

FEDERAL COMMUNICATIONS COMMISSION

445 12th Street SW
WASHINGTON DC 20554

MEDIA BUREAU
AUDIO DIVISION
APPLICATION STATUS: (202) 418-2730
HOME PAGE: <http://www.fcc.gov/mb/audio/>

PROCESSING ENGINEER: Dale Bickel
TELEPHONE: (202) 418-2700
FAX: (202)-418-1411 MAIL STOP: 2-B450
INTERNET ADDRESS: dale.bickel@fcc.gov

May 11, 2010

Canyon Media Corporation
P.O. Box 570
Logan, Utah 84771

In re: KONY (FM); Hurricane, UT
Canyon Media Corporation
Facility ID No. 18140
CP application BPH-20070726AHL

Dear Canyon Media Corp.:

On November 5, 2008, the staff granted construction permit BPH-20070726AHL for commercial FM station KONY to change transmitter site and change community of license from St. George, UT to Hurricane, UT.¹ Subsequent to the grant of this application a petition for reconsideration was timely filed on December 12, 2008 by the permittee, Canyon Media Corporation ("Canyon").² The petition for reconsideration was opposed by Western Broadcasting LS, LLC ("Western"), licensee of KURR.

Canyon Media's petition for reconsideration, asks the Commission to reconsider its grant of the application in light of the fact that negotiations between the parties had not been finalized. Western opposes the petition for reconsideration, arguing that the Commission should not allow itself to become embroiled in private disputes between parties.

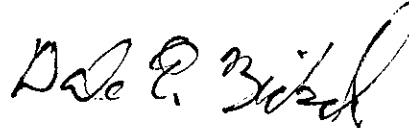
Under 47 CFR Section 1.113(a), the Bureau may modify or set aside on its own motion any action taken pursuant to delegated authority within 30 days after public notice of such action. The filing of a petition for reconsideration or application for review, tolls the 30 day period. *See COM/NAV Marine, Inc.*, 2 FCC Rcd 2144, 2145 (Private Radio Bureau, 1987) (filing of application for review of dismissal of application tolled the 30 day period for the staff to set aside its application pursuant to Section 1.113(a)); *see also Central Florida Enterprises, Inc. v. FCC*, 598 F.2d 37, 48 n. 51 (D.C. Cir. 1978) (fact that appeal from the original order had already been brought in court did not independently preclude *sua sponte* reconsideration by the Commission), *cert. denied*, 460 U.S. 1084 (1983). Canyon filed a timely petition for reconsideration, thereby tolling the 30 day period for *sua sponte* reconsideration of the action by the Bureau. *See* 47 CFR Section 1.113(a); *Com/NAV Marine, Inc.*, 2 FCC Rcd at 2145. Thus, the Bureau has authority to modify or set aside its previous action granting Canyon's application.

¹ On the same date, a contingent application (file no. BPH-20070726AHG) for KURR, Hurricane, UT to change community of license to Indian Springs, NV was granted.

² Public notice of the grant of application BPH-20070726AHL was given in the *Broadcast Applications* public notice, Report No. 46861, released November 12, 2008.

It is clear that Canyon and Western have not been able to resolve their differences despite a lengthy time interval (see Footnote 4 below), nor will the KONY construction permit ever be implemented.³ Accordingly, Canyon's petition for reconsideration IS GRANTED to the extent indicated by this letter. The grant of construction permit BPH-20070726AHL IS SET ASIDE, and the application is reinstated in pending status, pursuant to 47 CFR Section 1.113. Further, given Canyon's clearly stated intent not to pursue the application further, application BPH-20070726AHL IS DISMISSED, along with the petition for reconsideration and subsequent pleadings. Consequently, KONY remains licensed at St. George, UT in accordance with the terms and conditions of license BMLH-20020215ABJ.⁴

Sincerely,



Dale E. Bickel
Senior Engineer
Audio Division
Media Bureau

cc: Western Broadcasting LS, LLC
Dow Lohnes PLLC
Davis Wright Tremaine LLP

³ On June 8, 2009, Canyon filed a letter requesting cancellation of construction permit BPH-20070726AHL.

⁴ As an aside, KURR's construction permit BPH-20070726AHG contained a condition (No. 7) precluding KURR from commencing operations at Indian Springs NV, until after KONY commenced operations at Hurricane, UT pursuant to construction permit BPH-20070726AHL. The condition also stated that a license would not be granted for KURR at Indian Springs, NV until a license was granted for KONY at Hurricane, UT. Subsequent to the filing of the pleadings referenced above, KRQX-FM (formerly KBZB) filed an application to move from Santa Clara, UT to Hurricane, UT in construction permit BMPH-20090408AAQ, which (when implemented) would continue local service in Hurricane per Section 307(b) of the Communications Act (in place of KONY, see the *Section 307(b) Showing and Comprehensive Technical Exhibit* in KRQX-FM's construction permit application BMPH-20090408AAQ) when KURR moves to Indian Springs, NV.