



Federal Communications Commission  
Washington, D.C. 20554

DA 12-1293

August 9, 2012

Mr. Thomas W. Adams, Jr.  
1663 West Henderson St, Suite 28  
Cleburne, TX 76033

Donald L. Herman, Jr., Esq.  
Counsel for Towerstream Corp.  
Herman & Whiteaker, LLC  
P.O. Box 341684  
Bethesda, MD 20827

RE: Thomas W. Adams, Jr., Call Sign WQLG433 (NN), applications to register base/fixed stations  
*Grandview 1*: ULS 0004631686, RL in Grandview, TX, filed 2/25/11, Accepted, 3/01/11  
*Grandview 2*: ULS 0004773104, to modify RL in Grandview, TX, filed 6/20/11  
*Cleburne*: ULS 0004721639, RL in Cleburne, TX, filed 5/9/11, amended, 6/10/11

Towerstream Corp., former licensee of International FSS earth station KA306, DeSoto, TX  
Petition for Reconsideration of the Acceptance of the registration in *Grandview 1 application*  
Request for Informal Commission Action opposing the *Cleburne* registration application

Dear Messrs. Adams and Herman:

*Summary.* This is in regard to the above referenced registration applications filed by Thomas W. Adams, Jr. (Adams), and Towerstream Corp.'s (Towerstream's) Petition for Reconsideration, or In the Alternative, Request for Informal Commission Action (Recon Petition ) of our acceptance of the *Grandview I* registration,<sup>1</sup> and Petition to Deny, or In the Alternative, Request for Informal Commission Action (Petition to Deny) Adams' *Cleburne* registration application.<sup>2</sup> For the reasons discussed below, Towerstream's Recon Petition and Petition to Deny are dismissed as moot and its Requests for Informal Action are denied, and we will process Adams' pending applications.

*Background.* Adams is a nonexclusive, nationwide licensee in the 3650-3700 MHz band (3650 MHz band) under Call Sign WQLG433.<sup>3</sup> Towerstream is a provider of wireless, high-speed broadband services in numerous metropolitan areas in the United States. Towerstream was also the licensee of a grandfathered Fixed Satellite Service (FSS) earth station, Call Sign KA306, in DeSoto, Texas. Pursuant to Section 90.1331 of the Commission's rules, 3650 MHz band licensees must obtain the consent of the licensee of any grandfathered FSS earth station to operate a 3650 MHz band base/fixed station within 150 km of a grandfathered FSS earth station.<sup>4</sup>

---

<sup>1</sup> Petition for Reconsideration, or In the Alternative, Request for Informal Commission Action, filed by Towerstream, Corp., on Jun. 16, 2011 (Recon Petition).

<sup>2</sup> Petition to Deny, or In the Alternative, Request for Informal Commission Action filed by Towerstream, Corp., on Jun. 17, 2011 (Petition to Deny).

<sup>3</sup> See ULS File No. 0004090127, granted Jan. 13, 2010.

<sup>4</sup> See 47 C.F.R. § 90.1331.

On February 25, 2011, Adams filed a registration application for a 3650 MHz band station in Grandview, Texas.<sup>5</sup> On March 1, 2011, the Wireless Telecommunications Bureau's Broadband Division accepted this registration and added the location under Call Sign WQLG433.<sup>6</sup> On May 9, 2011, Adams filed a registration application for a 3650 MHz band station in Cleburne, Texas,<sup>7</sup> that is currently pending. In both applications, Adams' stations are or would be located within 150 km of the coordinates of grandfathered FSS earth station Call Sign KA306, DeSoto, Texas.

On June 16, 2011, Towerstream filed the Recon Petition against our acceptance of the *Grandview 1* registration and, on June 17, 2011, Towerstream filed the Petition to Deny the *Cleburne* registration application. In each petition or informal request, Towerstream alleges standing as a party-in-interest as the licensee of co-channel Fixed FSS earth station Call Sign KA306.<sup>8</sup> Towerstream further alleges that Adams misrepresented in the *Grandview 1* application that he had obtained the required consent from Towerstream.<sup>9</sup> Mr. Adams did not oppose Towerstream's petitions. On June 20, 2011, he filed the *Grandview 2* application to modify the registration accepted in the *Grandview 1* application, to reflect that he did not have an agreement with Towerstream to operate within 150 km of earth station KA306.<sup>10</sup>

*Discussion.* Although the Communications Act and Commission rules do not provide a right for opposing parties to file petitions to deny 3650-3700 MHz band registrations that do not appear on public notice as accepted for filing, we have discretion to treat such pleadings as informal requests for Commission action pursuant to Section 1.41 of the Commission's Rules.<sup>11</sup> We do so here.

On March 31, 2012, Towerstream's license for Call Sign KA306 expired. Towerstream did not seek renewal of that license. Because Towerstream is no longer licensed for Call Sign KA306, Mr. Adams no longer requires Towerstream's consent to operate base/fixed 3650 MHz band stations within 150 km of former earth station Call Sign KA306. Accordingly, we conclude that Towerstream's above-referenced petitions are moot. Furthermore, inasmuch as the grandfathered license for earth station KA306, Desoto, Texas, has expired, we note that terrestrial licensees are no longer required under Section 90.1331 of the Commission's Rules to have an agreement with Towerstream to operate within 150 km of the formerly grandfathered site in Desoto, Texas.

*Ordering Clauses.* Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405 and Sections 1.106 and 1.41 of the Commission's rules, 47 C.F.R. §§ 1.106, 1.41, that the Petition for Reconsideration or in the Alternative, Request for Informal Commission action, filed by Towerstream Corp., on June 16, 2011, against the

---

<sup>5</sup> See *Grandview 1*.

<sup>6</sup> In ULS, the Acceptance of 3650-3700 MHz band registrations under the "licensed-lite" regime that governs this service is shown with the status "Q-Accepted," which is distinct from the status of applications in other licensed services that are "accepted for filing" as described in, e.g., 47 C.F.R. § 1.933.

<sup>7</sup> See *Cleburne*.

<sup>8</sup> See, e.g., Recon Petition at 2 (Statement of Interest).

<sup>9</sup> See Recon Petition at 3 ("[i]n response to Question 51, [Adams] responded 'Yes'"") citing *Grandview 1*, response to FCC Form 601, Schedule M, Question 51.

<sup>10</sup> See *Grandview 2* (response "No" to Form 601, Schedule M, Item 51).

<sup>11</sup> 47 C.F.R. § 1.41. See *World Data PR Inc., Memorandum Opinion and Order*, 24 FCC Rcd 14648, 14652 ¶¶ 9-10 (WTB BD 2009) (*review denied* at 26 FCC Rcd 2360 (2011) *citing, e.g.,* Michael McDermott d/b/a McDermott Communications Co., *Memorandum Opinion and Order*, 11 FCC Rcd 5750, 5751 ¶ 6 (1996)).

Broadband Division's Acceptance of Thomas W. Adams, Jr., application to register a 3650 MHz station in Grandview, Texas, under nationwide license Call Sign WQLG433 (File No. 0004631686), IS DISMISSED AS MOOT and IS DENIED as a request for informal Commission action.

IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309, and Sections 1.41 and 1.939 of the Commission's rules, 47 C.F.R. §§ 1.41, 1.939, that the Petition to Deny, or in the Alternative, Request for Informal Commission Action, filed by Towerstream Corp. on June 17, 2011, against Thomas W. Adams, Jr., application to register a 3650 MHz station in Cleburne, Texas, under nationwide license Call Sign WQLG433 (File No. 0004721639), IS DISMISSED as a petition to deny and IS DENIED as a request for informal Commission action.

IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 309 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 309 that the Broadband Division of the Wireless Telecommunications Bureau SHALL PROCESS Mr. Adams' pending applications, File Nos. 0004773104 and 0004721639, in accordance with this letter order and the Commission's rules.

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

Blaise A. Scinto  
Chief, Broadband Division,  
Wireless Telecommunication Bureau