

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

In the Matter of)	
)	
KIM JACKSON)	FOIA Control Nos. 2013-453, 2014-126,
)	and 2014-264
On Requests for Inspection of Records)	

MEMORANDUM OPINION AND ORDER

Adopted: September 18, 2014

Released: September 19, 2014

By the Commission:

1. This consolidated decision addresses three applications for review filed by Ms. Kim Jackson relating to her Freedom of Information Act (FOIA) requests pertaining to several Commission licensees. By this Memorandum Opinion and Order, we dismiss Ms. Jackson's application for review¹ of a FOIA decision by the Mobility Division of the Commission's Wireless Telecommunications Bureau (WTB).² We also deny her two applications for review³ of two FOIA decisions by the Commission's Office of Managing Director (OMD).⁴

2. FOIA Control Number 2013-453. On July 26, 2013, Ms. Jackson filed a FOIA request seeking information about the radio licensing applications of certain individuals.⁵ On August 21, 2013, WTB's Mobility Division provided Ms. Jackson with six responsive documents and informed her that any application for review must be filed within 30 days of the date of the decision.⁶

3. Ms. Jackson filed an application for review, asserting, among other things, that WTB did not provide her with all the records responsive to her request.⁷ Under our rules, FOIA applications for

¹ See document from Kim L. Jackson to Federal Communications Commission (FCC) (dated Sept. 23, 2013; filed Oct. 17, 2013) (*FOIA 2013-453 AFR*).

² See letter from Roger Noel, Chief, Mobility Division, WTB, FCC to Ms. Jackson (Aug. 21, 2013) (*FOIA 2013-453 Decision*).

³ See document from Ms. Jackson to FCC (dated Mar. 5, 2014; filed Mar. 10, 2014) (*FOIA 2014-126 AFR*); see also email from Ms. Jackson to Jonathan Sallet, [then] Acting General Counsel, FCC (filed Apr. 10, 2014) (*FOIA 2014-264 AFR*).

⁴ Letter from Mindy J. Ginsburg, Deputy Managing Director, OMD, FCC, to Ms. Jackson (Feb. 4, 2014) (*FOIA 2014-126 Decision*); Letter from Ms. Ginsburg, Deputy Managing Director, OMD, FCC, to Ms. Jackson (Mar. 11, 2014) (*FOIA 2014-264 Decision*).

⁵ See letter from Ms. Jackson to Stephanie Kost, FOIA Public Liaison, FCC (July 26, 2013) (requesting "[a]ll records, files or paperwork related to or concerning all documentation filed" during the radio license application process by the specified individuals, as well as a copy of the licenses) and letter from Ms. Jackson to Ms. Kost (Aug. 5, 2013) (amending July 26, 2013 FOIA request) (collectively, *FOIA 2013-453 Request*).

⁶ See *FOIA 2013-453 Decision* at 1.

⁷ *FOIA 2013-453 AFR*.

review must be filed (*i.e.*, received) within 30 days, which in this case was September 20, 2013.⁸ The application for review, however, was dated September 23, 2013 and received even later.⁹ The application for review was late filed, and we therefore dismiss it as untimely.¹⁰

4. *FOIA Control Number 2014-126.* On December 27, 2013, Ms. Jackson filed a second FOIA request seeking “all records maintained . . . under FCC/OMD-9, *i.e.*, . . . Commission Registration System, (CORES)”¹¹ for Osvaldo Garcia (holder of a General Radiotelephone Operator license for call number PG1139126), Dennis Campbell, Dennis J. Campbell (holder of a General Radiotelephone Operator license for call number PG1212194), and Dennis Cisco.¹² Ms. Jackson expressed a particular interest in the addresses of the licensees and stated that after searching the CORES website, she was unable to find addresses or FCC Registration Numbers (FRNs) for either Osvaldo Garcia or Dennis J. Campbell.¹³

5. In its February 4, 2014, response, OMD stated that neither OMD nor WTB found any responsive records and explained that because the licenses for the call signs at issue were granted prior to the creation of CORES and the use of FRNs, “the licensees did not obtain FRNs,”¹⁴ and CORES contains no information about the licenses at issue.

6. Ms. Jackson filed an application for review on March 10, 2014. She complains that the *FOIA 2014-126 Decision* “is silent as to address information regarding the holders of [the] licenses” for call signs PG1212194 and PG1139126, despite her request for such information.¹⁵

7. We are satisfied that OMD and WTB conducted diligent searches of CORES and ULS for records responsive to the *FOIA 2014-126 Request*, including information regarding the addresses of the licensees of call signs PG1212194 and PG1139126. Specifically, OMD searched the CORES database and located no records relating to the call signs. WTB searched the ULS database and, apart from publicly-available information, found no records at all relating to the call signs. We find that the searches were “reasonably calculated to uncover all relevant documents,”¹⁶ and thus were adequate to

⁸ See 47 C.F.R. § 1.7 (documents are considered to be filed upon receipt).

⁹ The 30 days to be counted in computing the time period began on August 22, 2013, the day after the date appearing on *FOIA 2013-453 Decision*. See 47 C.F.R. § 0.461(j) (the first day to be counted in computing the time period for filing an application for review is the day after the date of the written ruling).

¹⁰ See, e.g., *Michael Flynn, Site Management Solutions*, 28 FCC Rcd 14431 (2013) (dismissing an application for review filed “more than 20 days” late); *The Consumer Law Group*, 28 FCC Rcd 684 ¶ 5 (2013) (dismissing application for review of a FOIA decision filed three days late); *Michael C. Olson*, 13 FCC Rcd 20593 ¶ 1 (1998) (dismissing application for review filed one day late).

¹¹ See <http://www.fcc.gov/omd/privacyact/documents/records/FCC-OMD-9.doc>.

¹² See letter from Ms. Jackson to the FCC (dated Dec. 27, 2013; filed Dec. 30, 2013) (*FOIA 2014-126 Request*). CORES is the Commission’s database containing information about persons or entities doing business with the agency. See <https://apps.fcc.gov/coresWeb/publicHome.do>

¹³ See *FOIA 2014-126 Request* at 1.

¹⁴ *FOIA 2014-126 Decision* at 2 (noting that an FCC Universal Licensing Search (ULS) indicates that call sign PG1212194 was issued to Dennis Campbell on January 2, 1985, and that PG1139126 was issued to Osvaldo Garcia on August 11, 1989).

¹⁵ *FOIA 2014-126 AFR* at 2-3.

¹⁶ *Weisberg v. U.S. Dep’t of Justice*, 705 F.2d 1344, 1351 (D.C. Cir. 1983); *Campbell v. U.S. Dep’t of Justice*, 164 F.3d 20, 27 (D.C. Cir. 1998) (noting that an agency must search “using methods which can be reasonably expected to produce the information requested”) (quoting *Oglesby v. U.S. Dep’t of the Army*, 920 F.2d 57, 68 (D.C. Cir. 1990)).

satisfy the agency's obligation under the FOIA.¹⁷ We therefore deny Ms. Jackson's *FOIA 2014-126 AFR*.

8. *FOIA Control Number 2014-264*. In response to the *FOIA 2014-126 Decision*, on February 25, 2014, Ms. Jackson filed a FOIA request seeking the FRNs and FCC Forms 160, 161, and 162¹⁸ for Osvaldo Garcia, Dennis Campbell, Dennis J. Campbell, and Dennis Cisco.¹⁹ The *2014-264 FOIA Request* was assigned to OMD, the custodian of FCC Forms 160 and 161, and former FCC Form 162. In the *2014-264 Decision*, dated March 11, 2014, OMD explained that for the same reasons set forth in the *FOIA 2014-126 Decision* (and as outlined above in paragraph 5), OMD found no responsive documents in its search for the requested information pertaining to the individuals residing at the address identified in the request.²⁰

9. In her application for review, filed April 10, 2014, Ms. Jackson asserts that although her *2014-264 FOIA Request* "sought to confirm address information for" Osvaldo Garcia, Dennis Campbell, Dennis J. Campbell, and Dennis Cisco as identified in her request, the *2014-264 Decision* "only discusses the lack of availability of FRN information and information from FCC Forms 160, 161, and 162[.]"²¹ Ms. Jackson states that "[a]pplicants for FCC licenses must specify an address where the applicant can receive mail delivery by the U.S. Postal Service[.]"²²

10. We disagree with Ms. Jackson's suggestion that, because provisions of the Commission's rules require that applicants furnish their address on their applications,²³ the addresses of all licensees are necessarily currently available in Commission records. This is not the case for the older General Radio Operator License (GROL) applications used by the licensees identified in Ms. Jackson's request. In 1984 (prior to the time that the Commission's database of licenses reflected current address information), the Commission adopted lifetime licensing for GROLs.²⁴ The Commission subsequently transferred the applications associated with the GROL licensees (which included the licensees' addresses) to the National Archives and Records Administration (NARA), consistent with the requirements of the Federal Records Act.²⁵ Accordingly, the agency no longer has the original applications. Since the inception of CORES in

¹⁷ As we discuss in more detail in paragraph 10, in addition to not being available in the CORES and ULS databases, the records reflecting the address information Ms. Jackson seeks are not available anywhere in the agency.

¹⁸ The FCC Form 160, *CORES Registration Form*, is a form that must be completed to obtain an FRN, which is required for anyone doing business with the Commission. See <http://www.fcc.gov/register>. The FCC Form 161, *CORES Update/Change Form*, is a form that must be completed to update or change any previously registered CORES information. See <http://www.fcc.gov/updateregistration>. FCC Form 162 was a form used in the period following the implementation of the FRN and CORES to accompany FCC forms that did not accommodate the FRN. See *Office of Managing Director Implements the FCC Registration Number (FRN) and Commission Registration System (CORES) Registration Process*, Public Notice, 15 FCC Rcd 16427, 16428 (2000).

¹⁹ See email from Ms. Jackson to Warren Firschein (dated Feb. 24, 2014; filed Feb. 25, 2014) (*2014-264 FOIA Request*).

²⁰ *FOIA 2014-126 Decision* at 1-2.

²¹ *FOIA 2014-264 AFR* at 4.

²² *Id.* (citing 47 C.F.R. §§ 1.923(i) and 13.10).

²³ See 47 C.F.R. §§ 1.5(a), 1.923(i), 13.10.

²⁴ See *Requirements for Licensed Operators in Various Radio Services*, 96 FCC 2d 1123, 1139-40 (1984).

²⁵ The Federal Records Act of 1959, as amended, 44 U.S.C. Ch.33, requires the Commission to designate how long records will be retained before they are either disposed of or transferred to the NARA. Consistent with this requirement, the Commission designated GROL applications permanent records to be transferred to the NARA. See *Restricted Radiotelephone Operator Permit Files*, N1-173-94-2, item 7A (paper applications were transferred to the Federal Records Center one year after the year in which the license was issued, and are destroyed after 75 years); *Wireless Telecommunications Bureau Licensing Division, Restricted Radiotelephone Operator Permit Files*, Item No. 7A (http://www.archives.gov/records-mgmt/rcs/schedules/independent-agencies/rg-0173/n1-173-94-002_sfl15.pdf).

2000, and ULS in 1997 covering all new license applications and renewals, licensee address information must be kept current. The Commission, however, does not have a similar requirement for updating legacy information for lifetime licensees who applied for or obtained their licenses before 1997.²⁶ It thus does not maintain address information in those limited cases.²⁷

11. The record reflects that OMD conducted a diligent search for responsive documents for the licensees located at the address identified in Ms. Jackson's request, including any documents in the agency's possession providing the licensees' addresses. We find that OMD's search was "reasonably calculated to uncover all relevant documents" and satisfies the agency's obligation under the FOIA. The fact that the Commission generally requires license applicants to provide updated address information but does not have a mechanism for doing so for the limited group of legacy GROL licensees does not preclude our finding that the Bureau conducted a reasonable search and was unable locate the requested information. We therefore deny Ms. Jackson's *FOIA 2014-264 AFR*.

12. ACCORDINGLY, IT IS ORDERED that the Application for Review by Kim Jackson in FOIA Control No. 2013-453 IS DISMISSED. Ms. Jackson may seek judicial review of this action pursuant to 5 U.S.C. §552(a)(4)(B).

13. IT IS ALSO ORDERED that the Applications for Review by Kim Jackson in FOIA Control No. 2014-126 and FOIA Control No. 2014-264 ARE DENIED. Ms. Jackson may seek judicial review of these actions pursuant to 5 U.S.C. § 552(a)(4)(B).²⁸

14. The following officials are responsible for this action: Chairman Wheeler, Commissioners Clyburn, Rosenworcel, Pai, and O'Rielly.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

²⁶ When the Commission adopted lifetime licensing for GROL licensees in 1984, it acknowledged that while the applications will be permanently maintained in government archives, the Commission's files would not reflect current address information. *Requirements for Licensed Operators in Various Radio Services*, 96 FCC 2d at 1140.

²⁷ The public can request that the National Archives and Records Administration make copies of records in its custodial care (<http://www.archives.gov/research/order/#other>), or can visit in person a NARA research room (<http://www.archives.gov/locations/>) to search for the records.

²⁸ We note that as part of the Open Government Act of 2007, the Office of Government Information Services (OGIS) was created to offer mediation services to resolve disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. Using OGIS services does not affect Ms. Jackson's right to pursue litigation. Ms. Jackson may contact OGIS in any of the following ways:

Office of Government Information Services
National Archives and Records Administration
Room 2510
8601 Adelphi Road
College Park, MD 20740-6001
E-mail: ogis@nara.gov
Telephone: 301-837-1996
Facsimile: 301-837-0348
Toll-free: 1-877-684-6448