



Federal Communications Commission
Washington, D.C. 20554

June 26, 2013

In Reply Refer to:
1800B3-ATS

Mr. Gary Hill
Christian Broadcasting Company, Inc.
542 Butternut St.
Abilene, TX 79602

In re: **Christian Broadcasting Company, Inc.**

New FM Translator Station, Big Spring, Texas
File No. BNPFT-20030317LFG
Facility ID No. 157550

New FM Translator Station, Childress, Texas
File No. BNPFT-20030317MMW
Facility ID No. 158337

Petitions for Reconsideration

Dear Mr. Hill:

The Media Bureau ("Bureau") has before it identical Petitions for Reconsideration (collectively, "Petitions") filed on April 29, 2013, by Christian Broadcasting Company, Inc. ("CBC"), seeking reinstatement of its applications for new FM translator stations at Big Spring, Texas ("Big Spring Application") and Childress, Texas ("Childress Application") (collectively, "Applications").¹ For the reasons stated below, we deny the Big Spring petition and dismiss the Childress petition.

Background. CBC filed the "tech box" Applications during the March 2003 Auction 83 Filing Window.² On June 30, 2003, the Bureau released a Public Notice identifying Auction 83 applications that were not mutually exclusive with any other applications from that window.³ The Childress Application was among those applications.⁴ Applicants were instructed to file a complete FCC Form 349 by August 20, 2003, or their applications would be dismissed "without further processing."⁵ CBC did not file the required FCC Form 349 by August 20, 2003, and the Childress Application was dismissed on September 9, 2003.

¹ CBC has also filed similar petitions for its applications for new FM translator stations at Midland, Texas (File No. BNPFT-20030317LNM); Odessa, Texas (File No. BNPFT-20030317LWK); and Waco, Texas (File No. BNPFT-20030317LZR). The staff has taken no action on these applications. Therefore, the petitions filed with respect to these applications will be dismissed as moot.

² See *FM Translator Auction Filing Window and Application Freeze*, Public Notice, 18 FCC Rcd 1565 (MB/WTB 2003). The filing window was subsequently extended to March 17, 2003. *FM Translator Auction Filing Window and Application Freeze Extended to March 17, 2003*, Public Notice, 18 FCC Rcd 3275 (MB/WTB 2003).

³ See *FM Translator Auction No. 83 Non-Mutually Exclusive Application*, Public Notice, 18 FCC Rcd 12702 (MB Jun. 30, 2003). The proposals were identified in Attachment A to the Public Notice.

⁴ *Id.* at Attachment A.

⁵ *Id.* at 2.

Subsequently, on February 26, 2013, pursuant to procedures adopted in the *Fifth Order on Reconsideration* in the low power FM proceeding,⁶ the Bureau released another Public Notice announcing a filing window for additional Auction 83 applicants to file FCC Form 349.⁷ The Big Spring Application was among the applications identified in the *February 2013 Public Notice*.⁸ Applicants were advised that they must file FCC Form 349 by March 28, 2013, and that the Bureau would dismiss the identified applications if the applicant failed to file the required form.⁹ CBC did not file the required FCC Form 349 by March 28, 2013, and the Big Spring Application was dismissed on April 10, 2013.

CBC filed the Petitions on April 29, 2013. In the Petitions, CBC explains that since it filed the Applications, its president and former contact representative left, and its phone number had changed. CBC further states that it was not aware that the Childress Application or the Big Spring Applications were being dismissed and that it was not given adequate notice by the Commission staff, even though the staff had contacted CBC regarding the renewal of several of its current licenses.

Discussion. The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original order, or raises additional facts, not known or existing at the time of the petitioner's last opportunity to present such matters.¹⁰ CBC has not met this burden.

Childress Application. Section 405 of the Communications Act of 1934, as amended ("Act")¹¹ and Section 1.106(f) of the Commission's Rules ("Rules")¹² require petitioners to seek reconsideration no later than 30 days after public notice of the action for which reconsideration is sought. The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration set forth in Section 405 of the Act. The petition for reconsideration of the Childress Application was filed nearly 10 years after the application was dismissed.¹³ Although the Commission may not refuse to consider a late-filed petition for reconsideration if the petitioner shows that its failure to

⁶ See *Creation of a Low Power Radio Service*, Fifth Order on Reconsideration and Sixth Report and Order, 27 FCC Rcd 15042 (2012) ("*Fifth Order on Reconsideration*").

⁷ See *Media Bureau Announces FM Translator Auction 83 Filing Window and Filing Procedures*, Public Notice, 28 FCC Rcd 1500 (MB Feb. 26, 2013) ("*February 2013 Public Notice*"). The proposals identified were those that were not mutually exclusive with any other applications submitted in the Auction 83 Filing Window and specified transmitter site locations which were (1) outside all Spectrum Limited markets and (2) not within 39 km of any Spectrum Limited market grid. See *Creation of a Low Power Radio Service*, Fourth Report and Order and Third Order on Reconsideration, 27 FCC Rcd 3364, 3398-3496 (2012) (classifying each of 156 studied markets as "Spectrum Limited" or "Spectrum Available"). The proposals were identified in Attachment A to the *February 2013 Public Notice*.

⁸ *February 2013 Public Notice* at Attachment A.

⁹ *Id.* at 3.

¹⁰ See 47 C.F.R. § 1.106(c),(d). See also *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

¹¹ 47 U.S.C. § 405. See *Reuters Limited v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986). See also *Pueblo Radio Broadcasting Service*, Memorandum Opinion and Order, 6 FCC Rcd 1416 (1991); *Panola Broadcasting Co.*, Memorandum Opinion and Order, 68 FCC 2d 533 (1978).

¹² 47 C.F.R. § 1.106(f).

¹³ A petition for reconsideration of the dismissal of the Childress Application would have been due on October 2, 2003, pursuant to Section 405 of Act of 1934, 47 U.S.C. § 405, and Section 1.106(f) of the Rules, 47 C.F.R. § 1.106(f).

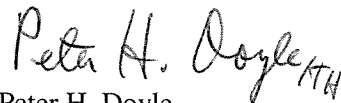
file for reconsideration in a timely manner resulted from “extraordinary circumstances,”¹⁴ no such showing has been made here and the petition relating to the Childress Application will be dismissed as untimely.

Big Spring Application. We find baseless CBC’s argument that it was not given sufficient notice that it was required to file FCC Form 359 for its Big Spring proposal. The *March 2013 Public Notice* provided constructive notice of this filing window.¹⁵ No further notification from the Commission was required. Moreover, because it had constructive notice of the public notice, the fact that CBC’s telephone number and management changed during the pendency of the Big Spring Application is irrelevant.

CBC also notes that although it was in contact with the Bureau staff regarding the renewal of certain broadcast licenses it currently holds, the staff did not mention the pending dismissal of the Big Spring Application. The staff will contact existing licensees that have not timely filed a license renewal application for an existing broadcast radio license as a courtesy – this practice does not suggest a legal obligation on part of the staff to notify a licensee or application by telephone or electronic mail of the status of each and every filing deadline.¹⁶ We thus find this argument meritless.

Conclusions/Actions. Accordingly, IT IS ORDERED that the Petition for Reconsideration filed on April 29, 2013, by Christian Broadcasting Company, Inc. (File No. BNPFT-20030317LFG) IS DENIED, and the Petitions for Reconsideration filed on April 29, 2013, by Christian Broadcasting Company, Inc. (File Nos. BNPFT-20030317LNM, BNPFT-20030317LWK, BNPFT-20030317LZR, BNPFT-20030317MMW) ARE DISMISSED.

Sincerely,

A handwritten signature in dark ink, reading "Peter H. Doyle" with a stylized monogram "PH" at the end.

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹⁴ *Gardner v. FCC*, 530 F.2d 1085, 1091-92 (D.C. Cir. 1976); *Richardson Independent School District*, Memorandum Opinion and Order, 5 FCC Rcd 3135, 3136 (1990).

¹⁵ See, e.g., *John Jason Bennett*, Letter, 20 FCC Rcd 17193, 17195 (MB 2005) (citing *R&S Media*, Memorandum Opinion and Order and Order to Show Cause, 19 FCC Rcd 6300 (MB 2004)).

¹⁶ See *Fifth Order on Reconsideration*, 27 FCC Rcd at 15468, n 452 (“As a courtesy, the Bureau staff routinely attempts to contact [broadcast radio] licensees that have not filed renewal applications by their respective filing deadlines.”).