



Federal Communications Commission
Washington, D.C. 20554

April 21, 2011

In Reply Refer to:
1800B3-SLW

Frank G. Lamancusa, Esq.
Bingham McCutchen LLP
2020 K Street, NW
Suite 1100
Washington, DC 20006-1806

Re: WTBR-FM, Pittsfield, Massachusetts
Facility ID No. 52749
File No. BRED-20060418ABG

Dear Mr. Lamancusa:

The staff has before it a November 19, 2010, Petition for Stay Pending Bureau Review of Petition for Reconsideration (the "Petition") regarding the above-referenced application. The Petition was filed by the Pittsfield Public School Committee (the "Licensee"), licensee of station WTBR-FM, Pittsfield Massachusetts (the "Station"). For the reasons set forth below, we dismiss the Petition.

On October 20, 2010, the Bureau issued a *Forfeiture Order* in the amount of \$7,000 to the Licensee for willfully violating Section 73.3539 of the Commission's Rules¹ by failing to timely file a license renewal application for the Station and willfully and repeatedly violating Section 301 of the Act² by engaging in unauthorized operation of the Station after its license had expired.³ The Licensee subsequently filed both a Petition for Reconsideration of Forfeiture Order and the Petition.⁴

We have reviewed the record in this case, and we find that a stay of the *Forfeiture Order* is not warranted. The Licensee relies on *Virginia Petroleum Jobbers Association v. Federal Power Commission*⁵ to justify staying the effectiveness of the Forfeiture Order while the Bureau reviews the Licensee's Petition for Reconsideration.⁶ *Virginia Petroleum Jobbers* sets out four factors for consideration in requests for a stay. These factors are: (1) a likelihood of success on the merits; (2) the threat of irreparable harm absent the grant of preliminary relief; (3) the degree of injury to other parties if relief is granted; and (4) that issuance of the order will further the public interest.⁷

In the past, both the Commission and the Enforcement Bureau have rejected petitions for stays because collection or enforcement of the forfeiture order in question did not begin while the petition for

¹ 47 C.F.R. § 73.3539.

² 47 U.S.C. § 301.

³ *Pittsfield Public School Committee*, Forfeiture Order, 25 FCC Rcd 14555 (MB 2010).

⁴ Petition for Reconsideration of Forfeiture Order (November 19, 2010) ("Petition for Reconsideration").

⁵ 259 F.2d 921, 925 (D.C. Cir. 1958) ("*Virginia Petroleum Jobbers*").


⁶ Petition for Stay at 2-4.

⁷ *Virginia Petroleum Jobbers*, 259 F.2d at 925.

reconsideration was pending.⁸ Likewise, we do not refer forfeiture orders for collection while a petition for reconsideration is pending and will not do so in this case. Absent a voluntary payment by the Licensee, it will not suffer any harm during the pendency of the reconsideration proceeding. Therefore, we find that the standard set forth in *Virginia Jobbers* for the grant of stay is not met and we see no basis on which to grant the Petition.

Accordingly, IT IS ORDERED, that the November 19, 2010, Petition for Stay Pending Bureau Review of Petition for Reconsideration filed by Pittsfield Public School Committee IS DISMISSED.

Sincerely,


Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Pittsfield Public School Committee

⁸ See *Vista Group International, Inc.*, Order on Reconsideration, 16 FCC Rcd 8289, 8289 n.3 (2001) (dismissing as moot a petition for stay where the Commission had not attempted to enforce the Forfeiture Order); see also *Califormula, Inc.*, Memorandum Opinion and Order, 16 FCC Rcd 15087, 15088 n 8. (EB 2001).