

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

In the Matter of
AMERICAS SURVEY COMPANY
Petition for Reconsideration of Pending
Termination of License for Station WQMC201
File No. 0004215298

ORDER ON RECONSIDERATION

Adopted: March 21, 2012

Released: March 21, 2012

By the Deputy Chief, Broadband Division, Wireless Telecommunications Bureau:

I. INTRODUCTION

1. In this Order on Reconsideration, we dismiss as untimely a petition for reconsideration of our placement into termination pending status of an industrial/business pool microwave station in San Diego, California.

II. BACKGROUND

2. On June 23, 2010, the Bureau issued Americas Survey Company (ASC) a new license for industrial/business pool microwave Station WQMC201 (the Station). The deadline for constructing the Stations was December 23, 2011. On September 27, 2011, the Bureau sent ASC a construction/coverage reminder letter. On February 1, 2012, license auto-termination letters were sent and the Station entered termination pending status. Accordingly, on the same day, the Bureau provided public notice of the pending license terminations. On March 8, 2012, ASC filed a petition for reconsideration of the placement of the Station into termination pending status.

III. DISCUSSION

3. Section 405(a) of the Communications Act, as implemented by Section 1.106(f) of the Commission's Rules, requires that a petition for reconsideration be filed within thirty days from the date of public notice of Commission action. Computation of the thirty-day period is determined in

1 See File No. 0004215298 (granted June 23, 2010).

2 Id.

3 Construct/Coverage Reminder, Ref. No. 5224123 (Sep. 27, 2011).

4 Auto Termination letters, Ref. No. 5305640 (Feb. 1, 2012).

5 Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 7498, Public Notice (Feb. 1, 2012) at 2.

6 Petition for Reconsideration, Americas Survey Company (filed Mar. 8, 2012) (Petition).

7 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

accordance with Section 1.4 of the Commission's Rules.⁸ Since public notice of the impending license terminations were given on February 1, 2012, pursuant to Section 1.4(b)(4) of the Commission's Rules, the first day to be counted in computing the thirty-day period was February 2, 2012. The last day for filing a petition for reconsideration was March 2, 2012.

4. We received ASC's Petition on March 8, 2012. Therefore, we find that the Petition was filed late. The United States Court of Appeals for the District of Columbia Circuit has consistently held that the Commission is without authority to extend or waive the statutory thirty-day filing period for filing petitions for reconsideration specified in Section 405(a) of the Communications Act,⁹ except where "extraordinary circumstances indicate that justice would thus be served."¹⁰ We note the filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late.¹¹ We do not believe that ASC has shown such extraordinary circumstances to be present here. Indeed, ASC has failed to acknowledge that it did not file in a timely manner. Accordingly, we dismiss the Petition as late-filed.

5. If ASC wishes to continue operating the terminated facilities, it must file a completed FCC Form 601, in accordance with all applicable Commission Rules, to reauthorize the facilities. In the interim, ASC should file a request for Special Temporary Authority, in accordance with Section 1.931 of the Commission's Rules, if it wishes to continue operating the facilities.

IV. ORDERING CLAUSES

6. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 405, and Section 1.106 of the Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Americas Survey Company on March 8, 2012 IS DISMISSED.

7. This action is taken under delegated authority pursuant to Sections 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

John J. Schauble
Deputy Chief, Broadband Division
Wireless Telecommunications Bureau

⁸ 47 C.F.R. § 1.4.

⁹ See *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986); *Gardner v. FCC*, 530 F.2d 1086 (D.C. Cir. 1976).

¹⁰ *Gardner v. FCC*, 530 F.2d at 1091.

¹¹ See, e.g., *Panola Broadcasting Co., Memorandum Opinion and Order*, 68 FCC 2d 533 (1978); *Metromedia, Inc., Memorandum Opinion and Order*, 56 FCC 2d 909 (1975).