

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

In the Matter of)
)
TOWNSHIP OF WARMINSTER,) File Number 0007525262
PENNSYLVANIA)
)
Petition for Reconsideration)
)
)

ORDER

Adopted: March 23, 2020

Released: March 23, 2020

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

I. INTRODUCTION

1. The Township of Warminster, Pennsylvania (Warminster) filed a petition requesting reconsideration of the Commission’s Notice of Termination of call sign WQYL539.¹ In that filing, Warminster also requested an extension of the construction deadline to an unspecified date.² For the reasons set forth below, we deny Warminster’s Petition without prejudice.

II. BACKGROUND

2. On December 17, 2017, the Commission’s Universal Licensing System (ULS) notified Warminster that its call sign WQYL539 was placed in Termination Pending status because it failed to meet its construction and construction-notification requirements required by the Commission’s rules.³ Warminster was advised 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.”⁴ Warminster indicates that it completed the installation of the antenna and associated equipment on December 21, 2017 after the cancellation notice was sent.⁵

¹ See Township of Warminster, Petition for Reconsideration, Call Sign WQYL533, ULS File Number 0007525262, at 1 (Dec. 27, 2017) (Petition).

² *Id.*

³ See Auto Termination Letter for WQYL539, ULS File Number 0007525262, (Dec. 6, 2017) (Auto Termination Letter). As a condition of its authorization, the Commission’s rules required Warminster to construct stations for certain frequencies on Call Sign WQYL539 within 12 months (*i.e.*, by November 1, 2017). 47 CFR §§ 1.946; 90.155(a).

⁴ See Auto Termination Letter at 1.

⁵ Petition at 1.

III. DISCUSSION

3. *Petition for Reconsideration.* Although Section 1.106(c)(2) of the Commission's rules provides that a petition for reconsideration that relies on facts not previously presented to the Commission may be granted if we find that "consideration of the facts relied on is required in the public interest,"⁶ the new fact offered by Warminster – that it has now completed construction -- neither demonstrates that the construction was timely, nor justifies Warminster's failure to file a timely extension request or construction notification. Because consideration of the facts Warminster offers in its Petition is not required in the public interest, consistent with section 1.106(c)(2) of the Commission's rules, we deny the Petition and do not reinstate the license, call sign WQYL539.

4. *Request for Extension.* Warminster also requests an extension of time of unspecified duration to construct the facilities authorized by its now-expired license, call sign WQYL539. Section 1.946 of the Commission's rules requires applicants to justify an extension beyond the initial construction period.⁷ An extension may be granted if the licensee shows that failure to meet the construction deadline is due to causes beyond its control.⁸ We find that Warminster has failed to demonstrate that its claimed "site acquisition delays [that] pushed back installation of the antenna and associated equipment" were due to causes beyond its control.⁹ Even if that were the case, section 1.946(e)(2) of the Commission's rules specifically states, *inter alia*, that "[e]xtension requests will not be granted for failure to meet a construction or coverage deadline due to delays caused by a failure [. . .] to obtain an antenna site [. . .]." In addition to failing to demonstrate delays beyond its control, Warminster proposes an indefinite extension of time to complete construction. We previously have not granted such indefinite extensions and, because Warminster has failed to demonstrate timely construction or that grant of its Petition would be in the public interest, we deny its Petition without prejudice.

5. If Warminster still desires to use its previously licensed frequencies, it may file a new, properly coordinated¹⁰ application for a license.¹¹ In addition, if Warminster needs to operate while such new license application is pending with the Commission, it may file a request for special temporary authorization in accordance with Section 1.931 of the Commission's rules.¹²

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 Township of Warminster, Petition for Reconsideration, Call Sign WQYL533 filed Dec. 27, 2017, IS DENIED.

⁶ See 47 CFR § 1.106(c)(2).

⁷ See 47 CFR § 1.946(e).

⁸ See 47 CFR § 1.946(e)(1).

⁹ Petition at 1.

¹⁰ See 47 CFR § 90.175.

¹¹ See 47 CFR §§ 1.913, 90.119, 90.127, 90.129.

¹² See 47 CFR § 1.931. In addition, if Warminster wishes to operate the frequencies associated with call sign WQYL533 while an application for a permanent license, if any, is pending, it must also comply with the requirements of 47 CFR § 90.159(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

Michael J. Wilhelm
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