



Federal Communications Commission
Washington, D.C. 20554

February 24, 2009

DA 09-434

In Reply Refer To:

1800B3-RBG

Released: February 24, 2009

Mr. Stephen Diliberto
48750 East 110 Road
Miami, Oklahoma 74354-6001

In re: KRPS(FM), Pittsburg, Kansas
Pittsburg State University
Facility ID No. 52740
File No. BRED-20050201AZE

**Petition for Reconsideration of Grant
of License Renewal Application**

Dear Mr. Diliberto:

Before us is a letter from you dated October 3, 2007, and received by the Commission on October 11, 2007. This letter, addressed to the staff, objects to the July 13, 2007, grant of the Pittsburg State University application for renewal of license (the "Application") for noncommercial educational Station KRPS(FM), Pittsburg, Kansas.¹ We treat your letter as a petition for reconsideration of the staff's grant of the Application and dismiss it as untimely.

Section 405(a) of the Communications Act of 1934,² as amended, states that any party aggrieved by an order, decision, report, or action of the Commission, or of any designated authority within the Commission, may file a petition for reconsideration within thirty days from the date upon which public notice of the order, decision, report, or action is given. This thirty-day period is statutory and cannot be waived or extended by the Commission, except for an "extraordinary case," such as where the late-filing is due to the Commission's failure to give a party timely notice of the action for which reconsideration is sought.³

The *Renewal Decision* was released on July 13, 2007. The day after the release date, namely, July 14, 2007, marked the beginning of the thirty day period for filing a petition for reconsideration.⁴

¹ See *Letter to Stephen Diliberto, from Peter H. Doyle, Chief, Audio Division*, 22 FCC Rcd 12983 (MB 2007) (the "Renewal Decision"). The *Renewal Decision* also denied your Informal Objection to the grant of the Application.

² 47 U.S.C. § 405(a).

³ See, e.g., *Stephen E. Powell*, Memorandum Opinion and Order, 11 FCC Rcd 11925 (1996).

⁴ See 47 C.F.R. § 1.4(b).

Accordingly, such a petition was due no later than August 13, 2007.⁵ Your letter was filed nearly two months later. We are not persuaded that we should accept your late filing due to your involvement in agriculture. This is not the sort of “extraordinary case” that would justify a waiver or extension of the thirty-day statutory filing period.⁶ Therefore, your Petition for Reconsideration must be dismissed as untimely.

Accordingly, your letter dated October 3, 2007, letter, treated as a petition for reconsideration IS DISMISSED as untimely.

Sincerely,

Peter H. Doyle, Chief
Audio Division
Media Bureau

cc: Pittsburg State University

⁵ See 47 C.F.R. § 1.4(e) and (j).

⁶ See *Gardner v. FCC*, 530 F.2d 1086 (D.C. Cir. 1976).