

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

In the matter of )  
 )  
STATE OF OREGON, ACTING BY THE )  
STATE BOARD OF HIGHER EDUCATION ) File No. 0004034444  
FOR SOUTHERN OREGON UNIVERSITY )  
 )  
Petition for Reconsideration of Placement into )  
Termination Pending Status of License for Station )  
WQLQ671, King Mountain, Oregon )

**ORDER ON RECONSIDERATION**

**Adopted: January 3, 2012**

**Released: January 4, 2012**

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

**I. INTRODUCTION**

1. In this *Order on Reconsideration*, we dismiss as untimely a petition for reconsideration filed by the State of Oregon.<sup>1</sup> Oregon requests reconsideration of the placement of the license of the State of Oregon, Acting by the State Board of Higher Education for Southern Oregon University (Oregon) for Microwave Industrial/Business Pool Station WQLQ671, King Mountain, Oregon, into termination pending status.<sup>2</sup>

**II. BACKGROUND**

2. Station WQLQ671 was used for transmitter control for FM Radio Station KSOR, Ashland, Oregon.<sup>3</sup> Those facilities were formerly licensed under call sign WNEU534.<sup>4</sup> On November 4, 2009, Oregon’s late-filed renewal application for Station WNEU534 was dismissed.<sup>5</sup> On March 31, 2010, the facilities in question were relicensed under call sign WQLQ671.<sup>6</sup> The license imposed a

<sup>1</sup> See Petition for Reconsideration (filed Dec. 13, 2011) (Petition).

<sup>2</sup> When a licensee fails to file a notification that it has completed construction by an applicable buildout deadline, the license, location, or frequency is placed in “termination pending” status. For a license, location, or frequency in that status, the Bureau presumes that the licensee did not meet buildout requirement. If the licensee does not file a petition for reconsideration within 30 days after public notice of the termination pending status demonstrating that it met that buildout requirement, the status of the license, location, or frequency is changed to “terminated” as of the buildout deadline. See Wireless Telecommunications Bureau Announces Deployment Of “Auto-Term,” the Automated Feature in its Universal Licensing System That Identifies Unconstructed Stations Resulting in Automatic Termination of Licenses, *Public Notice*, 21 FCC Rcd 163 (WTB 2006).

<sup>3</sup> Petition, Declaration of Ronald Kramer (Kramer Declaration).

<sup>4</sup> *Id.*

<sup>5</sup> See Southern Oregon University, *Letter*, 24 FCC Rcd 13506 (WTB BD 2009).

<sup>6</sup> File No. 0004034444 (granted Mar. 31, 2010). See also Wireless Telecommunications Bureau Site-By-Site Action, Report No. 5781, *Public Notice* (Apr. 7, 2010) at 8.

construction deadline of September 30, 2011.<sup>7</sup> The Bureau did not receive notification that Station WQLQ671 had been timely constructed.<sup>8</sup>

3. On November 9, 2011, letters and a public notice were issued announcing that Station WQLQ671 had been placed in termination pending status for failure to meet the construction deadline.<sup>9</sup> Oregon had thirty days from the date of the *Termination Public Notice* to file a petition for reconsideration demonstrating that the stations had been timely constructed.<sup>10</sup> Oregon filed the Petition on December 13, 2011.

### III. DISCUSSION

4. Section 405(a) of the Act, 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 date of public notice of Commission action.<sup>11</sup> Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.<sup>12</sup> Since public notice that the licenses had been placed in termination pending status was given on November 9, 2011, pursuant to Section 1.4(b)(4) of the Commission's Rules, the first day to be counted in computing the thirty-day period was November 9, 2011, the date the public notice was released.<sup>13</sup> Therefore, the last day for filing a petition for reconsideration was December 9, 2011.

5. Oregon's petition for reconsideration was received on December 13, 2011. Therefore, we find the Petition was filed late. Moreover, the Commission has consistently held that it is without authority to extend or waive the statutory thirty-day filing period for filing petitions for reconsideration specified in Section 405(a) of the Communications Act.<sup>14</sup> Consequently, we conclude the petition for reconsideration filed by Oregon must be dismissed as untimely filed.

6. If Oregon wishes to continue operating the terminated facility, it must file a completed FCC Form 601, in accordance with all applicable Commission Rules, to reauthorize the facility. If the application meets the criteria specified in Section 101.31(b) of the Commission's Rules, Oregon may

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<sup>7</sup> File No. 0004034444 (granted Mar. 31, 2010).

<sup>8</sup> Mr. Ronald Kramer, Executive Director of Jefferson Public Radio, which is a network of public radio stations serving southern Oregon and northern California, reports that he received the Commission's construction notification reminder in September 2011 but could not figure out how to notify the Commission of construction. See Kramer Declaration.

<sup>9</sup> See Letter to State of Oregon, Acting by the State Board of Higher Education for Southern Oregon University, Ref. No. 5248839 (Nov. 9, 2011); Wireless Telecommunications Bureau Site Based Licenses Termination Pending Public Notice, *Public Notice*, Report No. 7294 (Nov. 9, 2011) at 2. A letter was also sent to Oregon's designated contact representative, Mr. Kramer.

<sup>10</sup> See Wireless Telecommunications Bureau Announces Deployment Of "Auto-Term," the Automated Feature in its Universal Licensing System That Identifies Unconstructed Stations Resulting in Automatic Termination of Licenses, *supra*, 21 FCC Rcd at 168; 47 C.F.R. § 1.106(f).

<sup>11</sup> 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

<sup>12</sup> 47 C.F.R. § 1.4.

<sup>13</sup> 47 C.F.R. § 1.4(b)(4).

<sup>14</sup> See *Reuters Ltd. V. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986). See also Petition for Amendment of the Commission's Rules to Establish First and Second Class Radiotelephone Operator Licenses, *Order*, 10 FCC Rcd 3196 (1995). We note the filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late. See, e.g., *Panola Broadcasting Co., Memorandum Opinion and Order*, 68 FCC 2d 533 (1978); *Metromedia, Inc., Memorandum Opinion and Order*, 56 FCC 2d 909, 909-01 (1975).

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operate the facility conditionally as soon as the application has been properly filed. In the interim, Oregon should file a request for Special Temporary Authority, in accordance with Section 1.931 of the Commission's Rules, if it wishes to continue operating the facility.

**IV. ORDERING CLAUSES**

7. Accordingly, IT IS ORDERED that 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, the petition for reconsideration filed by the State of Oregon on December 13, 2011 IS DISMISSED.

8. 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

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