

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

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

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 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 The 30-day period for filing petitions for reconsideration is statutory⁵ and generally may not be waived.⁶ The Report and Order was published in the Federal Register on May 26, 2020,⁷ and thus public notice was given on that day.⁸ 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

¹ Petition for Reconsideration of Encina Communications Corporation, ET Docket No. 18-295, GN Docket No. 17-183 (filed June 29, 2020).

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.

³ 47 CFR § 1.106(p).

⁴ 47 CFR § 1.106(p)(9).

⁵ 47 U.S.C. § 405(a).

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).

⁷ Federal Communications Commission, *Unlicensed Use of the 6 GHz Band*, Final Rule, 85 Fed. Reg. 31390 (May 26, 2020).

⁸ *See* 47 CFR § 1.4(b)(1).

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

(continued....)

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

FEDERAL COMMUNICATIONS COMMISSION

Ronald T. Repasi
Acting Chief
Office of Engineering and Technology

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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).

¹⁰ 47 CFR § 1.106(p).