the construction deadline.

If KAMO has constructed the facility and wishes to continue operation, it must obtain Special Temporary Authority pursuant to Section 1.931 of the Commission’s Rules.¹³ This action is taken without prejudice, so KAMO may file for a new authorization for the necessary frequencies authorized under WQMM964 if they have not been assigned to other licensees. If you have any questions or need further information on this matter, you may contact the Mobility Division licensing staff at (202) 418-0620.

Pursuant to Sections 4(i) and 303(i) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(i), and Sections 0.331, 1.946 and 90.155 and of the Commission’s Rules, 47 C.F.R. §§ 0.331, 1.946, 90.155, we deny the Request of Waiver for Rule Section 90.155, FCC File No. 0004906927, filed by the KAMO Electric Cooperative Inc. on October 11, 2011, to the extent set forth in this letter.

FEDERAL COMMUNICATIONS COMMISSION

Thomas Derenge
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

⁸ 47 C.F.R. § 1.946(e).

⁹ *Id.*

¹⁰ Waiver Request at 1.

¹¹ 47 C.F.R. § 1.946(c).

¹² 47 C.F.R. § 1.946(e)(2).

¹³ *See* 47 C.F.R. § 1.931.