

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

In the Matter of)
)
ORANGE COUNTY, NEW YORK,)
DEPARTMENT OF EMERGENCY)
COMMUNICATIONS)
)
Petition for Reconsideration)

ORDER

Adopted: November 15, 2018

Released: November 15, 2018

By the Chief, Policy and Licensing Division, Public Safety and Homeland Security Bureau:

I. INTRODUCTION

1. Orange County, New York, Department of Emergency Communications (Orange County) filed a Petition for Reconsideration (Petition) of the Commission's notice of termination of Orange County's license to operate on 800 MHz frequencies under call sign WQYF322.¹ Orange County also requested an extension of time until July 30, 2018 to construct its 800 MHz facilities.² We deny the Petition and extension request.³

II. BACKGROUND

2. The construction deadline for Orange County's station was September 8, 2017.⁴ On June 13, 2017, the Commission's Universal Licensing System (ULS) sent a construction reminder to Orange County for the station.⁵ On October 18, 2017, the ULS issued Orange County a letter advising the County that its license was in termination pending status.⁶

3. On October 19, 2017, Orange County filed the instant Petition and request to extend the construction deadline.⁷ Orange County stated that it overlooked the need to timely file a request to modify its license to seek a construction extension.⁸ In the Petition, Orange County cited difficulties with

¹ See Orange County Department of Emergency Services, Petition for Reconsideration, *re* Call Sign WQYF322, at 1 (Oct. 19, 2017) (Petition).

² *Id.*

³ The frequencies at issue include (1) 851.0750 MHz, (2) 851.2500 MHz, (3) 851.3250 MHz, (4) 851.6000 MHz, (5) 852.1000 MHz, (6) 852.2875 MHz, (7) 852.7750 MHz, at locations 1, 2, 3 and 4.

⁴ See 47 CFR §§ 1.955, 90.155.

⁵ See Construction/Coverage Deadline Reminder Notice, Reference No. 6267599 (dated June 13, 2017).

⁶ See Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6303508 (Oct. 18, 2017); *Public Safety and Homeland Security Bureau Site-Based Licenses Termination Pending*, Report No. 12664, Public Notice (PSHSB, Oct. 18, 2017).

⁷ See Petition at 1.

⁸ *Id.* Orange County noted that this license is part of a countywide system and associated with call signs WQRR871, WQYH337, WQYH466 and WQYI757. *Id.* Orange County stated that applications to modify these licenses were filed September 13, 2017, and September 18, 2017. *Id.*

its microwave system as reason for failure to timely complete construction; notwithstanding that all 800 MHz radio equipment for the system had been purchased and timely delivered.⁹

III. DISCUSSION

4. Section 1.106(c)(2) of the Commission's rules provides that a petition for reconsideration may rely on facts not previously presented if we find that "consideration of the facts relied on is required in the public interest."¹⁰ An inadvertent failure to request extended implementation is insufficient justification to consider Orange County's Petition. Additionally, under the Commission's auto-term process, if a licensee, by the end of the 30-day period for seeking reconsideration does not rebut the presumption that it did not timely meet its construction or coverage requirement, ULS will change the status of the license, location, or frequency to "Terminated," effective on the date of the construction deadline.¹¹ Here, Orange County concedes that it did not timely construct and that it was aware of ongoing construction delays.¹² Thus, Orange County could have and should have filed an extension request before the construction deadline. We therefore deny the Petition.

5. However, Orange County may file a new, properly coordinated application for a license if it desires to use its previously licensed frequencies. In addition, if Orange County needs to operate while a new application is pending with the Commission, it may file a request for special temporary authority in accordance with Section 1.931 of the Commission's rules.¹³

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 303(c) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(c), and Sections 1.106 of the Commission's rules, 47 CFR § 1.106, that the Petition for Reconsideration filed October 19, 2017, by the County of Orange, New York, Department of Emergency Communications, IS DENIED.

7. IT IS FURTHER ORDERED that the licensing staff of the Policy and Licensing Division SHALL TERMINATE the authorization for call sign WQYF322 in accordance with this Order and the Commission's Rules.

8. This action is taken under delegated authority pursuant to Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

Michael J. Wilhelm
Chief, Policy and Licensing Division
Public Safety and Homeland Security Bureau

⁹ *Id.*

¹⁰ See 47 CFR § 1.106(c)(2).

¹¹ *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).

¹² Petition at 1.

¹³ See 47 CFR § 1.931.