

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

In the Matter of)
METROPOLITAN AREA NETWORKS, INC.) File Nos. 0003867372-0003867871,
Requests for Waiver and Applications for) 0003867874-0003868373, 0003868378-
Extensions of Time to Extend Buildout Deadlines) 0003868936, 0003869344-0003869843,
for 2,456 Microwave Industrial/Business Pool) 0003869908
Fixed Point-to-Point Licenses)

ORDER ON RECONSIDERATION AND MEMORANDUM OPINION AND ORDER

Adopted: April 9, 2012

Released: April 10, 2012

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

I. INTRODUCTION

1. In this Order on Reconsideration and Memorandum Opinion and Order, we deny a petition for reconsideration filed by Metropolitan Area Networks, Inc. (MAN) seeking reconsideration of the dismissal of applications and extensions of time to meet the construction requirements for 2,455 Part 101 microwave Industrial/Business Pool fixed point-to-point microwave licenses. The 2,455 dismissed applications MAN filed were filed without the requisite filing fees, and while MAN sought a waiver of the filing fees, it did not pay the fees in advance as required by our rules. We also deny the one validly filed application for extension of time that MAN submitted because MAN has not adequately justified an extension of time to construct. We notify MAN that its licenses automatically terminated on their respective construction deadlines.

II. BACKGROUND

2. From January 11, 2008, to March 3, 2009, the Commission issued MAN 2,456 licenses for Part 101 microwave Industrial/Business Pool fixed point-to-point microwave stations (Licenses) at locations throughout the United States. Pursuant to Section 101.63(a) of the Commission's Rules, the stations associated with the Licenses were required to commence operation within 18 months from the initial dates of those grants, i.e., by deadlines that fell due from July 11, 2009, to September 3, 2010. On June 12, 2009, MAN filed 2,456 applications for extension of time to extend the construction deadlines for all of the licenses to March 3, 2011.

1 See 47 C.F.R. § 1.1119.

2 A list of the licenses in question is attached in the Appendix to this Order on Reconsideration and Memorandum Opinion and Order.

3 See 47 C.F.R. § 101.63(a).

4 See the Appendix for a list of the file numbers of the applications. With each application, MAN filed an exhibit detailing its arguments in support of an extension. See Metropolitan Area Networks, Inc., Request for Waiver and (continued...)

3. MAN states that it has developed and filed a patent for a modulation technology that provides wireless full duplex connections to end users that can be deployed as a last-mile solution in increments approaching one gigabit per second.⁵ That technology, it says, can be deployed in the Television White Spaces as either a rural solution, transmitting microwave signals from broadcast towers to fixed locations over a distance of 70 miles, or as an urban portable solution transmitting microwave signals from cell towers over a distance of two to four miles.⁶ MAN claims that its backhaul network design will ensure that at least 87 percent of all remote sites will have either direct fiber connections or single-hop microwave connections to sites that are connected to network backbones by optical fiber.⁷ MAN states that using microwave radio links will double the number of tower sites that it can serve, and will enable it to do so quickly and cost effectively.⁸ Thus, says MAN, the Licenses are critical to its ability to become a key last-mile telecommunications supplier in competition with existing wireline and wireless service providers.⁹

4. MAN's business plan is based on providing backhaul services to "white space" devices; *i.e.*, devices designed to operate in the unused portion of the television broadcast spectrum.¹⁰ MAN argues that delays in the rollout of those stations deprived MAN of potential customers and the revenue that is necessary to justify financing construction of its backhaul system.¹¹ MAN states that it began making preparations to deploy its backhaul network in reliance upon the following statement by the Commission in 2006 when it released the *First Report and Order and Further Notice of Proposed Rulemaking* in the Television White Spaces proceeding: "[T]he final rules we adopt will allow the marketing of TV band devices to commence on February 18, 2009, after the transition to DTV service is complete and all TV stations are in operation on their permanent DTV channels."¹² MAN states that the Commission did not adopt final rules in the Television White Spaces proceeding until November 4, 2008, and did not put those rules into effect until March 19, 2009.¹³ MAN projects that further delays could occur because 18 parties filed for reconsideration of that order and other parties requested judicial review.¹⁴ It adds that even the digital television transition date did not hold because Congress deferred it by four months, to

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Extension of Construction Deadlines for Part 101 Fixed Microwave Services Licenses (filed Jun. 12, 2009) ("Extension Request").

⁵ *Id.* at 2.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.* at 2-3.

⁹ *Id.* at 2.

¹⁰ *Id.* at 2-3. The Commission's Rules refer to such devices as television band devices. *See* 47 C.F.R. § 15.703(o).

¹¹ *Id.* at 3-4.

¹² *Id.* at 3-4, *citing* In the Matter of Unlicensed Operation in the TV Broadcast Bands, ET Docket Nos. 02-380, 04-186, *First Report and Order and Further Notice of Proposed Rule Making*, 21 FCC Rcd 12266, 12267 ¶ 2 (2006) ("*TV White Spaces First Report and Order*").

¹³ Extension Request at 4.

¹⁴ *Id.*, *citing* Petitions for Reconsideration of Action in Rulemaking Proceeding, *Public Notice*, Report No. 2886, (released Apr. 6, 2009), and Petition for Review of Petitioner-Appellant, The Association for Maximum Service Television, Inc. and the National Association of Broadcasters v. Federal Communications Commission, No. 09-1080 (D.C. Cir. Feb. 27, 2009).

June 12, 2009.¹⁵ MAN states that it had expected that nothing would delay Television White Spaces stations from beginning service in February 2009, and predicated its planning and point-to-point microwave license applications on that basis.¹⁶ Because those unexpected events have delayed the development of the potential customer base that would otherwise have justified investment in the build-out of its point-to-point microwave licenses, MAN requests additional time to fulfill its construction obligations.¹⁷

5. MAN states that it has undertaken significant efforts toward the build-out and launch of its network. In particular, it has entered into a Master Tower Space License Agreement that commits MAN to a minimum of five years for each licensing of space at a tower facility.¹⁸ MAN says that it has also committed to substantial equipment purchases totaling over \$78 million.¹⁹ Over and beyond equipment purchase commitments, MAN estimates that to date it has spent more than \$17 million for license applications and maintenance, administrative and overhead expenses, associated research and development, network construction, operating applications, and associated salaries and engineering.²⁰ MAN argues that granting its petition would be consistent with the Wireless Telecommunications Bureau's (Bureau) actions extending the substantial service deadlines for hundreds of licenses that had been assigned to a subsidiary of FiberTower Corp. in the 39 GHz band;²¹ extending the substantial service deadline for Local Multipoint Distribution Service (LMDS) licensees;²² and a Commission decision extending construction deadlines for Wireless Communications Service (WCS) licensees, allegedly on the basis that regulatory uncertainty can justify such extensions.²³

6. The Communications Act requires the Commission to collect application fees for certain applications pursuant to a Schedule of Application Fees, as adjusted for inflation.²⁴ Applications for extension of time to construct microwave stations are included in the Schedule of Application Fees.²⁵ At the time MAN filed its Extension Applications, the fee for an application for extension of time to construct a microwave station was \$175.00 for each call sign.²⁶ Application fees may be waived or deferred "where good cause is concerned and where deferral of the fee would promote the public

¹⁵ Extension Request at 4, *citing* DTV Delay Act, Pub. L. No. 111-4, 123 Stat. 112 (2009).

¹⁶ Extension Request at 4.

¹⁷ *Id.*

¹⁸ *Id.* at 7.

¹⁹ *Id.* at 7-8.

²⁰ *Id.* at 8.

²¹ *Id.*, *citing* Art Licensing Corporation, *Order on Reconsideration and Memorandum Opinion and Order*, 23 FCC Rcd 14116 (WTB 2008) ("*Fiber Tower Order*").

²² Extension Request at 9, *citing* Applications Filed by Licensees in the Local Multipoint Distribution Service (LMDS) Seeking Waivers of Section 101.1011 of the Commission's Rules and Extension of Time to Construct and Demonstrate Substantial Service, *Memorandum Opinion and Order*, 23 FCC Rcd 5894 (WTB 2008) ("*LMDS Order*").

²³ Extension Request at 9-10, *citing* In the Matter of Consolidated Request of the WCS Coalition for Limited Waiver of Construction Deadline for 132 WCS Licenses, *Order*, 21 FCC Rcd 14134 (2006) ("*WCS Order*").

²⁴ *See* 47 U.S.C. § 158.

²⁵ *See* 47 U.S.C. § 158(g).

²⁶ *See* 47 C.F.R. § 1.1102, Table, Section 5r (2009).

interest.”²⁷ Under Section 1.1119(e) of the Commission’s Rules, “Applicants seeking waivers must submit the request for waiver with the application for filing, required fee and FCC Form 159, or a request for deferral.”²⁸ If a fee waiver is granted, the submitted fees will be refunded.²⁹ If application fees are deferred, the applicant will be billed the specified fee plus a 25 percent charge.³⁰

7. On June 12, 2009, the same day MAN filed its Extension Applications, MAN filed another petition asking the Commission’s Managing Director to determine that MAN was required to submit only one application fee for all of the call signs associated with the Waiver Request, or, in the alternative, to waive the application filing fees for all but one of MAN’s call signs.³¹ As noted above, MAN paid the requisite application fee for one of the applications (for call sign WQJE757).³² MAN did not submit the application fees for the remaining extension applications along with the Fee Waiver Petition, nor did it seek deferral of the fees. On July 11, 2009, MAN’s Extension Applications for its call signs other than WQJE757 were dismissed for failure to pay the required filing fees.³³

8. On July 31, 2010, MAN sought reconsideration of the dismissal of the 2,456 Extension Applications.³⁴ MAN contends that the failure to consider the Fee Waiver Petition constitutes “reversible error”³⁵ and that the Fee Waiver Petition set forth a valid basis for waiving the application fees.³⁶ MAN cites various rulings of the Office of Managing Director that it believes supports its Fee Waiver Petition, and it argues that it was arbitrary and capricious to dismiss MAN’s Extension Applications when fee waivers were granted in those other cases.³⁷ The Reconsideration Petition was unopposed. On January 17, 2012, the Fixed Wireless Communications Coalition (FWCC) filed a request to cancel MAN’s licenses.³⁸ MAN and FWCC filed two rounds of responsive pleadings.³⁹

²⁷ See 47 C.F.R. § 1.1119(a).

²⁸ See 47 C.F.R. § 1.1119(e).

²⁹ *Id.*

³⁰ See 47 C.F.R. § 1.1118(c).

³¹ Petition for Waiver of Application Fees, Metropolitan Area Networks, Inc. (filed Jun. 12, 2009) (“Fee Waiver Petition”).

³² See File No. 0003869908.

³³ Individual dismissal letters were generated in the Universal Licensing System for each application that was dismissed. The application for call sign WQJE757 was erroneously dismissed but was later reinstated on the Bureau’s own motion, since the fee for that application was paid. See File No. 0003869908.

³⁴ Consolidated Petition for Reconsideration, Metropolitan Area Networks, Inc. (filed Jul. 31, 2009) (“Reconsideration Petition”).

³⁵ *Id.* at 3-4.

³⁶ *Id.* at 4-6.

³⁷ *Id.* at 6-8, *citing* Letter from Mark Reger, Chief Financial Officer, FCC to Stephen R. Bell, Esq. (Sep. 28, 2001); Letter from Mark Reger, Chief Financial Officer, FCC to Patricia J. Paoletta, Esq. (Jun. 24, 2002); Letter from Mark Reger, Chief Financial Officer, FCC to Gary M. Epstein, Esq., counsel to DIRECTV Enterprises, LLC (Sep. 28, 2001); Letter from Mark Stephens, Chief Financial Officer, FCC to Pantelis Michalopoulos, Esq. (Oct. 23, 2008).

³⁸ Letter from Mitchell Lazarus, Esq., Counsel for the Fixed Wireless Communications Coalition to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Jan. 17, 2012) (“FWCC Request”).

³⁹ See Letter from Barry A. Friedman, Esq., Counsel for Metropolitan Area Networks to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Jan. 24, 2012); Letter from Mitchell Lazarus, Esq., Counsel
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III. DISCUSSION

A. Reconsideration Petition

9. We deny the Reconsideration Petition. Section 1.1111(c) of the Commission's Rules provides that applications and other filings that are not submitted with the required fees will be returned as unprocessable.⁴⁰ First, MAN did not pay the required application fees, nor did it seek deferral of fees.⁴¹ Further, while MAN sought a waiver of fees, it did not request a waiver of the requirement either to pay or to seek deferral of fees as required by our rules.⁴² Accordingly, since MAN's filings were defective and the Fee Waiver Petition was incomplete on its face, the Extension Applications were properly dismissed.⁴³

B. Extension Request for WQJE757

10. Given that MAN paid the application fee for the extension application associated with Station WQJE757, we will consider the merits of that extension application. Section 1.946(e)(1) of the Commission's Rules provides that a request for extension of time to construct "may be granted if the licensee shows that failure to meet the construction deadline is due to involuntary loss of site or other causes beyond its control."⁴⁴ The rule prohibits granting extensions based on a failure to obtain financing, failure to obtain an antenna site, failure to order equipment, or because of a transfer of control of the licensee.⁴⁵ Section 1.925 of the Commission's Rules provides that a waiver may be granted if it is shown that either (1) the underlying purpose of the rule(s) would not be served or would be frustrated by application to the instant case, and that a grant of the requested waiver would be in the public interest; or (2) in view of the unique or unusual circumstances of the instant case, application of the rule(s) would be inequitable, unduly burdensome or contrary to the public interest, or the applicant has no reasonable alternative.⁴⁶ The Commission has also held that a failure to construct caused by a voluntary business decision of the licensee is a not a cause outside the control of the licensee, and extensions of time to

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for the Fixed Wireless Communications Coalition to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Mar. 2, 2012); Letter from Barry A. Friedman, Esq., Counsel for Metropolitan Area Networks to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Mar. 6, 2012); Letter from Mitchell Lazarus, Esq., Counsel for the Fixed Wireless Communications Coalition to Marlene H. Dortch, Secretary, Federal Communications Commission (filed Mar. 22, 2012).

⁴⁰ 47 C.F.R. § 1.1111(c).

⁴¹ 47 C.F.R. § 1.1119(e).

⁴² See Fee Waiver Petition. See 47 C.F.R. § 1.1119(e)

⁴³ 47 C.F.R. § 1.1118(a) provides "(a) Filings subject to fees and accompanied by defective fee submissions will be dismissed . . . where the defect is discovered by the Commission's staff within 30 calendar days from the receipt of the application or filing by the Commission." See Establishment of a Fee Collection Program to Implement the Provisions of the Omnibus Budget Reconciliation Act of 1989, *Memorandum Opinion and Order*, 5 FCC Rcd 3558, 3572-73, ¶ 32 (1990) ("we are amending the rules to require payment of the underlying fee with any fee waiver request. [fn. deleted] Fee waiver requests received without the correct fee will be returned without consideration and the underlying filing will be dismissed.").

⁴⁴ 47 C.F.R. § 1.946(e)(1).

⁴⁵ 47 C.F.R. § 1.946(e)(2), (3).

⁴⁶ 47 C.F.R. § 1.925.

construct will not be granted in those circumstances.⁴⁷ In light of these rules and based on our review of the Extension Request, we conclude that it should be denied.

11. In this case, MAN applied for 2,457 microwave licenses in the expectation that it could use those licenses to provide backhaul for devices that would be authorized pursuant to rules adopted in the TV White Spaces proceeding. MAN obtained those licenses before the rules had been finalized. MAN claims that it “took the Commission at its word and began its planning” to provide backhaul services for white space devices based on a timetable allegedly given by the Commission.⁴⁸ Specifically, MAN places heavy emphasis on a sentence that appeared in the *TV White Spaces First Report and Order*: “[T]he final rules we adopt will allow the marketing of TV band devices to commence on February 18, 2009, after the transition to DTV service is complete and all TV stations are in operation on their permanent DTV channels.”⁴⁹ However, a fair reading in context makes clear that the statement was aspirational, not predictive. It was reasonably foreseeable that administrative, judicial or Congressional developments could delay the implementation of final rules for TV white space devices. Furthermore, with minimal due diligence, MAN could have known that the Commission issued the *Second Report and Order* in November 2008 and that petitions for reconsideration of the *Second Report and Order* were filed in March 2009.⁵⁰ We believe that by obtaining these licenses before the rules for TV white space devices were finalized, MAN made a voluntary business decision to assume the risk that the rules would not be finalized prior to the end of the 18 month construction period. We also note that MAN does not allege that it had agreements with particular providers for the links in question. Under those circumstances, we believe that the primary reason for the failure to construct was MAN’s voluntary business decision to obtain licenses at a very early stage in the process. Moreover, MAN has made no showing that it would have been capable of constructing over 2,400 microwave links within an 18 month period even if the rules had been finalized. MAN therefore cannot show that the failure to construct was a matter outside of its control. Finally, as noted above, Section 1.946(e)(2) prohibits granting extensions based on a failure to obtain financing as is alleged here and as such, we also find this argument untenable.

12. Furthermore, we are concerned that granting such extensions would inappropriately encourage inefficient use of Part 101 spectrum. FWCC has noted that the 18 month construction period contained in Section 101.63(a) of the Commission’s Rules plays a role in deterring speculative licensing of microwave stations.⁵¹ We believe that granting an extension under these circumstances could encourage other parties in the future to file speculative applications in the hope that they could obtain extensions of time to construct. Under Part 101, proposed links must be prior coordinated with pre-

⁴⁷ See *Wireless America, LLC, Memorandum Opinion and Order*, 24 FCC Rcd 8504, 8507 ¶ 10 (WTB BD 2009) (denying request for extension where licensee voluntarily assumed construction obligation on narrow channel and then encountered difficulty obtaining equipment that could operate on that channel), citing *Bristol MAS Partners, Request for Extension of Time in which to Construct and Place into Operation Multiple Address System Stations WPJF864 through WPJF870, Order*, 14 FCC Rcd 5007, 5009 (WTB PSPWD 1999) (denying a request for extension of time to construct where the construction delays resulted from business decisions and therefore could not be attributed to causes beyond the licensee’s control).

⁴⁸ Reconsideration Petition at 4.

⁴⁹ See Reconsideration Petition at 3-4, citing *TV White Spaces First Report and Order*, 21 FCC Rcd at 12267 ¶ 2.

⁵⁰ See ET Docket No. 04-186.

⁵¹ See Amendment of Part 101 of the Commission’s Rules to Accommodate 30 Megahertz Channels in the 6525-6875 MHz Band, *et al.*, WT Docket No. 09-114, RM-11417, *Report and Order*, 25 FCC Rcd 7760, 7765 ¶ 11 (2010).

existing licensees and applicants.⁵² If an applicant coordinates usage before it is ready to construct its links in a timely fashion, that spectrum may become unavailable for other parties. Accordingly, in this instance, we believe that strict enforcement of Section 101.63(a) of the Commission's Rules is in the public interest.

13. We note MAN's statements concerning microwave technology and its ability to use microwave technology to provide backhaul services, but conclude that those statements do not justify an extension of the buildout deadline. Since MAN filed the Extension Request, the Commission has acted on two rounds of petitions for reconsideration in the TV White Spaces proceeding.⁵³ Our denial of the extension request is without prejudice to MAN's ability to refile applications for microwave links once it has a specific need for those links and can reasonably expect to construct such links within an 18 month period. Furthermore, while MAN claims that it has spent more than \$17 million for various expenses,⁵⁴ there is nothing to prevent the company from making effective use of many of those investments by filing again to obtain an equivalent set of replacement licenses as demand requires.⁵⁵

14. MAN's final argument is that granting its extension requests would be consistent with Bureau precedent granting extensions to LMDS, 39 GHz, and WCS licensees.⁵⁶ In fact, we believe the circumstances justifying extensions in those bands were fundamentally different from MAN's circumstances. In the LMDS and WCS bands, there were systemic problems with unavailability of equipment that prevented most or all licensees from using the band. In granting an extension to LMDS licensees, the Bureau noted "difficulties in obtaining viable, affordable equipment."⁵⁷ In the *WCS Order*, the Bureau found that, in the Wireless Communications Service (WCS), limited deployment attempts using available equipment had been marred by technical problems or proved to be economically infeasible.⁵⁸ Moreover, the Bureau was "persuaded . . . that relatively restrictive [out-of-band emission (OOBE)] limits may have impeded the development of WCS equipment and have contributed to the unique circumstances of the band."⁵⁹ The Bureau therefore concluded that "the WCS licensees have demonstrated that they face factors beyond their control that have limited their options in providing service. . . ."⁶⁰ In the case of 39 GHz, the Bureau determined that 39 GHz was similarly enough situated to LMDS to justify an extension.⁶¹ By comparison, equipment is readily available for the point-to-point microwave services that MAN is proposing. There was no technical or equipment reason that prevented

⁵² See 47 C.F.R. § 101.103(d).

⁵³ See *In the Matter of Unlicensed Operation in the TV Broadcast Bands, Additional Spectrum for Unlicensed Devices, Below 900 MHz and in the 3 GHz Band*, ET Docket Nos. 02-380, 04-186, *Second Memorandum Opinion and Order*, 25 FCC Rcd 18661 (2010), *recon. granted in part and denied in part Third Memorandum Opinion and Order*, FCC 12-36 (rel. Apr. 5, 2012).

⁵⁴ Extension Request at 8.

⁵⁵ MAN also states that it has "committed" to substantial equipment purchases totaling over \$78 million. See Extension Request at 8. Our rules prohibit granting extensions if a failure to construct is caused by a failure to order equipment in a timely manner. See 47 C.F.R. § 1.946(e)(2). MAN does not allege that it attempted to order equipment in a manner that would have allowed timely construction.

⁵⁶ Extension Request at 8-11.

⁵⁷ See *LMDS Order*, 23 FCC Rcd at 5905 ¶ 24.

⁵⁸ See *WCS Order*, 21 FCC Rcd at 14139 ¶ 10.

⁵⁹ See *Id.*

⁶⁰ See *Id.* at 14139 ¶ 9 (citing 47 C.F.R. § 1.946(e)(1)).

⁶¹ *FiberTower Order*, 23 FCC Rcd at 14126 ¶ 20.

MAN from constructing its stations. While the rules for TV white spaces devices were not finalized within the time period MAN anticipated, we have concluded that MAN's decision to apply for licenses when it did was a voluntary business decision and does not justify an extension. We therefore deny the request for extension of time to construct Station WQJE757.⁶²

B. Termination of Licenses

15. According to our records, the construction deadlines for all 2,456 of MAN's point-to-point microwave licenses have expired.⁶³ Since we have denied MAN's extension request for Station WQJE757, and MAN does not have on file a request for extension of time or construction notification for the other 2,455 licenses, the licenses automatically terminated on their respective construction deadlines.⁶⁴ We direct the licensing staff of the Broadband Division to update the Universal Licensing System to reflect this fact.

IV. CONCLUSION AND ORDERING CLAUSES

16. We deny MAN's petition for reconsideration of the dismissal of the extension applications for 2,456 of its licenses because MAN did not pay the requisite applications fees. While MAN requested a waiver of the application fees, our rules required MAN either to pay the fees or to seek deferral in connection with its waiver request. We further deny the request for extension of time to construct Station WQJE757 (for which a fee was paid) for lack of good cause. We direct the licensing staff of the Broadband Division to update the Universal Licensing System to reflect that MAN's licenses automatically terminated on their respective deadlines.

17. Accordingly, IT IS ORDERED, pursuant to Sections 4(i) and 405 of the Communications Act, as amended, 47 U.S.C. §§ 154(i), 405, and Sections 1.106 and 1.1119 of the Commission's Rules, 47 C.F.R. §§ 1.106, 1.1119, that the Consolidated Petition for Reconsideration filed by Metropolitan Area Networks, Inc., on July 31, 2009 IS DENIED.

18. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.946(e) of the Commission's Rules, 47 C.F.R. § 1.946(e), that the application for extension of time to construct Station WQJE757 filed by Metropolitan Area Networks, Inc., on June 12, 2009 (File No. 0003869908) IS DENIED.

19. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.955(a)(2) of the Commission's Rules, 47 C.F.R. § 1.955(a)(2), that the licensing staff of the Broadband Division SHALL UPDATE the Universal Licensing System to reflect the fact that the licenses listed in the Appendix to this *Memorandum Opinion and Order* automatically terminated on their respective construction deadlines.

⁶² In light of our actions, we dismiss the FWCC Request, as well as all other responsive pleadings, as moot.

⁶³ See Appendix A.

⁶⁴ See 47 C.F.R. § 1.955(a)(2).

20. IT IS FURTHER ORDERED, pursuant to Section 4(i) of the Communications Act, as amended, 47 U.S.C. § 154(i), and Section 1.41 of the Commission's Rules, 47 C.F.R. § 1.41, that the Request to Cancel Licenses filed by the Fixed Wireless Communications Coalition on January 17, 2012 IS DISMISSED AS MOOT.

21. These actions are 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
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Wireless Telecommunications Bureau