

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

In the matter of)
AIR SPEED INTERNET, LLC) File Nos. 0002587813, 0002587819
Petition for Reconsideration of Pending)
Termination of License for Stations WQFC888)
and WQFC889, Camas, WA and Portland, OR)

ORDER ON RECONSIDERATION

Adopted: March 13, 2009

Released: March 16, 2009

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

I. INTRODUCTION

1. We have before us Petitions for Reconsideration¹ filed by Air Speed Internet, LLC (Air Speed Internet), requesting reconsideration of our placing in termination pending status² two industrial/business pool microwave stations operating under licenses WQFC888 and WQFC889 (the Stations) in Camas, WA and Portland, OR. For the reasons stated below, we dismiss the Petitions as untimely.

II. BACKGROUND

2. On June 19, 2006, the Wireless Telecommunications Bureau (the Bureau) issued licenses for the Stations.³ The deadline for constructing both stations was December 19, 2007.⁴ On September 18, 2007, the Bureau sent construction/coverage reminder letters to Air Speed Internet.⁵ On January 23, 2008, license auto-termination letters were sent and the Stations entered termination pending status with respect to Path 1 of both licenses.⁶ Accordingly, on the same day, the Bureau provided public notice of

¹ See Petitions for Reconsideration, William Jorgenson, Air Speed Internet, LLC (filed Mar. 24, 2008) (Petitions).

² 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).

³ See File Nos. 0002587813, 0002587819 (granted Jun. 19, 2006).

⁴ Id.

⁵ Construct/Coverage Reminder, Ref Nos. 4660666, 4660667 (Sep. 18, 2007).

⁶ Auto Termination letters, Ref. Nos. 4701422, 4701423 (Jan. 23, 2008). The construction deadline for Path 2 of Station WQFC888 is not subject to termination because the construction deadline is May 5, 2009.

the pending license terminations.⁷ On March 24, 2008, the Bureau received Air Speed Internet's Petitions.⁸

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.⁹ Computation of the thirty-day period is determined in accordance with Section 1.4 of the Commission's Rules.¹⁰ Since public notice of the impending license terminations was given on January 23, 2008, 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 January 24, 2008. The last day for filing a petition for reconsideration was February 22, 2008.

4. We received Air Speed Internet's Petitions on March 24, 2008. Therefore, we find that the Petitions were filed late. Moreover, the Commission has consistently held that it 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.¹¹ Consequently, we must dismiss Air Speed Internet's Petitions as untimely filed.

IV. ORDERING CLAUSES

5. 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 Air Speed Internet, LLC, on March 24, 2008 ARE DISMISSED.

6. 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

⁷ Wireless Telecommunications Bureau Site Based Licenses Termination Pending, Report No. 3778, *Public Notice* (Jan. 23, 2008) at 2, 4.

⁸ Petitions.

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

¹⁰ 47 C.F.R. § 1.4.

¹¹ See *Reuters Ltd. V. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986). See also Petition for Amendment of the Commission's Rules to Establish First and Second Class Radiotelephone Operator Licenses, *Order*, 10 FCC Rcd 3196 (1995). 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. 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, 909-01 (1975).