**Before the**

Federal Communications Commission

Washington, D.C. 20554

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| In the Matter of  Unlicensed Use of the 6 GHz Band  Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz | **)**  **)**  **)**  **)**  **)**  **)** | ET Docket No. 18-295  GN Docket No. 17-183 |

MEMORANDUM OPINION AND ORDER

**Adopted: July 13, 2020 Released: July 13, 2020**

By the Acting Chief, Office of Engineering and Technology:

1. On June 29, 2020, Encina Communications Corporation filed a Petition for Reconsideration (Petition) in the above-captioned proceeding.[[1]](#footnote-3) The Petition seeks reconsideration of an April 23, 2020 Report and Order which adopted rules authorizing new types of unlicensed operations in the 5.925-7.125 GHz band under Part 15 of our rules.[[2]](#footnote-4)
2. Section 1.106(p) of the Commission’s rules provides that “[p]etitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau(s) or office(s).”[[3]](#footnote-5) Section 1.106(p) includes untimely filed petitions as an example of petitions that do not warrant consideration by the Commission under this provision.[[4]](#footnote-6) The 30-day period for filing petitions for reconsideration is statutory[[5]](#footnote-7) and generally may not be waived.[[6]](#footnote-8) The Report and Order was published in the Federal Register on May 26, 2020,[[7]](#footnote-9) and thus public notice was given on that day.[[8]](#footnote-10) A Petition for Reconsideration of this order must have been filed within thirty days, *i.e.* on or by June 25, 2020, to be considered timely. However, the Petition was filed on June 29, 2020, four days late. We therefore dismiss it.[[9]](#footnote-11)
3. Accordingly, IT IS ORDERED that the Petition for Reconsideration filed on June 29, 2020 by Encina Communications Corporation, IS DISMISSED, pursuant to Section 1.106(p) of the Commission’s Rules.[[10]](#footnote-12)

FEDERAL COMMUNICATIONS COMMISSION

Ronald T. Repasi

Acting Chief

Office of Engineering and Technology

1. Petition for Reconsideration of Encina Communications Corporation, ET Docket No. 18-295, GN Docket No. 17-183 (filed June 29, 2020). [↑](#footnote-ref-3)
2. *Unlicensed Use of the 6 GHz Band*, Report and Order and Further Notice of Proposed Rulemaking, 35 FCC Rcd 3852 (2020); 47 CFR Part 15. [↑](#footnote-ref-4)
3. 47 CFR § 1.106(p). [↑](#footnote-ref-5)
4. 47 CFR § 1.106(p)(9). [↑](#footnote-ref-6)
5. 47 U.S.C. § 405(a). [↑](#footnote-ref-7)
6. *See* *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986) (express statutory limitations barred the Commission from acting on a petition for reconsideration that was filed after the due date). [↑](#footnote-ref-8)
7. Federal Communications Commission, Unlicensed Use of the 6 GHz Band, Final Rule, 85 Fed. Reg. 31390 (May 26, 2020). [↑](#footnote-ref-9)
8. *See* 47 CFR § 1.4(b)(1). [↑](#footnote-ref-10)
9. *See Virgin Islands Tel. Corp. v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993) (upholding the Commission's refusal to entertain a petition for reconsideration where the petition had been filed one day late, finding that “extenuating circumstances did not prohibit [the petitioner] from filing within the prescribed time limits”). *See also* *Pueblo Radio Broad. Serv.*, Memorandum Opinion and Order, 6 FCC Rcd 1416 (1991) (dismissing petition for reconsideration that was filed one day late); *Metromedia, Inc.*, Memorandum Opinion and Order, 56 FCC 2d 909 (1975) (same); *Panola Broad. Co*., Memorandum Opinion and Order, 68 FCC 2d 533 (1978) (same). [↑](#footnote-ref-11)
10. 47 CRF § 1.106(p). [↑](#footnote-ref-12)