

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

In the Matter of Application of)
)
VILLAGE OF COLUMBUS POLICE)
DEPARTMENT) FCC File No. 0001301769
)
For Renewal/Modification of Public Safety Pool)
Conventional Private Land Mobile Radio Station)
WPBX284, Columbus, New Mexico)

ORDER

Adopted: December 4, 2003

Released: December 9, 2003

By the Associate Chief, Public Safety and Critical Infrastructure Division, Wireless Telecommunications Bureau:

1. Introduction. The Village of Columbus Police Department (Columbus Police Department) requests a waiver of Section 1.949 of the Commission’s Rules¹ to allow grant of its late-filed application to renew/modify its license for Public Safety Station WPBX284, Columbus, New Mexico. For the reasons set forth below, we deny Columbus Police Department’s request.

2. Background. The Columbus Police Department’s license for Station WPBX284 expired on March 26, 2003. On May 5, 2003, the Columbus Police Department filed the above-captioned application² to renew and modify Station WPBX284. Columbus Police Department explains that since it filed its last application it has had a complete employee turnover and, consequently, it was unaware of all of the information necessary to complete the application process.³ Columbus Police Department further stated that it was in the process of overhauling its filing system and could not locate the information necessary to renew its license.⁴ Moreover, Columbus Police Department states that it was stymied in its efforts to renew its license during the “30-day grace period.”⁵ Columbus Police Department reports that during the week before May 5, 2003, it made several phone calls and sent a “small number” of failed e-mails to Commission staff concerning its application.⁶ Columbus Police Department states that it had expected to receive a renewal form from Commission staff “last Friday before our grace period was up.”⁷

¹ 47 C.F.R. § 1.949.

² FCC File No. 0001301769 (filed May 5, 2003). Columbus Police Department seeks to make the following minor modifications to its license to operate Station WPBX284: changing its name from “Columbus, Village of” to “Village of Columbus Police Department”; and updating its fax number, street address, attention line, and regulatory status to “private internal.” *Id.*

³ Waiver Request filed by Nicole S. Lawson on behalf of Village of Columbus Police Department (filed May 5, 2003) (Waiver Request).

⁴ *Id.* at 1.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

When it did not receive the renewal form, a Columbus Police Department representative called Commission staff the following Monday, who suggested that she use the fax machine.⁸ Consequently, Columbus Police Department seeks an extension of the “30-day grace period” to encompass May 5, 2003.⁹

3. *Discussion.* Pursuant to the Commission’s Rules, renewal applications for all of the Wireless Radio Services must be filed no sooner than ninety days prior to expiration of the license and no later than the expiration date of the authorization for which renewal is sought.¹⁰ Generally we will grant late-filed renewal applications that are filed up to thirty days after the expiration date of the license *nunc pro tunc*, although the licensee may be subject to an enforcement action for untimely filing and unauthorized operation during the time between the expiration of the license and the untimely renewal filing.¹¹ Applicants who file renewal applications more than thirty days after the license expiration may also request renewal of the license *nunc pro tunc* but we will not routinely grant such requests, they will be subject to stricter review and also may be accompanied by enforcement action, including more significant fines and forfeitures.¹² In determining whether to grant a late-filed renewal application, we take into consideration all of the facts and circumstances, including the length of the delay in filing, the reasons for the failure to timely file, the performance record of the licensee, and the potential consequences to the public if the license should terminate.¹³ Even licensees engaged in public safety activities are expected to comply with the renewal filing requirements.¹⁴

4. Columbus Police Department’s waiver request does not address the Commission’s policy regarding late-filed renewal applications. It contends that it failed to renew within the “30-day grace period” because it did not know the information necessary to renew its application and could not locate the information because it was overhauling its filing system. Moreover, although it attempted to file during the “30-day grace period” it failed to do so because of technical difficulties with e-mail. None of these reasons explain why Columbus Police Department did not file its renewal application on or before the expiration date of its license.

5. In addition, Columbus Police Department’s waiver request fails the stricter standard of review required by the Commission’s policy for treatment of renewal requests filed more than thirty days after the license expiration date. Columbus Police Department’s license expired on March 26, 2003. Columbus Police Department filed its renewal application on May 5, 2003, more than thirty days from the date its license expired. In determining whether to grant a late-filed renewal application *nunc pro tunc*,

⁸ *Id.*

⁹ *Id.*

¹⁰ 47 C.F.R. § 1.949(a); *see also* Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Memorandum Opinion and Order on Reconsideration*, WT Docket No. 98-20, 14 FCC Rcd 11476, 11485-86 ¶ 22 (1999).

¹¹ *See* Biennial Regulatory Review – Amendment of Parts 0, 1, 13, 22, 24, 26, 27, 80, 87, 90, 95, and 101 of the Commission’s Rules to Facilitate the Development and Use of the Universal Licensing System in the Wireless Telecommunications Services, *Memorandum Opinion and Order on Reconsideration*, WT Docket No. 98-20, 14 FCC Rcd 11476, 11485-86 ¶ 22 (1999).

¹² *Id.*

¹³ *Id.*

¹⁴ Wireless Telecommunications Bureau Clarifies Private Land Mobile Radio License Renewal Only Process, *Public Notice*, 18 FCC Rcd 11849 *citing* Amendment of Parts 1 and 90 of the Commission’s Rules Concerning the Construction, Licensing and Operation of Private Land Mobile Radio Stations, *Report and Order*, PR Docket No. 90-481, 6 FCC Rcd 7297, 7301 ¶ 20 (1991).

we must consider all the facts and circumstances. In the instant case, and for the reason previously stated, we are not persuaded that Columbus Police Department's arguments merit renewal of its license *nunc pro tunc*.

6. ACCORDINGLY, IT IS ORDERED that pursuant to Section 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and Section 1.925 of the Commission's Rules, 47 C.F.R. § 1.925, the request for waiver of Section 1.949 of the Commission's Rules, 47 C.F.R. § 1.949 filed by Village of Columbus Police Department, on May 5, 2003, IS DENIED, and application FCC File No. 0001301769, IS DISMISED.

7. This action is taken under delegated authority pursuant to Section 0.131 and 0.331 of the Commission's Rules, 47 C.F.R. §§ 0.131, 0.331.

FEDERAL COMMUNICATIONS COMMISSION

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