

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

In the Matter of	)	
	)	
POCKETINET COMMUNICATIONS, INC.	)	File Nos. 0004256650, 0004256563,
	)	0004256732
Petition for Reconsideration of Pending	)	
Termination of License for Stations WQCL406,	)	
WQFQ724, and WQFR827	)	
	)	

ORDER ON RECONSIDERATION

Adopted: June 4, 2012

Released: June 5, 2012

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

I. INTRODUCTION

1. In this *Order on Reconsideration*, we dismiss as untimely petitions for reconsideration of our placement into termination pending status<sup>1</sup> of paths for common carrier fixed point-to-point microwave stations in Washington and Oregon.

II. BACKGROUND

2. Between August 2, 2010 and August 4, 2010, the Wireless Telecommunications Bureau issued Pocketinet Communications, Inc. (Pocketinet) modified licenses for common carrier fixed point-to-point microwave Stations WQCL406, WQFQ724, and WQFR827 (the Stations).<sup>2</sup> The deadline for constructing the Stations was between February 2, 2012 and February 4, 2012.<sup>3</sup> On November 1, 2011 and November 8, 2011, the Bureau sent Pocketinet construction/coverage reminder letters.<sup>4</sup> On March 7, 2012 and March 14, 2012, license auto-termination letters were sent<sup>5</sup> and the relevant paths of the Stations<sup>6</sup> entered termination pending status. Accordingly, on the same days, the Bureau provided public

<sup>1</sup> When a licensee fails to file a notification that it has completed construction by an applicable buildout deadline, the license, location, or frequency is placed in “termination pending” status. For a license, location, or frequency in that status, the Bureau presumes that the licensee did not meet buildout requirement. If the licensee does not file a petition for reconsideration within 30 days after public notice of the termination pending status demonstrating that it met that buildout requirement, the status of the license, location, or frequency is changed to “terminated” as of the buildout 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).

<sup>2</sup> See File Nos. 0004256650 (granted Aug. 2, 2010), 0004256563 (granted Aug. 4, 2010), 0004256732 (granted Aug. 3, 2010). The modifications modified or added paths to previously existing licenses.

<sup>3</sup> See File Nos. 0004256650 (granted Aug. 2, 2010), 0004256563 (granted Aug. 4, 2010), 0004256732 (granted Aug. 3, 2010).

<sup>4</sup> Construct/Coverage Reminders, Ref. Nos. 5243206 (Nov. 1, 2011), 5247951 (Nov. 8, 2011).

<sup>5</sup> Auto Termination letters, Ref. Nos. 5327984 (Mar. 7, 2012), 5332480, 5332481 (Mar. 14, 2012).

<sup>6</sup> The paths in question are as follows: Station WQCL405 – Paths 5 and 6; WQFQ724- Path 2; WQFR827 – Path 3. The remaining paths on those licenses remain validly licensed.

notice of the pending license terminations.<sup>7</sup> On April 16, 2012, Pocketinet filed petitions for reconsideration of the placement of the relevant paths of the Stations into termination pending status.<sup>8</sup>

### 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.<sup>9</sup> Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.<sup>10</sup> Since public notice of the impending license terminations were given on March 7, 2012 and March 14, 2012, respectively, 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 March 8, 2012 and March 15, 2012, respectively. The last days for filing petitions for reconsideration were April 6, 2012 and April 13, 2012, respectively.

4. We received Pocketinet's Petitions on April 16, 2012. Therefore, we find that the Petitions were 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,<sup>11</sup> except where "extraordinary circumstances indicate that justice would thus be served."<sup>12</sup> 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.<sup>13</sup> We do not believe that Pocketinet has shown such extraordinary circumstances to be present here. Indeed, Pocketinet has failed to acknowledge that it did not file in a timely manner. Accordingly, we dismiss the Petitions as late-filed.

5. If Pocketinet wishes to continue operating the terminated facilities, it must file a completed Form 601, in accordance with all applicable Commission rules, to reauthorize the facilities. In the interim, Pocketinet 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.

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<sup>7</sup> Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 7592, *Public Notice* (Mar. 7, 2012) at 7; Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 7611, *Public Notice* (Mar. 14, 2012) at 6.

<sup>8</sup> Petitions for Reconsideration, Pocketinet Communications, Inc. (filed Apr. 16, 2012) (Petitions).

<sup>9</sup> 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

<sup>10</sup> 47 C.F.R. § 1.4.

<sup>11</sup> 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).

<sup>12</sup> *Gardner v. FCC*, 530 F.2d at 1091.

<sup>13</sup> 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).

**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 petitions for reconsideration filed by Pocketinet Communications on April 16, 2012 ARE 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  
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