

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

In the Matter of)	
)	
Peninsula Communications, Inc.)	File No. EB 01-IH-0403
)	NAL/Acct No. 200132080060
Former licensee of FM translator stations)	FRN: 0001-5712-15
K285EF, Kenai, Alaska;)	
K283AB, Kenai/Soldotna, Alaska;)	
K257DB, Anchor Point, Alaska;)	
K265CK, Kachemak City, Alaska;)	
K272CN, Homer, Alaska; and)	
K274AB and K285AA, Kodiak, Alaska)	

MEMORANDUM OPINION AND ORDER

Adopted: June 10, 2002

Released: June 12, 2002

By the Commission:

1. In this *Memorandum Opinion and Order* ("Order") we deny a March 8, 2002, Petition for Reconsideration ("Petition") filed by Peninsula Communications, Inc. ("Peninsula"), which seeks reconsideration of our February 6, 2002, *Forfeiture Order*¹ that assessed a forfeiture of one hundred forty thousand dollars (\$140,000) against Peninsula.

2. In large part Peninsula simply rehashes arguments that we have previously considered and rejected. We need not address those arguments again. We take this opportunity to briefly address Peninsula's two new arguments. First, we reject Peninsula's argument that we should rescind the *Forfeiture Order* because Peninsula was not served a copy of it. Our records include a certified mail receipt indicating service on Peninsula. Moreover, given its timely filing of the Petition, Peninsula obviously suffered no harm from any alleged defect in service.² Second, we reject Peninsula's argument that we should not have issued the *Forfeiture Order* because the 9th Circuit Court of Appeals ("9th Circuit Court") stayed a preliminary injunction issued by the United States District Court in Alaska against Peninsula's continued operation of the above-captioned translators pending Peninsula's appeal of the District Court's order. As the 9th Circuit Court recently observed in denying Peninsula's appeal,³ only the District of Columbia Circuit Court of Appeals ("D.C. Circuit Court") is empowered to affirm or reverse our order that terminated Peninsula's authority to operate the translators.⁴ Peninsula filed an appeal of

¹ *Peninsula Communications, Inc.*, 17 FCC Rcd 2832 (2002) ("*Forfeiture Order*").

² Peninsula's suggestion that a lack of Federal Register publication of the *Forfeiture Order* warrants its rescission is without merit because there is no requirement for Federal Register publication of a forfeiture order.

³ See *United States of America v. Peninsula Communications, Inc.*, No. 01-35965 (9th Cir. April 22, 2002).

⁴ See *Peninsula Communications, Inc.*, 16 FCC Rcd 11364 (2001) ("*Termination Order*").

our *Termination Order* with the D.C. Circuit Court;⁵ however, Peninsula neither sought nor received a stay of that order. The *Termination Order* thus remained in effect, and Peninsula's failure to comply with it resulted in willful and repeated violations of 47 U.S.C. § 301, which warranted a forfeiture.

3. Accordingly, IT IS ORDERED, that the Petition for Reconsideration filed by Peninsula Communications, Inc. IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

⁵ Peninsula Communications, Inc. v. FCC, Case No. 01-1273 (D.C. Cir. June 15, 2001).