

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

In the Matter of Applications of)
CARDIFF COMMUNICATIONS PARTNERS II)
For Reinstatement and Renewal of Licenses of)
Instructional Television Fixed Service Stations)
WMX652 and WMX653, Yuma, Arizona)

MEMORANDUM OPINION AND ORDER

Adopted: January 28, 2003

Released: January 29, 2003

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

1. In this *Memorandum Opinion and Order*, we address Cardiff Communications Partners II's (Cardiff) "Petition for Reinstatement"¹ of the licenses for Instructional Television Fixed Service (ITFS) Stations WMX652 and WMX653, Yuma, Arizona. For the reasons stated below, we grant Cardiff's petition.²

2. *Background.* On November 1, 1994, the Commission granted conditional licenses to Cardiff for ITFS Stations WMX652 and WMX653. According to the terms of the licenses, Cardiff was required to certify construction of the stations within one year of the license grant, specifically by November 1, 1995.³ If Cardiff filed the requisite certifications in a timely manner, the expiration date of the licenses would be May 1, 2001.⁴ By letter filed December 20, 1994, Cardiff certified construction of ITFS Stations WMX652 and WMX653 in accordance with the specifications in its conditional licenses.⁵ On March 16, 2001, Cardiff filed renewal applications for Stations WMX652 and WMX653.⁶ On December 26, 2001, the former Mass

¹ Petition for Reinstatement (filed Jan. 25, 2002).

² Effective March 25, 2002, the Commission transferred regulatory functions for the Instructional Television Fixed Service and the Multipoint Distribution Service/Multichannel Multipoint Distribution Service from the Mass Media Bureau to the Wireless Telecommunications Bureau (Bureau). Radio Services Are Transferred From Mass Media Bureau to Wireless Telecommunications Bureau, *Public Notice*, 17 FCC Rcd 5077 (2002). Accordingly, the Bureau's Public Safety and Private Wireless Division assumed all regulatory duties associated with these services effective March 25, 2002. *Id.*

³ See Licenses for Stations WMX652 and WMX653.

⁴ *Id.*

⁵ Letter of Russell H. Ritchie to William Caton, Acting Secretary (Dec. 15, 1994).

⁶ Applications for Renewal of Stations WMX652 and WMX653 (filed Mar. 16, 2001).

Media Bureau released a Public Notice indicating that Cardiff's license for ITFS Station WMX653 had been forfeited.⁷ On January 25, 2002, Cardiff filed the instant petition.

3. *Discussion.* With respect to Station WMX653, we will treat the Petition as a petition for reconsideration of the December 26, 2001 public notice declaring that license forfeited.⁸ Cardiff argues that the former Mass Media Bureau erred in declaring the license for Station WMX653 to be forfeited. Cardiff notes that a search of the Commission's licensing records reveals that Station WMX653 is shown as forfeited as of November 1, 1995, the construction certification deadline. Cardiff contends that it timely certified the construction and operation of Station WMX653.⁹ In support of its argument, Cardiff submits copies of the license, a date-stamped letter certifying that Station WMX653 was constructed in a timely fashion, and other reports and notices for Station WMX653 and the associated wireless cable system that Cardiff has filed with the Commission since 1994.¹⁰

4. With respect to Station WMX652, we have been unable to locate any action declaring the license forfeited. We will therefore treat the Petition as a request to correct the Commission's licensing records to reflect the existence of the license for Station WMX652. Cardiff notes that a search of the Commission's licensing records reveals no information regarding Station WMX652, similar to its contention regarding Station WMX653, Cardiff contends that it timely constructed the facilities for the station and a timely certification to that effect. Again in support of its contention, Cardiff submits copies of the license, a date-stamped letter certifying that Station WMX652 was constructed in a timely fashion and other filings regarding the station which has been filed since 1994.

5. Based upon the documentation Cardiff has submitted, we find that Cardiff has demonstrated that it timely filed a certification of construction for Stations WMX652 and WMX653 and that it did not forfeit the licenses for these stations. Accordingly, we will grant reconsideration with respect to Station WMX653, and direct the Licensing and Technical Analysis Branch (LTAB) to correct the Commission's licensing records to reflect the existence of the license for Station WMX652.¹¹ We will also direct LTAB to process the applications for renewal of license Cardiff filed for Stations WMX652 and WMX653.

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 Sections 1.41 and 1.106 of the Commission's Rules, 47 C.F.R. §§ 1.41, 1.106, the Petition for Reinstatement filed by Cardiff Communications Partners II on January 25, 2002 IS GRANTED to the extent indicated herein.

⁷ See *Public Notice*, Mass Media Bureau Instructional Television Fixed Service/Multipoint Distribution Service Actions, Report No. 623 (released Dec. 26, 2001).

⁸ 47 C.F.R. §1.106. See, e.g., *Cambridge Partners, Inc., Order on Reconsideration*, 15 FCC Rcd 23369 (WTB PSPWD 2000).

⁹ Petition for Reinstatement at 2.

¹⁰ Petition for Reinstatement, Exhibits 1 through 11.

¹¹ See *Mobile UHF, Inc., Memorandum Opinion and Order*, 16 FCC Rcd 22945 (2001) (Commission may reinstate license when licensee demonstrates that prior determination that license had cancelled automatically for failure to construct was erroneous).

7. IT IS FURTHER ORDERED that the Licensing and Technical Analysis Branch SHALL PROCESS the applications for renewal of license filed by Cardiff Communications Partners II on March 16, 2001.

8. 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

D'wana R. Terry
Chief, Public Safety and Private Wireless Division
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