

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

In the Matter of )
LIBERTY ACQUISITIONS 825, LLC ) File No. 0005849814
Petition for Reconsideration of Pending )
Termination of License for Station WQPW621 )

ORDER ON RECONSIDERATION

Adopted: June 4, 2014

Released: June 5, 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 status1 of a license for a broadcast auxiliary Aural Studio Transmitter Link Station in the Montgomery, Alabama area.

II. BACKGROUND

2. On August 31, 2012, the Wireless Telecommunications Bureau (Bureau) issued Liberty Acquisitions 825, LLC (Liberty) a license for broadcast auxiliary Aural Studio Transmitter Link Station WQPW621.2 The deadline for constructing the Station was February 28, 2014.3 On August 28, 2013, the Bureau granted Liberty a modified license for Station WQPW621, but the February 28, 2014 buildout deadline did not change.4 On December 3, 2013, the Bureau sent Liberty a construction/coverage reminder letter.5 On April 9, 2014, a license auto-termination letter was sent6 and Station WQPW621 entered termination pending status. Accordingly, on the same day, the Bureau provided public notice of

1 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).

2 See File No. 0005296432 (granted Aug. 31, 2012).

3 See File No. 0005296432 (granted Aug. 31, 2012).

4 See File No. 0005849814 (granted Aug. 28, 2013).

5 Construct/Coverage Reminder, Ref. No. 5697419 (Dec. 3, 2013).

6 Auto Termination letters, Ref. No. 5768342 (Apr. 9, 2014).

the pending license termination.<sup>7</sup> On May 21, 2014, Liberty filed a petition for reconsideration of the placement of Station WQPW621 into termination pending status.<sup>8</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>9</sup> Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.<sup>10</sup> Since public notice of the impending license terminations was given on April 9, 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 April 10, 2014. The last day for filing a petition for reconsideration was May 9, 2014.

4. We received Liberty's Petition on May 21, 2014. Therefore, we find that Liberty filed the Petition 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>11</sup> except where "extraordinary circumstances indicate that justice would thus be served."<sup>12</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>13</sup> We do not believe that Liberty has shown such extraordinary circumstances to be present here. Indeed, Liberty has failed to acknowledge that it did not file in a timely manner. Accordingly, we dismiss the Petition as late-filed.

5. If Liberty 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, Liberty 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.

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<sup>7</sup> Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 9495, *Public Notice* (Apr. 9, 2014) at 1.

<sup>8</sup> Petition to Reconsider (filed May 21, 2014) (Petition).

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

<sup>10</sup> 47 C.F.R. § 1.4.

<sup>11</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>12</sup> *Gardner v. FCC*, 530 F.2d at 1091.

<sup>13</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).

**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 Commission's rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Liberty Acquisitions 825, LLC on May 21, 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  
Deputy Chief, Broadband Division  
Wireless Telecommunications Bureau