



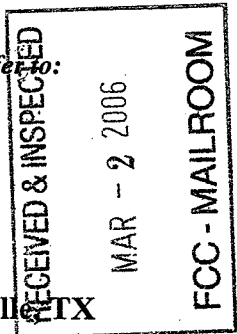
Federal Communications Commission  
Washington, D.C. 20554

February 28, 2006

In Reply Refer to:  
1800B3

Bill R. Wright d/b/a Kegg Communications  
P.O. Box 497933  
Garland, TX 75049-7933

In re: **DK213EB(FX), Greenville, TX**  
**Facility ID No. 93413**  
**BLFT-20041122AHW**  
**BRFT: 20050926AAE**



Dear Mr. Wright:

The license for Kegg Communications' ("Kegg") FM translator station K213EB was due on April 1, 2005, four months prior to the August 1, 2005 expiration date of the station's license.<sup>1</sup> No such application was filed, and the station's license expired by its own terms on August 1, 2005. Accordingly, on August 19, 2005, the staff wrote to Kegg, indicating that the station's license<sup>2</sup> had expired and that (1) all authority to operate the station was terminated; and (2) station's call letters were deleted from the Commission's data base. The licensee was advised that any operation of the station was then unauthorized and must cease immediately.<sup>3</sup>

*Public Notice* of the K213EB license cancellation was issued on August 24, 2005;<sup>4</sup> a petition for reconsideration of that action therefore was due by September 23, 2005.<sup>5</sup> On September 26, 2005, Kegg electronically filed a license renewal application for K213EB, and on September 29, 2005, Kegg filed a petition for reconsideration of the license cancellation.<sup>6</sup>

The Commission, except in circumstances not applicable here, lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration set forth in

<sup>1</sup> 47 C.F.R. § 73.3539.

<sup>2</sup> BLFT-20041122AHW.

<sup>3</sup> *Letter to Kegg Communications*, Ref. 1800B3-PAD (MB Aug. 19, 2005).

<sup>4</sup> *Public Notice, Broadcast Actions*, Report No. 46055 (Aug. 24, 2005).

<sup>5</sup> See 47 C.F.R. §§ 1.4, 1.106; see also 47 U.S.C. § 405.

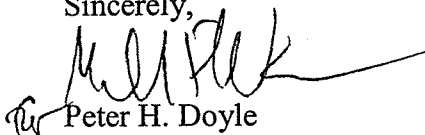
<sup>6</sup> Kegg states in the petition for reconsideration that K213EB was in the process of being relocated, as it had been "displaced" by a full-service FM station, and it did not realize that it needed to file a license renewal application for the station; rather it thought that the a license application to cover the station's new frequency and location would supercede any license renewal of the station's previously licensed facilities.

Section 405 of the Communications Act of 1934, as amended.<sup>7</sup> Although the Commission may consider a late-filed petition for reconsideration if the petitioner shows that its failure to file for reconsideration in a timely manner resulted from "extraordinary circumstances,"<sup>8</sup> no such showing has been made here. Even were we to treat the K213EB license renewal application as a petition for reconsideration, it is untimely and therefore must be dismissed.

Accordingly, pursuant to Section 405 of the Act and 1.106 of the Commission, the Petition for Reconsideration filed on September 29, 2005 by Kegg Communications IS DISMISSED as untimely, and the late-filed license renewal application for FM translator station K213EB, Greenville, Texas, IS DISMISSED as moot. Any operation of this facility is unauthorized and must cease immediately.

Finally, as stated in the staff's August 19, 2005 license cancellation letter, it is imperative to the safety of air navigation that any prescribed painting and illumination of the station's tower be maintained until the tower is dismantled. Accordingly, the owner of the tower on which the K213EB transmitting antenna is located must maintain the tower in the manner prescribed by the Commission's rules and the terms of the expired license.<sup>9</sup>

Sincerely,

  
Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>7</sup> 47 U.S.C. § 405 the ("Act"). See *Reuters Limited v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986); *Pueblo Radio Broadcasting Service*, 6 FCC Rcd 1416 (1991) *Panola Broadcasting Co.*, 68 F.C.C.2d 533 (1978).

<sup>8</sup> *Gardner v. FCC*, 530 F.2d 1085, 1091-92 (D.C. Cir. 1876); *Richardson Independent School District*, 5 FCC Rcd 3135, 3136 (1990). That an application is filed one day late does not constitute an "extraordinary circumstance" that would warrant its consideration. *Pueblo Radio Broadcasting Service*, *supra*.

<sup>9</sup> See 47 U.S.C. § 303(q) and 47 C.F.R. § 17.6.