



Federal Communications Commission  
Washington, D.C. 20554

December 8, 2011

DA 11-1994

Mr. Warren C. Havens  
2509 Stuart Street  
Berkeley, CA 94704

Dear Mr. Havens:

On September 12, 2011, Warren C. Havens, Environmental, LLC, Skybridge Spectrum Foundation, Intelligent Transportation & Monitoring Wireless, LLC, Verde Systems, LLC, Telesaurus Holdings GB, LLC, and V2G, LLC (Petitioners) filed a petition for reconsideration (“Third Petition”)<sup>1</sup> of a letter order by the Wireless Telecommunications Bureau’s Broadband Division, released August 12, 2011,<sup>2</sup> denying the Petitioner’s petition for reconsideration<sup>3</sup> of an order that denied the Petitioner’s petition to deny the above-captioned application of Paging Systems, Inc. (“PSI”) to renew its licenses for Common Carrier Fixed Point-to-Point Part 101 Microwave Stations WLS832, WLS834, WLS838, WLS839, WLS844, WLS849, and WLS861.<sup>4</sup> For the reasons stated below, we dismiss the Third Petition.

On June 6, 2011, Warren C. Havens, Environmental, LLC, Skybridge Spectrum Foundation, Intelligent Transportation & Monitoring Wireless, LLC, Verde Systems, LLC, Telesaurus Holdings GB, LLC, and V2G, LLC (Petitioners) filed a petition for reconsideration<sup>5</sup> of the *Order*, released May 5, 2011,<sup>6</sup> denying the Petitioner’s petition to deny<sup>7</sup> the above captioned application of Paging Systems, Inc. (“PSI”) to renew its licenses for Common Carrier Fixed Point-to-Point Part 101 Microwave Stations

---

<sup>1</sup> Warren C. Havens, Environmental, LLC, Skybridge Spectrum Foundation, Intelligent Transportation & Monitoring Wireless, LLC, Verde Systems, LLC, Telesaurus Holdings GB, LLC, and V2G, LLC, Petition for Reconsideration (filed September 12, 2011) (Third Petition).

<sup>2</sup> Letter from John J. Schauble, Deputy Chief, Broadband Division, Wireless Telecommunications Bureau, to Warren C. Havens (DA 11-1399, released Aug. 12, 2011) (*Letter Order*). The *Letter Order* dismissed the petition as moot because PSI had filed applications to cancel the licenses that the petition challenged.

<sup>3</sup> Warren C. Havens, Environmental, LLC, Skybridge Spectrum Foundation, Intelligent Transportation & Monitoring Wireless, LLC, Verde Systems, LLC, Telesaurus Holdings GB, LLC, and V2G, LLC, Petition for Reconsideration (filed June 6, 2011) (Second Petition).

<sup>4</sup> File Nos. 0004593703; 0004593704; 0004593705; 0004593786; 0004593794; 0004593831; 0004593941 (filed Jan. 28, 2011) (Renewal Applications). See Warren C. Havens, Environmental, LLC, Skybridge Spectrum Foundation, Intelligent Transportation & Monitoring Wireless, LLC, Verde Systems, LLC, Telesaurus Holdings GB, LLC, and V2G, LLC, Petition to Deny, or in the Alternative Section 1.41 Request (filed Mar. 4, 2011) (First Petition). The Renewal Applications were granted on May 5, 2011.

<sup>5</sup> Second Petition.

<sup>6</sup> Paging Systems, Inc.’s Renewal Application for Common Carrier Fixed Point to Point Microwave, *Order*, 26 FCC Rcd 6653 (FCC WTBD 2011) (*Order*). The *Order* found that Petitioners’ allegations regarding PSI’s character qualifications, which relate to other PSI licenses and are the subject of other pending proceedings, were more appropriately addressed in those other proceedings in which the Petitioners have raised them. See *id.* at 6653-6654 ¶3.

<sup>7</sup> First Petition. PSI filed oppositions to the First, Second and Third Petitions on March 17, June 21 and September 14, 2011, respectively.

WLS832, WLS834, WLS838, WLS839, WLS844, WLS849, and WLS861.<sup>8</sup> On July 27, 2011, PSI filed applications to cancel the licenses for Stations WLS832, WLS834, WLS838, WLS839, WLS844, WLS849, and WLS861.<sup>9</sup> The licenses were cancelled on August 10, 2011.<sup>10</sup> On August 12, 2011, the *Letter Order* concluded that the relief that Petitioners sought with respect to those licenses was moot, and dismissed the Second Petition.<sup>11</sup> The *Letter Order* further noted that the Commission had held that Petitioners' allegations against PSI are more appropriately considered in connection with pending proceedings relating to the PSI licenses that are the subject of Petitioners' allegations.<sup>12</sup>

In the Third Petition, Petitioners acknowledge that the applications addressed in the First Petition and Second Petition have been cancelled and that the aspect of the Second Petition that challenged those applications is now moot. However, Petitioners argue that the *Letter Order* did not address a broader issue raised in the Second Petition, namely, that PSI lacks the character and fitness to hold any Commission license.<sup>13</sup>

Section 1.115 of the Commission's Rules provides that any person aggrieved by any action taken pursuant to delegated authority may file an application requesting review of that action by the Commission.<sup>14</sup> That would have been a more appropriate procedure than filing another petition for reconsideration of a Bureau order. Having received the Third Petition, however, we dismiss it for four reasons:

- First, as already noted in the *Letter Order*, the licenses that Petitioners challenged in the First Petition and Second Petition have been cancelled, and the Petitioners acknowledge that their challenge to those licenses is therefore moot.
- To the extent that Petitioners seek further relief, they have expressed general repugnance for PSI's character but have not specified what exactly they want done to them, which is a fundamental requirement when seeking any action by the Commission. If Petitioners seek to deny PSI license applications, for example, Rule 1.939 requires that they reference the file numbers of the pending applications that are the subject of the petition.<sup>15</sup> Petitioners have not done so.

---

<sup>8</sup> File Nos. 0004593703; 0004593704; 0004593705; 0004593786; 0004593794; 0004593831; 0004593941 (filed Jan. 28, 2011) (Renewal Applications). The Renewal Applications were granted on May 5, 2011.

<sup>9</sup> File Nos. 0004817160; 0004817161; 0004817162; 0004817163; 0004817164; 0004817165; 0004817166 (filed July 27, 2011).

<sup>10</sup> Notices of License Cancellation, Ref. Nos. 5201181-5201187 (Aug. 11, 2011).

<sup>11</sup> *Letter Order*.

<sup>12</sup> *Letter Order* at n. 11, citing *Paging Systems, Inc., Memorandum Opinion and Order*, 25 FCC Rcd 450, 454 ¶ 8 (2010), *recon. pending*.

<sup>13</sup> Third Petition at 1.

<sup>14</sup> 47 C.F.R. § 1.115.

<sup>15</sup> 47 C.F.R. § 1.939(b).

- Rule 1.939 further requires that any petition to deny a license application make a *prima facie* showing that that the petitioner is a party in interest.<sup>16</sup> In this case, Petitioners have not explained how they would be adversely affected if we do not grant the Third Petition, and, thus, have not demonstrated that they are parties in interest. In another proceeding, PSI noted that Petitioners do not operate and provide point-to-point microwave radio services.<sup>17</sup> Petitioners do not indicate whether or not they have since acquired any such licenses or, if not, how they would be adversely affected by PSI's continued status as a point-to-point microwave licensee.
- Finally, the Commission has held repeatedly that allegations of misconduct against Commission licensees should address the licenses that are directly involved in the alleged misconduct. When these same Petitioners filed a petition to deny PSI's applications to renew another set of licenses, in the Multiple Address System Service, the Commission dismissed that petition after finding that Petitioners' character allegations were more appropriately addressed in proceedings that specifically addressed the applications and licenses that were directly involved in the alleged misconduct.<sup>18</sup> That decision cited a longstanding policy, enunciated by the Commission in a Report, Order and Policy Statement in 1986, that a licensee's misconduct with respect to one station is not necessarily relevant to its qualifications to hold any other station license, and "[i]f the Commission has not as an initial matter found that the allegations under consideration involve conduct likely to impact the future operations of other stations, there generally appears to be no reason to condition or defer" processing of applications regarding other stations.<sup>19</sup> Consistent with that policy, we reject the Third Petition's implication that alleged misconduct by PSI with respect to some of its licenses would justify cancelling all of PSI's licenses and pending applications.

Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 405, and Sections 1.106, 1.115 and 1.939 of the Commission's Rules, 47 C.F.R. §§ 1.106, 1.115 and 1.939, the Petition for Reconsideration filed on August 12, 2011 by Warren C. Havens, Environmental, LLC, Skybridge Spectrum Foundation, Intelligent Transportation & Monitoring Wireless, LLC, Verde Systems, LLC, Telesaurus Holdings GB, LLC, and V2G, LLC with respect to File Nos. 0004593703, 0004593704, 0004593705, 0004593786, 0004593794, 0004593831, and 0004593941, and all responsive pleadings, ARE DISMISSED AS MOOT.

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.

---

<sup>16</sup> 47 C.F.R. § 1.939(d).

<sup>17</sup> Paging Systems, Inc., *Memorandum Opinion and Order*, 25 FCC Rcd 451, 451 ¶ 2 (2010), *recon pending*.

<sup>18</sup> Paging Systems, Inc., *Memorandum Opinion and Order*, 25 FCC Rcd 451, 451-452 ¶ 3 (2010), *recon pending*.

<sup>19</sup> Paging Systems, Inc., *Memorandum Opinion and Order*, 25 FCC Rcd 451, 451-452 ¶ 3 (2010), *recon pending*, at 453-454, ¶ 8, *citing* Policy Regarding Character Qualifications in Broadcast Licensing, *Report, Order and Policy Statement*, GEN Docket No. 81-500, 102 F.C.C. 2d 1179, 1224-25 ¶ 94 (1986).

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau

cc: Audrey P. Rasmussen, Esq.  
Hall, Estill, Hardwick, Gable, Golden, and Nelson, P.C.  
1120 20th Street, N.W.  
Suite 700, North Building  
Washington, D.C. 20036-3406