



Federal Communications Commission  
Washington, D.C. 20554

October 5, 2012

DA 12-1599

Mr. Daniel Healy  
Boyd Gaming Corporation  
6465 South Rainbow Blvd  
Las Vegas, NV 89118

Re: Application FCC File No. 0005098263 to Modify License for Station WPUX466

Dear Mr. Healy:

This letter addresses the petition<sup>1</sup> that you filed on April 20, 2012 on behalf of Boyd Gaming Corporation (Boyd) seeking reconsideration of the dismissal of the above-referenced application. For the reasons stated below, we deny the petition.

On March 1, 2012, Boyd filed an application to modify its license for private land mobile radio (PLMR) Station WPUX466 by relocating the center coordinates of the mobile operating area and increasing the service radius from three kilometers to thirty-two kilometers, and adding a narrowband emission designator to the existing wideband emission designator. Section 90.209(b)(6)(ii) of the Commission's Rules provides that, beginning January 1, 2011, no modification application that increases a wideband PLMR station's interference contour will be acceptable for filing.<sup>2</sup> Because the application proposed to increase Boyd's wideband interference contour, it was dismissed on April 17, 2012.<sup>3</sup>

In the petition for reconsideration, you state that Boyd's frequency coordinator should have deleted the wideband emission designator rather than simply adding a narrowband emission designator. You ask that we delete the wideband emission designator from the application and reprocess it accordingly.

We conclude that your application was properly dismissed. Because of the large number of applications reviewed by the Commission, an applicant must be responsible for the accuracy and adequacy of any submission of any submission made on its behalf.<sup>4</sup> The applicant, whether acting directly or through an agent, is responsible for ensuring that its application is complete.<sup>5</sup> Consequently, we deny the petition for reconsideration. This action is without prejudice to Boyd filing a new application to modify its license for Station WPUX466 by relocating the center coordinates of the mobile operating

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<sup>1</sup> Petition for Reconsideration (filed April 20, 2012).

<sup>2</sup> See 47 C.F.R. § 90.209(b)(6)(ii).

<sup>3</sup> Notice of Dismissal, Ref. No. 5355988 (April 17, 2012).

<sup>4</sup> See, e.g., JSM Systems, Inc., *Order on Reconsideration*, 15 FCC Rcd 23743, 23744 ¶ 4 (WTB PSPWD 2000) (dismissal of application upheld where frequency coordinator failed to submit information in a timely fashion) (citing Request for Review of the Universal Service Administrator by United Talmudical Academy, New York, *Order*, 15 FCC Rcd. 423, 431 ¶15 (2000)).

area and increasing the service radius, and replacing the wideband emission designator with a narrowband emission designator.

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 1.106 of the Commission's Rules, 47 C.F.R § 1.106, the petition for reconsideration filed by Boyd Gaming Corporation on April 20, 2012 IS DENIED.

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

cc: Dee Polley  
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<sup>5</sup> See, e.g., Denver Partners, *Order*, 13 FCC Rcd 14051, 14053 ¶ 6 (WTB CWD 1998) (citing, e.g., RDH Communications, *Memorandum Opinion and Order*, 6 FCC Rcd 4764, 4764-65 (1991) (“the applicant bears the full burden of its (or its agents’) failure to file a complete application”)).

Bcc: MD file  
S Stone  
S Kimball