

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

In the Matter of)	
)	
NEW JERSEY TRANSIT)	FCC File No. 0004579260
)	
Petition for Reconsideration to Reinstate)	
Microwave Public Safety Pool Station)	
WPNC416, New Jersey)	

ORDER

Adopted: April 6, 2012

Released: April 6, 2012

By the Deputy Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION.

1. By this *Order*, we dismiss a Petition for Reconsideration (“Petition”) filed by New Jersey Transit (“NJ Transit”), but reinstate microwave service license WPNC416 to active status, omitting only frequency 6197.24 MHz from path number two.¹

II. BACKGROUND.

2. On August 16, 2001, the State of New Jersey, on behalf of NJ Transit, obtained authorization to operate a radio station in the microwave service on two paths, using frequency 6665.0 MHz on path number one and frequency 6545.0 MHz on path number two.² NJ Transit later modified the license of WPNC416 on March 17, 2008 by adding frequency 6197.24 MHz to path number two.³ Pursuant to Section 1.946(e) of the Commission’s rules,⁴ NJ Transit was required to construct and activate frequency 6197.24 MHz by March 11, 2011.⁵

3. On December 14, 2010, the licensing staff at the Public Safety and Homeland Security Bureau (“PSHSB”) sent a notice to remind NJ Transit of its approaching March 2011 deadline.⁶ This notice prompted NJ Transit to conclude “that this particular path frequency [6197.24 MHz] was no longer a consideration in [its] overall project and decided that [it] could and should be eliminated from the license in order to free up that one frequency in question.”⁷ Consequently, NJ Transit filed a cancellation application on January 19, 2011.⁸ The PSHSB licensing staff granted NJ Transit’s application on January

¹ See Letter from Edward Velez, Manager, Radio Systems Planning and Support, New Jersey Transit to Secretary, Federal Communications Commission (Dated Jun 1, 2011) (Petition).

² See FCC File No. 0004579260 (filed Jan. 19, 2011).

³ See FCC File No. 0003330085 (filed Feb. 19, 2008).

⁴ 47 C.F.R. § 1.946(e).

⁵ NJ Transit received an extension of the original build-out date until March 11, 2011. See FCC File No. 0003891843 (filed July 6, 2009, amended July 31, 2009).

⁶ See Construction/Coverage Deadline Reminder Notice, Ref. No. 5070702 (Dec 14, 2010).

⁷ Petition at 1.

⁸ See FCC File No. 0004579260.

20, 2011, cancelling the entire license, WPNC416, as NJ Transit had requested.⁹ That same day, PSHSB licensing staff directed NJ Transit by letter to file a petition for reconsideration within 30 days if the license cancellation was in error.¹⁰

4. On June 1, 2011, NJ Transit submitted a Petition for Reconsideration of the license cancellation, stating it had “overlooked” the January 20th notice and that the application NJ Transit submitted was indeed in error, inadvertently cancelling the entire license, which included other active frequencies.¹¹ In its Petition, NJ Transit now seeks reinstatement of call sign WPNC416 and requests that only frequency 6197.24 MHz on path number two be omitted.¹²

III. DISCUSSION.

5. As an initial matter, we find that NJ Transit’s Petition must be dismissed as untimely filed. Section 405(a) of the Communications Act of 1934, as amended, and as implemented by Section 1.106(f) of the Commission’s Rules, requires that a petition for reconsideration be filed within thirty days from the release date of a Commission action.¹³ Here, NJ Transit failed to respond to the January 20, 2011 license cancellation notice until it filed the instant petition for reconsideration on June 1, 2011. Although we dismiss NJ Transit’s Petition, we will nonetheless treat the Petition as an informal request for Commission action pursuant to Section 1.41 of the Commission’s rules.¹⁴

6. Based on our review of the pleading in this matter, we believe NJ Transit’s license should be reinstated. NJ Transit claims it intended to eliminate only frequency 6197.24 MHz from its license but inadvertently requested the cancellation of its entire license, including its active frequencies 6665.0 MHz on path number one and 6545 MHz on path number two.¹⁵ NJ Transit compounded its error by failing to recognize for nearly six months that it had erroneously cancelled its license.

7. Station WPNC416 authorizes NJ Transit’s “microwave backbone system which provides radio communications backhaul support for [NJ Transit’s trunked system] that provides mission critical communications for [its] bus and police operations.”¹⁶ NJ Transit also notes that “[i]f the license is not reinstated, this will prevent one of [its] land mobile radio base stations [...] from being able to communicate back to the network and thus will create a hole in [NJ Transit’s] coverage area in southern New Jersey.”¹⁷ Moreover, the record provides no basis for questioning NJ Transit’s representations.

8. Under the totality of the circumstances presented, we believe it appropriate to reinstate NJ Transit’s license, cancelling only the authorization for frequency 6197.24 MHz.¹⁸ Additionally, given the potentially adverse effect on public safety that a disruption of emergency radio communications could

⁹ See Notice of License Cancellation, Ref. No. 5094921 (Jan 20, 2011).

¹⁰ *Id.*

¹¹ Petition at 1.

¹² *Id.* at 2.

¹³ See 47 U.S.C. § 405(a) and 47 C.F.R. § 1.106(f).

¹⁴ 47 C.F.R. § 1.41.

¹⁵ Petition at 1.

¹⁶ *Id.* at 2.

¹⁷ *Id.* NJ Transit submits that call sign WPNC416 is a microwave relay location that has paths to call signs WPNC414 and WPNC415. *Id.*

¹⁸ See, e.g., Teletouch Licenses, Inc., *Order*, 18 FCC Rcd 8994 (WTB, CWD 2003) (reinstating a license where licensee erroneously cancelled its license).

create, in addition to the other factors discussed, we believe the request for reinstatement is in the public interest and should be granted. Although we conclude NJ Transit provides sufficient justification for reinstatement of its license, we admonish NJ Transit for its failure to properly manage its license, creating an undue and unnecessary burden on limited Commission resources. Finally, we expect NJ Transit to conform to the Commission's construction requirement and the Commission's other licensing and procedural rules in the future. For the reasons stated herein, we grant NJ Transit's request for license reinstatement.

IV. ORDERING CLAUSES

9. 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(f) of the Commission's rules, 47 C.F.R. § 1.106(f), the Petition for Reconsideration filed by New Jersey Transit on June 1, 2011 IS DISMISSED.

10. IT IS FURTHER ORDERED, that New Jersey Transit's Petition for Reconsideration, considered as an informal request for Commission action pursuant to Section 1.41 of the Commission's rules, IS GRANTED.

11. IT IS FURTHER ORDERED that New Jersey Transit's microwave license WNPC416 IS REINSTATED.

12. IT IS FURTHER ORDERED that frequency 6197.24 MHz IS DELETED from license WNPC416.

13. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's Rules, 47 C.F.R. §§ 0.191 and 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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