

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

In the Matter of
Washington State Department of Transportation
Petition for Reconsideration

ORDER

Adopted: December 19, 2018

Released: December 19, 2018

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

I. INTRODUCTION AND BACKGROUND

1. The Washington State Department of Transportation (WDOT) filed an untimely Petition for Reconsideration (Petition) of the Commission's notice of termination of WDOT's license to operate on path 3 of call sign KYT62.

2. WDOT failed to file either a proof of construction or a request for an extension of time before the construction period or coverage period expired.

II. DISCUSSION

3. Section 1.106(c)(2) 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.

1 Petition for Reconsideration filed by the Washington State Department of Transportation, re KYT62 Path 3 (filed May 15, 2018) (Petition).

2 See 47 CFR §§ 1.955, 90.155.

3 See Construction/Coverage Deadline Reminder Notice Ref. No. 6315291, dated November 28, 2017.

4 Section 1.946(e) of the Commission's rules requires a licensee to request any extension of the construction requirement before expiration of the construction or coverage period.

5 Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6353742 re KYT62 Path 3 (dated April 4, 2018).

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

7 47 CFR § 1.4.

4. 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 Because WDOT filed the Petition over a week late, we dismiss the Petition as untimely.

5. WDOT may file a new, properly coordinated application for a license if it desires to use its previously licensed frequency. In addition, if WDOT 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.¹⁰

III. ORDERING CLAUSES

6. Accordingly, 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 May 15, 2018, by the Washington State Department of Transportation IS DISMISSED.

7. IT IS FURTHER ORDERED that the licensing staff of the Policy and Licensing Division SHALL TERMINATE frequency 934.625 MHz, path 3 of call sign KYT62 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

⁸ See, e.g., *Reuters Limited v. FCC*, 781 F.2d 946, 951-52 (D.C.Cir.1986); *Richardson Independent School District*, 5 FCC Rcd 3135, 3136 para. 6 (1990); *Metromedia, Inc.* 56 FCC 2d 909, 909-10 para. 2 (1975), *recon. denied*, 59 FCC 2d 1189 (1976).

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 See 47 CFR § 1.931.