

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

In the Matter of
HILLTOP FUEL HEATING & AIR
CONDITIONING INC.
Station WIM443, West Orange and Bloomfield,
New Jersey
Request for Initiation of License Revocation
Proceeding

ORDER

Adopted: March 17, 2009

Released: March 20, 2009

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

1. Introduction. We have before us a request for initiation of license revocation proceeding (Request) filed on behalf of Atlantic Telecommunications (Atlantic) on February 26, 2008. Atlantic seeks the termination of the license of Hilltop Fuel Heating & Air Conditioning Inc. (Hilltop) for Industrial/Business Pool Station WIM443, West Orange and Bloomfield, New Jersey. For the reasons set forth below, we grant the Request and will modify the Commission's licensing records to reflect the termination of the license.

2. Background. The Commission renewed Hilltop's license for Station WIM443 on May 11, 2005. On February 26, 2008, Atlantic requested that the license be revoked on the grounds that the station has not operated for more than one year and thus, pursuant to Section 90.157 of the Commission's Rules, should be deemed to have canceled automatically for permanent discontinuance of operation. Atlantic states that it actively monitored frequency pair 477/480.4625 MHz from October 2006 to February 2008, and did not detect any transmissions from Station WIM443. It further claims that some of Hilltop employees represented to Atlantic that Station WIM443 was not in operation.

3. On April 23, 2008, the Wireless Telecommunications Bureau's Mobility Division (Division), acting pursuant to Section 308(b) of the Communications Act of 1934, as amended, requested that Hilltop provide information regarding the operational status of Station WIM443 within thirty days. The

1 See Request for Initiation of License Revocation Proceeding (filed Feb. 26, 2008) (Request).

2 See FCC File No. 0002155093.

3 47 C.F.R. § 90.157.

4 See Request at 1.

5 See id. at 2, Statement of John Mazza at 1.

6 See id., Statement of Robby Reiss at 1.

7 47 U.S.C. § 308(b).

8 Letter dated Apr. 23, 2008 from Scot Stone, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, to Frank Mondsin III.

letter stated that if Hilltop failed to respond within thirty days, the Division could conclude that the authorization had terminated due to permanent discontinuance of operation.⁹ No response has been received to date.

4. *Discussion.* Section 90.157 of the Commission's Rules provides that a license for a private land mobile radio station cancels automatically upon discontinuance of operation for a period of one year or more.¹⁰ Atlantic's continuous monitoring is persuasive evidence supporting Atlantic's claim that Station WIM443 is not in operation and its authorization canceled automatically.¹¹ Moreover, Hilltop's failure to respond to the Division's 308(b) letter presumptively indicates that the station is not constructed or operational.¹² Therefore, we will update the Commission's Universal Licensing System to reflect the cancellation of the license for Station WIM443.

5. Accordingly, IT IS ORDERED that, pursuant to Section 4(i) of the Communications Act of 1934, as amended, 47 U.S.C. § 154(i), and Section 47 C.F.R. § 90.157 of the Commission's Rules, 47 C.F.R. § 90.157, the petition filed Atlantic Telecommunications on February 26, 2008 IS GRANTED, and the Commission's licensing records SHALL BE MODIFIED to reflect the cancellation of the license for Station WIM443.

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

Scot Stone
Deputy Chief, Mobility Division
Wireless Telecommunications Bureau

(...continued from previous page)

⁹ *See id.* at 1.

¹⁰ 47 C.F.R. § 90.157.

¹¹ *See, e.g.,* Elmont Trans Med Corporation, *Order*, 18 FCC Rcd 18692, 18694-95 ¶ 9 (WTB PSPWD 2003).

¹² *See, e.g.,* Milton H. Pintell, *Order on Reconsideration*, 20 FCC Rcd 19315, 19316 ¶ 5 (WTB PSCID 2005).