

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

In the Matter of )  
 )  
COUNTY OF DOUGLAS, WISCONSIN ) File No. 0007884198  
 )  
Petition for Reconsideration )

ORDER

Adopted: July 26, 2018

Released: July 26, 2018

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

I. INTRODUCTION

1. Douglas County is authorized to operate a microwave link on Path 1, Frequency 11365 MHz under call sign WQXL677. On November 15, 2017, the Public Safety and Homeland Security Bureau (Bureau) notified Douglas County that it had placed license WQXL677 in Termination Pending status because Douglas County failed to meet its construction and construction-notification requirements as required by the Commission’s rules.<sup>1</sup> On November 27, 2017, Douglas County filed a Petition for Reconsideration of the Commission’s notice of termination of its license and request to extend the construction deadline.<sup>2</sup> In that filing, Douglas County also requested an extension of its construction deadline until January 1, 2018.<sup>3</sup> We address the Petition and extension request below.

II. BACKGROUND

2. The Bureau’s records indicated that the license construction deadline was October 8, 2017, and that it had not received either a timely Notification of Construction, which was due within 15 days of the deadline,<sup>4</sup> or a timely request for an extension of time, which was due before the deadline.<sup>5</sup> The Bureau noted that “[i]f a licensee does not file the Required Notification or Extension of Time request, we presume that the license or license component has not been constructed, or the coverage requirement has not been met.”<sup>6</sup> As a result, the Commission’s Universal Licensing System (ULS) placed license WQXL677 in Termination Pending status.<sup>7</sup>

<sup>1</sup> See Auto Termination Letter for WQXL677, File No. 0007884198 (Nov. 15, 2017) (Auto Termination Letter). As a condition of its authorization, the Commission’s rules required the County of Douglas to construct stations for certain frequencies on Call Sign WQXL677 within 18 months (*i.e.*, by October 8, 2017). 47 CFR §§ 1.946; 101.63(a).

<sup>2</sup> See DSC Communications, Petition for Reconsideration, Call Sign WQXL677, File No. 0007884198, at 1 (Petition).

<sup>3</sup> *Id.*

<sup>4</sup> 47 CFR § 1.946(d).

<sup>5</sup> See Auto Termination Letter at 1; 47 CFR § 1.946(e).

<sup>6</sup> See Auto Termination Letter at 1.

<sup>7</sup> *Id.*

### III. DISCUSSION

3. The Petition is procedurally defective because it is neither signed and verified by the applicant nor signed by an attorney of record representing the applicant.<sup>8</sup> The Bureau is authorized to dismiss the Petition solely based on this procedural defect.<sup>9</sup> However, as an additional and independent ground for denial, we address, below, the petition's substantive deficiencies.

4. In the Petition, Douglas County states that its tower site "is now ready and all equipment is on-site and ready to energize (as of 11-22-2017)."<sup>10</sup> While 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,"<sup>11</sup> the fact that Douglas County has now constructed the tower site does not demonstrate that the construction was timely, nor does it justify the County's failure to file a timely extension request or construction notification. 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 the date of the construction or coverage deadline.<sup>12</sup> Here, the record indicates that the site was not constructed until after the October 8, 2017 construction deadline and that Douglas County was aware of ongoing construction delays.<sup>13</sup> Thus, Douglas County could have and should have filed an extension request before the construction deadline. We therefore deny the Petition and the late-filed request for extension of the construction period.

5. However, because Douglas County has indicated that the site has been constructed and is now ready to operate, the County may file a new, properly coordinated application for a license if it desires to use its previously licensed frequencies. In addition, if Douglas County needs to operate while a new application is pending with the Commission, it may file a request for conditional authorization in accordance with Section 101.31(b) of the Commission's rules.<sup>14</sup>

### 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 and 1.946 of the Commission's rules, 47 CFR §§ 1.106, 1.946, that the Petition for Reconsideration filed November 27, 2017 by the County of Douglas, Wisconsin, IS DISMISSED on procedural grounds and, in all other respects, IS DENIED.

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<sup>8</sup> See 47 CFR §§ 1.106(i), 1.52.

<sup>9</sup> See 47 CFR § 1.106(p)(7).

<sup>10</sup> See Auto Termination Letter at 1.

<sup>11</sup> See 47 CFR § 1.106(c)(2).

<sup>12</sup> *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).

<sup>13</sup> Petition at 1.

<sup>14</sup> See 47 CFR § 101.31(b).

7. This action is taken under delegated authority pursuant to Section 155(c) of the Communications Act of 1934, as amended, 47 U.S.C. § 155(c) and Sections 0.191 and 0.392 of the Commission's rules, 47 CFR §§ 0.191, 0.392.

FEDERAL COMMUNICATIONS COMMISSION

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