

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

In the Matter of)
)
City of Lorain, Ohio) Call Sign WQKY922
)
Request for Waiver of Section 1.949 of the)
Commission’s Rules)

ORDER

Adopted: October 13, 2020

Released: October 14, 2020

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

1. In this Order, we deny the City of Lorain’s (the City or Lorain) waiver request to accept its late-filed renewal application for its license previously authorized under call sign WQKY922.¹ We also dismiss as moot a related modification application.²

2. On August 5, 2019, the Bureau reminded Lorain to renew its license on or before October 30, 2019—the expiration of the initial 10-year license term.³ Lorain, however, failed to submit a license renewal application and its license expired on October 30, 2019.⁴

3. On December 17, 2019, Lorain requested a waiver of Section 1.949 of the Commission’s rules⁵ to permit the acceptance of a late-filed renewal application.⁶ It explained that: “In spite of all the best intentions to be aware of FCC regulations and rule changes, we have inadvertently failed to file a timely renewal.”⁷

4. In 1999, the Commission adopted a policy for treating late-filed renewal applications in the wireless services.⁸ Renewal applications filed up to thirty days after the expiration date of the license will be granted *nunc pro tunc* if the application is otherwise sufficient, but the licensee may be subject to an enforcement action for untimely filing and unauthorized operation between the expiration of the

¹ See FCC File No. 0008917144 (dated Dec. 17, 2019) and Letter from Karen M. Kruke, License Tech., Vasu Communications, Inc. to FCC (dated Dec. 1, 2019) (Waiver Request).

² See FCC File No. 0008917126 (dated Dec. 17, 2019).

³ See Renewal Reminder Notice, FCC Reference No. 6536329 (dated Aug. 5, 2019).

⁴ 47 CFR § 1.955(a)(1) (“Authorizations automatically terminate, without specific Commission action, on the expiration date specified therein, unless a timely application for renewal is filed.”).

⁵ 47 CFR § 1.949.

⁶ See Waiver Request.

⁷ *Id.*

⁸ See *Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, and 101 of the Commission’s Rules to Facilitate Development and Use of the Universal Licensing System in the Wireless Telecommunications Service*, Memorandum Opinion and Order on Reconsideration, 14 FCC Rcd 11476 (1999) (*ULS MO&O*).

license and the untimely renewal filing.⁹ Applicants who file renewal applications more than thirty days after the license expiration date may also request that the license be renewed *nunc pro tunc*, but such requests will not be routinely granted, will be subject to stricter review, and also may be accompanied by enforcement action, including more significant fines or forfeitures.¹⁰ In determining whether to grant a late-filed renewal application, we take into consideration all of the facts and circumstances, including the length of the delay in filing, the reasons for the failure to timely file, the potential consequences to the public if the license should terminate, and the performance record of the licensee.¹¹

5. Based on the facts and circumstances here, we conclude that Lorain's request should be denied. Lorain has presented no justification for its "inadvertent" late filing that would warrant special consideration.¹² The Commission also has stated that turnover in recordkeeping personnel, failure to check computer records, or simple forgetfulness are not valid excuses for failure to file a timely renewal application.¹³

6. If the City desires to continue operating under the parameters formerly set forth under call sign WQKY922, it must file a new, properly coordinated application. In addition, if the City needs to operate while the application is pending with the Commission, it must immediately file a request for special temporary authority in accordance with Section 1.931 of the Commission's rules.¹⁴

7. Accordingly, **IT IS ORDERED** pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 1.925 of the Commission's Rules, 47 CFR § 1.925, that the waiver request submitted by the City of Lorain on December 17, 2019, IS DENIED.

8. **IT IS FURTHER ORDERED** that license renewal application, FCC File number 0008917144 **IS DISMISSED**.

9. **IT IS FURTHER ORDERED** that the modification application FCC File number 0008917126 **IS DISMISSED AS MOOT**.

10. 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 See *id.* at 11485 para. 22.

¹⁰ *Id.*

¹¹ *Id.*

¹² See *Amendment of Parts 1 and 90 of the Commission's Rules Concerning the Construction, Licensing and Operation of Private Land Mobile Radio Stations*, Report and Order, 6 FCC Rcd 7297, 7301 para. 20 (1991).

¹³ See *ULS MO&O*, 14 FCC Rcd at 11485 and n.21.

¹⁴ See 47 CFR § 1.931.