

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

In the matter of
TVOK NETWORK
Petition for Reconsideration of Placement into
Termination Pending Status of License for Station
WQOS306, Enid, Oklahoma
File No. 0004932992

ORDER ON RECONSIDERATION

Adopted: October 31, 2013

Released: October 31, 2013

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 Oklahoma Community Television, LLC ("OKTV"). OKTV requests reconsideration of the placement of the license of TVOK Network ("TVOK") for TV Studio Transmitter Link Station WQOS306, Enid, Oklahoma, into termination pending status.

II. BACKGROUND

2. Station WQOS306 was used in connection with Station KOXK-LD, Enid, Oklahoma. On January 12, 2012, the Wireless Telecommunications Bureau ("Bureau") issued a license for Station WQOS306. The license imposed a construction deadline of July 13, 2013. The Bureau did not receive notification that Station WQOS306 had been timely constructed.

1 See Petition for Reconsideration (filed Sep. 24, 2013) (Petition).

2 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).

3 Petition.

4 File No. 0004932992 (granted Jan. 12, 2012). See also Wireless Telecommunications Bureau Site-By-Site Action, Report No. 7457, Public Notice (Jan. 18, 2012) at 18.

5 File No. 0004932992 (granted Jan. 12, 2012).

3. On August 21, 2013, letters and a public notice were issued announcing that Station WQOS306 had been placed in termination pending status for failure to meet the construction deadline.⁶ TVOK 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.⁷ OKTV filed the Petition on September 24, 2013.⁸

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.⁹ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.¹⁰ Since public notice that the licenses had been placed in termination pending status was given on August 21, 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 August 21, 2011, the date the public notice was released.¹¹ Therefore, the last day for filing a petition for reconsideration was September 20, 2013.

5. OKTV's petition for reconsideration was received on September 24, 2013. 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.¹² Consequently, we conclude the petition for reconsideration filed by OKTV must be dismissed as untimely filed.

6. If TVOK 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 74.25(c) of the Commission's Rules, TVOK may operate the facility conditionally as soon as the application has been properly filed.¹³ In the interim, TVOK 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.

⁶ See Letter to TVOK Network, LLC, Ref. No. 5640831 (Aug. 21, 2013); Wireless Telecommunications Bureau Site Based Licenses Termination Pending Public Notice, *Public Notice*, Report No. 8965 (Aug. 21, 2013) at 2 ("*Termination Public Notice*"). A letter was also sent to TVOK's designated contact representative, Marilyn Metheny.

⁷ 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).

⁸ Petition.

⁹ 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

¹⁰ 47 C.F.R. § 1.4.

¹¹ 47 C.F.R. § 1.4(b)(4).

¹² 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).

¹³ 47 C.F.R. § 74.25(c).

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 Oklahoma Community Television, LLC on September 24, 2013 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

John J. Schauble
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