

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

In the Matter of	)	
	)	
PAPPAMMAL KURIAN	)	Call Signs WNVJ741, WPIQ777,
	)	WPTG843, WPXC618, WPXY504, and
Request for Reinstatement of Licenses	)	WQAQ340
	)	
THOMAS KURIAN	)	Call Signs KNNF731 and WQO982

**ORDER ON RECONSIDERATION AND ORDER OF MODIFICATION**

**Adopted: November 2, 2012**

**Released: November 5, 2012**

By the Deputy Chief, Mobility Division, Wireless Telecommunications Bureau:

1. *Introduction.* In this *Order on Reconsideration and Order of Modification*, we deny and dismiss petitions filed by Pappammal Kurian (Ms. Kurian)<sup>1</sup> and Thomas Kurian (Mr. Kurian)<sup>2</sup> seeking reconsideration of an *Order and Order Proposing Modification (Order)*,<sup>3</sup> which granted in part and denied in part Ms. Kurian's request for reinstatement of six private land mobile radio (PLMR) licenses. We also modify two PLMR licenses held by Mr. Kurian, as proposed in the *Order*.

2. *Background.*<sup>4</sup> Following the Kurians' divorce, a dispute arose between Ms. Kurian and Richard Susainathan over ownership of PLMR licensee S M Leasing and Rental Ltd. (S M Leasing). Specifically, Ms. Kurian argued that she owned S M Leasing because Mr. Kurian had conveyed it to her as part of a marital property settlement agreement, but Mr. Susainathan argued that the company should not have been included in the Kurians' marital estate because he, rather than Mr. Kurian, owned it.

3. While the dispute was being litigated in state court, Mr. Susainathan filed applications to assign the S M Leasing licenses to himself,<sup>5</sup> and to cancel S M Leasing's license for Station WPTG843<sup>6</sup> as part of an agreement with the Dallas Area Rapid Transit Authority (DART), which with S M Leasing's consent had acquired a new license for the spectrum that had been licensed to Station WPTG843.<sup>7</sup> The Wireless Telecommunication Bureau's Mobility Division (Division) granted the assignment and

<sup>1</sup> Pappammal Kurian, Petition for Reconsideration (filed Nov. 19, 2011) (Pappammal Kurian Petition).

<sup>2</sup> Thomas K. Kurian, Petition for Reconsideration of Commission's DA 11-1800 Dated October 26, 2011, Petition to Deny the Assignment of Call Sign WPIQ777, WQAQ340, WPCX618, and WNVJ741; Request to Initiate License Revocation Proceedings Against Pappammal Kurian (filed Feb. 2, 2012) (Thomas Kurian Petition). Insofar as the Thomas Kurian Petition is a petition to deny and request to initiate revocation proceedings, we will address it in a separate action.

<sup>3</sup> Pappammal Kurian, *Order and Order Proposing Modification*, 26 FCC Rcd 15177 (WTB MD 2011) (*Order*).

<sup>4</sup> For more detailed information regarding the background of this matter, see *id.* at 15177-79 ¶¶ 2-9.

<sup>5</sup> See FCC File No. 0002566618 (filed Apr. 11, 2006, amended Apr. 10, 2007 and Apr. 26, 2007). Mr. Susainathan was the listed contact person for S M Leasing in the Commission's licensing records.

<sup>6</sup> See FCC File No. 0003300927 (filed Jan. 18, 2008).

<sup>7</sup> See FCC File No. 0003281568 (filed Jan. 10, 2008).

cancellation applications over Ms. Kurian's objections.<sup>8</sup> In response to Ms. Kurian's assertion that she owned S M Leasing, the Division noted that the state court litigation was ongoing, and held that, in the absence of a definitive final court order, nothing in the Commission's rules precluded granting the applications.<sup>9</sup> Mr. Susainathan subsequently assigned the other former S M Leasing licenses at issue to Mr. Kurian.<sup>10</sup> Mr. Kurian modified his license for Station WQO982 to add frequencies assigned to Station WNVJ741,<sup>11</sup> then cancelled the license for Station WNVJ741,<sup>12</sup> and modified his license for Station KNNF731 to add frequencies assigned to Stations WPIQ777 and WQAQ340,<sup>13</sup> then cancelled the licenses for Stations WPIQ777, WPXC618, and WQAQ340.<sup>14</sup>

4. In a separate proceeding, the Division found that another S M Leasing license, for Station WPXY504, had cancelled automatically due to permanent discontinuance of operation.<sup>15</sup> The frequencies that had been authorized under Call Sign WPXY504 license were later licensed to other parties in the 800 MHz rebanding process.

5. After the state court awarded S M Leasing to Ms. Kurian in 2010,<sup>16</sup> she requested reinstatement of the six former S M Leasing licenses that had been cancelled by Mr. Susainathan, Mr. Kurian, or the Division.<sup>17</sup> In 2011, the Division reinstated the licenses for Stations WNVJ741, WPIQ777, WPCX618, and WQAQ340, but declined to reinstate the licenses for Stations WPTG843 and WPXY504 in view of the competing equities favoring the parties that had acquired the spectrum formerly authorized under those two licenses and other public interest considerations.<sup>18</sup> As an additional measure to enable Ms. Kurian to restore interference-free operations at the four stations, the Division proposed to modify Mr. Kurian's licenses for Stations KNNF731 and WQO982 by deleting the frequencies that he had added from the former S M Leasing licenses that he cancelled.<sup>19</sup> Mr. Kurian was given thirty days to protest the

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<sup>8</sup> See Pappammal Kurian Petition to Deny (filed Apr. 12, 2007); Pappammal Kurian Petition to Deny (filed Jan. 30, 2008).

<sup>9</sup> See Pappammal Kurian, *Letter*, 24 FCC Rcd 4842, 4845 (WTB MD 2009), *pet. for recon. dismissed*, *Order on Reconsideration*, 25 FCC Rcd 3686 (WTB MD 2010).

<sup>10</sup> See FCC File Nos. 0003915191 (filed July 28, 2009) (WNVJ741), 0003946875 (filed Aug. 25, 2009) (WPIQ777), 0003957109 (filed Sept. 4, 2009) (WPXC618), 0003993720 (filed Oct. 13, 2009) (WQAQ340).

<sup>11</sup> See FCC File Nos. 0003947529 (Aug. 25, 2009), 0004036432 (filed Nov. 17, 2009).

<sup>12</sup> See FCC File No. 0004009277 (filed Oct. 27, 2009).

<sup>13</sup> See FCC File No. 0004012350 (filed Oct. 29, 2009).

<sup>14</sup> See FCC File Nos. 0004143990-92 (filed Mar. 3, 2010).

<sup>15</sup> See *Letter*, dated July 6, 2007, from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to Richard R. Susainathan, *citing* 47 C.F.R. § 90.157 (providing that a private land mobile radio license "shall cancel automatically upon permanent discontinuance of operations" and further providing that "any station which has not operated for one year or more is considered to have been permanently discontinued").

<sup>16</sup> See *Susainathan v. Kurian*, Consolidated Case Nos. A505829, A514179, A555891, *Judgment Upon Jury Verdict* (Dist. Ct., Clark County, Nev. Aug. 11, 2010) at ¶ 28. In furtherance of that court order, the S M Leasing licenses that had not been cancelled were assigned to Ms. Kurian. See FCC File No. 0004739550 (filed May 23, 2011).

<sup>17</sup> See Pappammal Kurian Request for Reinstatement of Licenses (filed May 4, 2011).

<sup>18</sup> See *Order*, 26 FCC Rcd at 15180-81 ¶¶ 10-14. It also granted waivers to Ms. Kurian to give her a reasonable opportunity to restore the four reinstated stations to operational status. *Id.* at 15181-82 ¶¶ 15-16.

<sup>19</sup> See *id.* at 15182-83 ¶ 15. The Division acted pursuant to the Commission's statutory authority under Section 316(a)(1) of the Communications Act of 1934, as amended, 47 U.S.C. § 316(a)(1). Specifically, the Division proposed to modify the license for Station KNNF731 by deleting frequencies 937.9500 MHz, 937.9625 MHz, 937.9750 MHz, 937.9875 MHz, and 938.0000 MHz from location 4; and to modify the license for Station WQO982

(continued...)

proposed modification of those two licenses, and cautioned that he would be deemed to have consented to the proposed modification if no protest was filed.<sup>20</sup>

6. *Discussion.* Ms. Kurian seeks reconsideration of the *Order* insofar as it declined to reinstate the licenses for Stations WPTG843 and WPXY504.<sup>21</sup> We conclude that Ms. Kurian's petition offers no basis to reconsider that decision. Ms. Kurian simply reiterates that she timely opposed Mr. Susainathan's applications involving those licenses, and that the licenses were hers by virtue of the marital property settlement agreement. The *Order* explained why those factors were outweighed by the factors militating against reinstatement of those two licenses. The petition does not identify any error of fact or law in the *Order*, and does not present any new facts or changed circumstances that might otherwise warrant reconsideration of the *Order*.<sup>22</sup> We therefore deny the petition with respect to Stations WPTG843 and WPXY504.

7. Mr. Kurian did not protest the proposed modifications of his licenses within thirty days of the *Order*. He did file a pleading on February 2, 2012, that sought reconsideration of the *Order* as well as related relief, and that might be construed as also protesting the proposed modification of his licenses.<sup>23</sup> Mr. Kurian did not request an extension of time to file a protest or a waiver of the thirty-day filing period. Consequently, the filing is untimely and ineffective as a protest. He is therefore deemed to have consented to the proposed modification. In addition, to the extent that the pleading seeks reconsideration of the *Order*, it must be dismissed as untimely.<sup>24</sup> We therefore modify the licenses for Stations KNNF731 and WQO982 as proposed in the *Order*.

8. *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 Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the Petition for Reconsideration filed by Pappammal Kurian on November 19, 2011, IS DENIED IN PART AND DISMISSED IN PART.

9. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, that the Petition for Reconsideration of Commission's DA 11-1800 Dated October 26, 2011, Petition to Deny the Assignment of Call Sign WPIQ777, WQAQ340, WPCX618, and WNVJ741; Request to Initiate License Revocation Proceedings Against Pappammal Kurian filed by Thomas Kurian on February 2, 2012, IS DISMISSED IN PART.

10. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 316(a) of the

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by deleting frequencies 854.8375 MHz, 860.7875 MHz, and 860.8125 MHz from all three fixed sites (locations 1, 4, and 6). See *Order*, 26 FCC Rcd at 15183 ¶ 18.

<sup>20</sup> See *Order*, 26 FCC Rcd at 15183 ¶ 19; 47 C.F.R. § 1.87.

<sup>21</sup> Ms. Kurian also seeks reconsideration of the *Order* insofar as it obligated her to file an application to renew the license for Station WNVJ741. This request for relief is moot, however, because Ms. Kurian filed an application to renew that license, and it has been granted. See FCC File No. 0004964300 (filed Nov. 22, 2011). Consequently, we dismiss the Pappammal Kurian Petition in part with respect to Station WNVJ741.

<sup>22</sup> See 47 C.F.R. § 1.106(c), (d); see also *WWIZ, Inc., Memorandum Opinion and Order*, 37 FCC 685, 686 ¶ 2 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966) (stating that "it is universally held that rehearing will not be granted merely for the purpose of again debating matters on which the tribunal has once deliberated and spoken").

<sup>23</sup> See Thomas Kurian Petition.

<sup>24</sup> See 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f) (petition for reconsideration must be filed within thirty days of public notice of Commission action).

Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license for Station KNNF731 BE MODIFIED to delete frequencies 937.9500 MHz, 937.9625 MHz, 937.9750 MHz, 937.9875 MHz, and 938.0000 MHz from location 4.

11. IT IS FURTHER ORDERED, pursuant to Sections 4(i) and 316(a) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 316(a), and Section 1.87 of the Commission's Rules, 47 C.F.R. § 1.87, that the license for Station WQO982 BE MODIFIED to delete frequencies 854.8375 MHz, 860.7875 MHz, and 860.8125 MHz from locations 1, 4, and 6.

12. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.87(i) of the Commission's Rules, 47 C.F.R. § 1.87(i), that this *Order on Reconsideration and Order of Modification* SHALL BE SENT by certified mail, return receipt requested, to Thomas K. Kurian, 11392 Vernazza Ct., Las Vegas NV 89138.

13. 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