

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

In the Matter of)
)
BUTLER COUNTY, PENNSYLVANIA)
)
Petition for Reconsideration)
)

ORDER

Adopted: January 3, 2020

Released: January 3, 2020

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

I. INTRODUCTION

1. The County of Butler, Pennsylvania (County) filed a Petition for Reconsideration (Petition) of the Commission’s termination of the County’s license to operate on certain 800 MHz frequencies under call sign WRAE930.¹ In its Petition, the County also requested an extension of time until March 31, 2019, to construct its 800 MHz facilities.² For the reasons set forth below, we deny the Petition and dismiss the request for extension of time.

II. BACKGROUND

2. On October 30, 2017, the Commission granted the application of the County for numerous frequencies associated with call sign WRAE930, with construction deadlines one year from the dates of the individual grants. On July 31, 2018, the Commission reminded the County that Section 1.946(d) of the Commission’s rules required it to file a construction notification within 15 days after the construction deadlines for each frequency.³ The Commission also advised the County that it could request an extension of time to construct, provided the request was filed before the construction deadlines, which, for the various frequencies, ranged from October 26, 2018 to November 1, 2018.⁴ The County did not file a construction notification for any of the frequencies, and did not file a timely request for an extension of time to construct despite notice advising it of the pertinent deadlines. The County’s license entered into Termination Pending status on December 6, 2018.⁵

3. On November 26, 2018, the County submitted this Petition.⁶ The Petition claims that “a timely extension of the construction deadline was not filed due to administrative oversight [sic]”⁷ and

¹ Butler County Petition for Reconsideration, *re* Call Sign WRAE930 (Nov. 26, 2018) (Petition).

² *Id.*

³ Construction/Coverage Deadline Reminder Notice, Reference No. 6390555 *re* WRAE930 (dated July 31, 2018) citing 47 CFR § 1.946(d).

⁴ *Id.* citing 47 CFR § 1.946(e).

⁵ Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6431255 *re* WRAE930, (dated Dec. 6, 2018) (Term Pending Letter). The Term Pending Letter advised the County that it could submit a petition for reconsideration showing timely construction and that the consequences of failure to file a completion notice would result in license termination.

⁶ Petition at 1.

requests that the construction deadline be extended to March 31, 2019.⁸ The County filed nothing subsequently and ULS terminated the County's license, call sign WRAE930, on February 17, 2019.

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."⁹ The County's inadvertent failure to file a construction completion notice, or to request an extension of time to construct, is insufficient reason for us to grant its Petition.¹⁰ Additionally, under the Commission's auto-term process, if a licensee does not rebut the presumption that it did not timely meet its construction requirement by the end of the 30-day period for seeking reconsideration, the Universal Licensing System will automatically change the status of the license, location, or frequency to Terminated effective on the date of the construction deadline.¹¹ Here, the County concedes that it did not timely construct and was aware of ongoing construction delays.¹² Thus, it could and should have filed an extension request before the construction deadline. Therefore, we deny the Petition and dismiss the request for extension of time as moot.

5. However, the County may file a new, properly coordinated application for a license if it desires to use its previously licensed frequencies. In addition, if it needs to operate while a new application is pending with the Commission, the County 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 November 26, 2018, by the County of Butler, Pennsylvania, IS DENIED and the request for extension of time to construct embedded therein is DISMISSED as moot.

⁷ *Id.*

⁸ *Id.*

⁹ 47 CFR § 1.106(c)(2).

¹⁰ *Orange County, New York, Department of Emergency Communications Petition for Reconsideration*, DA 18-1165, Order, 33 FCC Rcd 11200 (PSHSB 2018).

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 47 CFR § 1.931.

7. IT IS FURTHER ORDERED that the licensing staff of the Policy and Licensing Division SHALL TERMINATE the authorization for call sign WRAE930 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