

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

In the Matter of	)	
	)	
STARTOUCH, INC.	)	File Nos. 0005354560, 0005354627,
	)	000535480, and 0005354767
Petition for Reconsideration of Pending	)	
Termination of Licenses for Stations WQQI990,	)	
WQQI991, WQQI992, and WQQI993	)	
	)	

**ORDER ON RECONSIDERATION**

**Adopted: October 2, 2014**

**Released: October 3, 2014**

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 of our placement into termination pending status<sup>1</sup> of paths for common carrier fixed point-to-point microwave stations in Washington.

**II. BACKGROUND**

2. On January 3, 2013, the Wireless Telecommunications Bureau issued StarTouch, Inc. (StarTouch) licenses for common carrier fixed point-to-point microwave Stations WQQI990, WQQI991, WQQI992 and WQQI993 (the Licenses).<sup>2</sup> The deadline for constructing the Licenses was July 3, 2014.<sup>3</sup> On April 1, 2014, the Bureau sent StarTouch construction/coverage reminder letters.<sup>4</sup> On August 6, 2014, license auto-termination letters were sent<sup>5</sup> and the licenses entered termination pending status. Accordingly, on the same days, the Bureau provided public notice of the pending license terminations.<sup>6</sup>

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<sup>1</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>2</sup> See File Nos. 0005354560, 0005354627, 0005354800, 0005354767 (granted Jan. 3, 2013).

<sup>3</sup> See File Nos. 0005354560, 0005354627, 0005354800, 0005354767 (granted Jan. 3, 2013).

<sup>4</sup> Construct/Coverage Reminders, Ref. Nos. 5764611, 5764612 (Apr. 1, 2014).

<sup>5</sup> Auto Termination letters, Ref. Nos. 5845814, 5845815, 5845816, 5845817 (Aug. 6, 2014).

<sup>6</sup> Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 9806, *Public Notice* (Aug. 6, 2014) at 1.

On September 8, 2014, StarTouch filed a petition for reconsideration of the placement of the Licenses into termination pending status.<sup>7</sup>

### III. DISCUSSION

3. Section 405(a) of the Communications 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>8</sup> Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.<sup>9</sup> Since public notice of the impending license termination was given on August 6, 2014, 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 7, 2014. The last day for filing a petition for reconsideration was September 5, 2014.

4. We received StarTouch Petition on September 8, 2014. Therefore, we find that the Petitions were filed late. The United States Court of Appeals for the District of Columbia Circuit has consistently held that the Commission 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>10</sup> except where "extraordinary circumstances indicate that justice would thus be served."<sup>11</sup> 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.<sup>12</sup> We do not believe that StarTouch has shown such extraordinary circumstances to be present here. Indeed, StarTouch has failed to acknowledge that it did not file in a timely manner. Accordingly, we dismiss the Petitions as late-filed.

5. If StarTouch wishes to continue operating the terminated facilities, it must file a completed Form 601, in accordance with all applicable Commission rules, to reauthorize the facilities. In the interim, StarTouch 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 facilities.

### IV. ORDERING CLAUSES

6. 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

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<sup>7</sup> Petition for Reconsideration, StarTouch, Inc. (filed Sep. 8, 2014) (Petition).

<sup>8</sup> 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

<sup>9</sup> 47 C.F.R. § 1.4.

<sup>10</sup> See *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986); *Gardner v. FCC*, 530 F.2d 1086 (D.C. Cir. 1976).

<sup>11</sup> *Gardner v. FCC*, 530 F.2d at 1091.

<sup>12</sup> 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 (1975).

Commission's rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by StarTouch, Inc. on September 8, 2014 IS DISMISSED.

7. 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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