

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

In the Matter of)
)
MISSISSIPPI DEPARTMENT OF)
TRANSPORTATION)
)
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. The Mississippi Department of Transportation (Mississippi) submitted a Petition for Reconsideration of the Commission's Universal Licensing System (ULS) placing 6 microwave licenses – call signs WQIL884, WQIP742, WQJK904, WQJK960, WQYA402, and WQJK961 in termination pending status.¹ We dismiss the Petition in part and grant it in part.

II. BACKGROUND

2. Call signs WQIP742, WQJK904, WQJK960, WQYA402, and WQJK961 had a construction deadline of January 28, 2018. Call sign WQIL884 had a construction deadline of February 3, 2018. On October 31, 2017, ULS sent construction reminder letters to Mississippi for the microwave facilities.² On March 7, 2018,³ and March 14, 2018,⁴ ULS sent auto-termination letters to Mississippi and the licenses for the six call signs entered the auto-termination process.

3. On April 9, 2018, Mississippi filed a petition for reconsideration of the placement of the call signs into termination pending status. Mississippi claims to have constructed all of the licensed facilities on or before May 17, 2017.⁵

¹ Petition for Reconsideration filed by the Department of Transportation, Mississippi *re* Call Signs WQIL884, WQIP742, WQJK904, WQJK960, WQYA402, and WQJK961 (filed April 09, 2018) (Petition).

² Construction/Coverage Deadline Reminder Notice, Reference Nos. 6307359 *re* WQIL884, WQIP742, WQJK904, WQJK960 (dated Oct. 31, 2017); Construction/Coverage Deadline Reminder Notice, Reference No. 6307360 *re* WQYA402 (dated Oct. 31, 2017); and Construction/Coverage Deadline Reminder Notice, Reference No. 6309680 *re* WQJK961 (dated Nov. 7, 2017).

³ Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6344216 *re* WQIL884 (dated Mar. 7, 2018); Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6344217 *re* WQIP742 (dated Mar. 7, 2018); Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6344218 *re* WQJK904 (dated Mar. 7, 2018); Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6344219 *re* WQJK960 (dated Mar. 7, 2018); Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6344220 *re* WQYA402 (dated Mar. 7, 2018).

⁴ Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6346778 *re* WQJK961 (dated Mar. 14, 2018).

⁵ *See* Petition at 1.

III. DISCUSSION

4. *Call Sign WQJK961.* We grant the timely filed Petition with respect to call sign WQJK961. Mississippi recites that it constructed the facilities licensed under call sign WQJK961 on or before May 17, 2017, and, therefore, we grant relief relative to that call sign, remove the termination pending status for call sign WQJK961, and return the WQJK961 license to active status.

5. *Call Signs WQIL884, WQIP742, WQJK904, WQJK960, WQYA402.* We dismiss the Petition as untimely with respect to the remaining five call signs. 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.⁶ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.⁷ Since public notice of the impending license and path terminations was given on March 7, 2018, 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 March 8, 2018. The last day for filing an acceptable petition for reconsideration was April 7, 2018.

6. We received Mississippi's Petition on April 9, 2018. Therefore, we find that the Petition was late-filed. The Commission has consistently held that, with exceptions not relevant here, 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.⁸ We note that the filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late.⁹ Consequently, we dismiss Mississippi's Petition as untimely with respect to call signs WQIL884, WQIP742, WQJK904, WQJK960 and WQYA402.

7. If Mississippi desires to use its previously licensed frequencies, the licenses for which have terminated, it may file new, properly coordinated applications. Moreover, if Mississippi needs to operate while its applications are being prepared and coordinated, it may file requests for special temporary authority pursuant to Section 1.931 of the Commission's rules.¹⁰

IV. ORDERING CLAUSES

8. Accordingly, pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i) and 405, and Section 1.106 of the Commission's rules, 47 CFR § 1.106, the Petition for Reconsideration filed on April 9, 2018, by Mississippi IS DISMISSED relative to Call Signs WQIL884, WQIP742, WQJK904, WQJK960, WQYA402 and GRANTED with respect to Call Sign WQJK961.

9. IT IS FURTHER ORDERED that the licensing staff of the Policy and Licensing Division of the Public Safety and Homeland Security Bureau SHALL TERMINATE the authorization for call signs WQIL884, WQIP742, WQJK904, WQJK960, and WQYA402 in accordance with this Order and the Commission's Rules.

10. IT IS FURTHER ORDERED that the licensing staff of the Policy and Licensing Division SHALL RETURN license, call sign WQJK961, to active status.

⁶ 47 U.S.C. § 405(a); 47 CFR § 1.106(f).

⁷ 47 CFR § 1.4.

⁸ See, e.g., *Reuters Ltd. V. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986); *Florida Community Radio, Inc.*, Memorandum Opinion and Order, 32 FCC Rcd 3093 (M. Bur. 2017).

⁹ 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).

¹⁰ 47 CFR § 1.931.

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

FEDERAL COMMUNICATIONS COMMISSION

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Public Safety and Homeland Security Bureau