

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

In the Matter of)
COPPER MOUNTAIN SOLAR 3, LLC) File Nos. 0005834020, 0005834019
Petition for Reconsideration of Pending)
Termination of Licenses for Stations WQSA792)
and WQSA794)

ORDER ON RECONSIDERATION

Adopted: June 22, 2015

Released: June 23, 2015

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 paths for Microwave Industrial/Business Pool stations in Nevada.

II. BACKGROUND

2. On August 23, 2013, the Wireless Telecommunications Bureau (Bureau) issued Copper Mountain Solar 3, LLC (Copper Mountain) licenses for Microwave Industrial/Business Pool Stations WQSA792 and WQSA794 (the Licenses).2 The deadline for constructing the Licenses was February 23, 2015.3 On November 25, 2014, the Bureau sent Copper Mountain construction/coverage reminder letters for both Licenses.4 On April 1, 2015, license auto-termination letters were sent5 for both Licenses and the Licenses entered termination pending status. Accordingly, on the same days, the Bureau provided public

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 Nos. 0005834020, 0005834019 (filed June 25, 2013, granted Aug. 23, 2013).

3 See File Nos. 0005834020, 0005834019 (granted Aug. 23, 2013).

4 Construct/Coverage Reminders, Ref. No. 5904175 (Nov. 25, 2014).

5 Auto Termination letters, Ref. Nos. 5973516, 5973517 (Apr. 1, 2015).

notice of the pending license terminations.⁶ On May 11, 2015, Copper Mountain filed petitions for reconsideration of the placement of the Licenses into termination pending status.⁷

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.⁸ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.⁹ Since public notice of the impending license termination was given on April 1, 2015, 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 2, 2015. The last day for filing a petition for reconsideration was May 1, 2015.

4. We received Copper Mountain's Petitions on May 11, 2015. 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,¹⁰ except where "extraordinary circumstances indicate that justice would thus be served."¹¹ 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.¹² We do not believe that Copper Mountain has shown such extraordinary circumstances to be present here. Indeed, Copper Mountain has failed to acknowledge that it did not file in a timely manner. Accordingly, we dismiss the Petitions as late-filed.

5. If Copper Mountain 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, Copper Mountain 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.

⁶ Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 10392, *Public Notice* (Apr. 1, 2015) at 3.

⁷ Petitions for Reconsideration, Copper Mountain Solar 3, LLC (filed May 11, 2015) (Petitions).

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

⁹ 47 C.F.R. § 1.4.

¹⁰ 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).

¹¹ *Gardner v. FCC*, 530 F.2d at 1091.

¹² 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 petitions for reconsideration filed by Copper Mountain Solar 3, LLC on May 11, 2015 ARE 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