

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

In the Matter of)
)
BELMONT TECHNICAL COLLEGE)
)
Application for Renewal of Conventional Industrial)
Business License of Private Land Mobile Station)
WNWH458, St. Clairsville, Ohio)
)

ORDER ON RECONSIDERATION

Adopted: September 10, 2001

Released: September 11, 2001

By the Chief, Policy and Rules Branch, Public Safety and Private Wireless Division, Wireless Telecommunications Bureau:

1. *Introduction.* On July 12, 2001, Belmont Technical College (Belmont) requested reconsideration of the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division (Branch) dismissal of the above referenced renewal application for Station WNWH458, St. Clairsville, Ohio.¹ For the reasons set forth below, we dismiss the petition for reconsideration.

2. *Background.* On March 5, 2001, the Commission issued a Renewal Reminder Notice to Belmont advising that its license to operate under Call Sign WNWH458 would expire on May 30, 2001.² Subsequently, Belmont filed an application for license renewal on FCC Form 605.³ On May 15, 2001, the Licensing and Technical Analysis Branch of the Public Safety and Private Wireless Division dismissed the application because it was filed on the wrong form and instructed Belmont to file on Form 601.⁴ On July 12, 2001, Belmont filed the Petition with the Commission's Gettysburg, Pennsylvania facility. In its Petition, Belmont acknowledged that although it had apparently completed the wrong form, it was still Belmont's intention to renew its license for use by its Maintenance Department.

3. *Discussion.* Section 405(a) of the Communications Act of 1934, as amended, requires that a petition for reconsideration be filed within thirty days from the date upon which public notice is given of

¹ Petition for Reconsideration filed by John F. Clymer, Vice President, Administrative Services, Belmont Technical College, to FCC Gettysburg, Pennsylvania (received July 12, 2001) (Petition).

² See Notice of Renewal Reminder sent to Belmont Technical College, FCC Reference No. 828677 (Mar. 5, 2001).

³ See Belmont's FCC Form 605, Application for Authorization the Ship Aircraft, Amateur, Restricted and Commercial Operator, and the General Mobile Radio Services, FCC Form 605 (dated May 10, 2001). This application was never assigned a file number.

⁴ See Notice of Immediate Application Dismissal (May 15, 2001).

the action complained of.⁵ In this case, public notice commences on May 15, 2001, the date appearing on the Notice of Immediate Dismissal mailed to the licensee.⁶ Thus, Belmont's petition, which was received at the Commission's Gettysburg, Pennsylvania, office on July 12, 2001, was not timely filed. The filing requirement of Section 405(a) of the Act applies even if the petition for reconsideration is filed only one day late.⁷ The Petition therefore must be dismissed as untimely.

4. In addition, Section 1.106(i) of the Commission's Rules provides that a petition for reconsideration must be submitted to the Secretary, Federal Communications Commission, Washington, D.C. 20554.⁸ The Commission maintains different offices for different purposes, and persons filing documents with the Commission must take care to ensure that their documents are filed at the correct location specified in the Commission's Rules.⁹ Applications and other filings not submitted in accordance with the correct addresses or locations will be returned to the filer without processing.¹⁰ A document is filed with the Commission upon its receipt at the location designated by the Commission.¹¹ Accordingly, the plain language of the Commission's Rules states that a petition for reconsideration submitted to the Commission's Gettysburg, Pennsylvania, office is not properly filed.¹² The petition was never filed with the Office of the Secretary. Therefore, we find that the petition was not timely filed in the proper location. Moreover, Belmont did not request a waiver to file its petition in Gettysburg, as opposed to filing it with the Office of the Secretary. Accordingly, even if Belmont's petition had been timely, we would dismiss the petition as improperly filed.¹³

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

⁵ 47 U.S.C. § 405(a).

⁶ 47 C.F.R. § 1.4(b)(5).

⁷ 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, 909-910 (1975); In the Matter of Memorandum of Agreement Between the Federal Communications Commission and Elkins Institute, Inc., *Order on Reconsideration*, 14 FCC Rcd 5080, 5081 ¶ 3 (WTB 1999) (*Elkins*).

⁸ 47 C.F.R. § 1.106(i).

⁹ 47 C.F.R. § 0.401.

¹⁰ *Id.*

¹¹ 47 C.F.R. § 1.7; First Auction of Interactive Video and Data Service (IVDS) Licenses, Request for Waiver of Applications Deadline, *Memorandum Opinion and Order*, 11 FCC Rcd 1134, 1135 (1996); Complaints Regarding Cable Programming Services Prices, *Amended Order on Reconsideration*, 10 FCC Rcd 12778, 12780 n.14 (CSB 1995).

¹² See, e.g., *Elkins*, 14 FCC Rcd at 5081 ¶ 3 (determining that a facsimile copy to a division office neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office); Columbia Millimeter Communications, LP, *Order on Reconsideration*, 14 FCC Rcd 2782 (WTB PSPWD 1999) (finding that a petition for reconsideration sent to the Commission's lock box at Mellon bank neither complied with the Commission's Rules nor ameliorated the late filing with the Secretary's office), *aff'd.*, *Order on Reconsideration*, 15 FCC Rcd 10251 (WTB PSPWD 2000).

Commission's Rules, 47 C.F.R. § 1.106, the petition for reconsideration filed by Belmont Technical College on July 12, 2001 IS DISMISSED.¹⁴

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
Chief, Policy and Rules Branch
Public Safety and Private Wireless Division
Wireless Telecommunications Bureau

¹⁴ If we had reached the substance of Belmont's Petition, we would deny the Petition. Belmont's application did not contain the required information because it was submitted on FCC Form 605 instead of FCC Form 601. The Commission's Rules provide that applications that do not contain required information may be dismissed as defective. *See* 47 C.F.R. § 1.934(d)(2). The Branch's decision to dismiss Belmont's application was therefore correct. The dismissal is without prejudice to Belmont filing an application for a new station license.