

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

In the Matter of)	
)	
Florida Department of Corrections)	Former Call Sign WRCY224
)	
Petition for Reconsideration)	

ORDER

Adopted: January 13, 2021**Released: January 13, 2021**

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

I. INTRODUCTION

1. On April 14, 2020 the Florida Department of Corrections (DOC) filed a Petition for Reconsideration (Petition) of the Commission's April 1, 2020 notice terminating DOC's license to operate under call sign WRCY224.¹ For the reasons stated below, we deny the Petition.

II. BACKGROUND

2. On November 26, 2019, the Commission's Universal Licensing System (ULS) sent a construction reminder to DOC alerting it of the pending construction deadline and establishing February 25, 2020 as the deadline for DOC to file a Notification of Construction.² DOC neither filed a construction notice nor requested an extension of the construction/coverage period.³ On April 1, 2020, ULS issued DOC a letter advising it that the notification deadline had passed and that the license was in termination pending status.⁴ On April, 14, 2020, DOC timely filed the instant Petition.⁵

3. DOC concedes that it has not completed construction of the new station and attributes the delay to the COVID-19 Pandemic. It also claims it failed to file an extension request due to administrative oversight.⁶

¹ See Florida Department of Corrections, Petition for Reconsideration, *re* Call Sign WRCY224 (April 14, 2020) (Petition).

² See 47 CFR § 1.946(d); Construction/Coverage Deadline Reminder Notice, Reference No. 6592097 (dated Nov 26, 2019).

³ See 47 CFR § 1.946(e).

⁴ See Construction/Coverage Deadline, Notice of Termination Pending Status, Reference No. 6636359 (dated Apr. 1, 2020).

⁵ See Petition. Under the Commission's auto-term process, if a licensee, by the end of the 30-day period for seeking reconsideration does not rebut the presumption that it did not timely meet its construction or coverage requirement, ULS will change the status of the license, location, or frequency to "Terminated," effective on the date of the construction deadline. See *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). Given that ULS issued the Notices of Termination Pending Status on April 1, 2020 and DOC filed its Petition on April 14, 2020, its petition is timely.

⁶ *Id.*

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."⁷

5. We find that DOC has not provided sufficient justification for us to grant its Petition. While we recognize that the COVID-19 Pandemic has dramatically altered construction schedules, it would not have prevented DOC from filing a timely extension request. Administrative oversight is not a unique factual circumstance justifying a waiver and excusing failure to comply with the Commission's construction notification requirements.⁸ Because DOC had not placed its station in operation as required by sections 1.955 and 90.155 of the Commission's rules,⁹ under the plain language of the rules DOC's license, call sign WRCY224, terminated automatically. DOC's Petition provides no justification for a rule waiver given DOC's failure to either place its station into operation by the deadline, or to timely file an extension request. We therefore deny the Petition.

6. DOC may file a new, properly coordinated application if it desires to use its previously licensed frequencies. In addition, if DOC needs to operate while an application is pending with the Commission, it may file a request for special temporary authority in accordance with section 1.931 of the Commission's rules.¹⁰

IV. ORDERING CLAUSE

7. 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 April 14, 2020, by the Florida Department of Corrections, IS DENIED.

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

⁷ 47 CFR § 1.106(c)(2).

⁸ See the Commission's waiver criteria in 47 CFR § 1.925. See also *WAIT Radio v. FCC*, 413 F.2d 1153, 1157 (D.C. Cir. 1969), *aff'd*, 459 F.2d 1203 (1973), *cert. denied*, 409 U.S. 1027 (1972) (citing *Rio Grande Family Radio Fellowship, Inc. v. FCC*, 406 F.2d 664 (D.C. Cir. 1968)); *Birach Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 1414, 1415 (2003).

⁹ 47 CFR §§ 1.955, 90.155.

¹⁰ See 47 CFR § 1.931.