



Federal Communications Commission
Washington, D.C. 20554

December 1, 2014

In Reply Refer to:
1800B3-ATS

Mr. Henry Cotton
Jamie Patrick Broadcasting, Ltd.
328 West Madison Avenue
Bastrop, LA 71220

In re: Jamie Patrick Broadcasting, Ltd.
DKTRY-FM, Bastrop, LA
Facility ID No. 30308
File No. BRH-20060301ACK

Petition for Reconsideration

Dear Mr. Cotton:

We have before us the Petition for Reconsideration ("2012 Petition") filed on October 31, 2012, by Jamie Patrick Broadcasting, Ltd. ("JPB"), former licensee of DKTRY-FM, Bastrop, Louisiana ("Station"). JPB seeks reconsideration of a Media Bureau ("Bureau") decision dismissing as untimely the petition for reconsideration JPB filed on November 20, 2007 ("2007 Petition").¹ For the reasons stated below, we dismiss the 2012 Petition as repetitious.

Background. As discussed in the *Expiration Letter*, the *2007 Staff Decision* and the *2012 Staff Decision*, an application for renewal of the Station's license should have been filed by February 1, 2004.² No such application was filed and on January 16, 2006, the staff wrote to JPB, indicating that the Station's license had expired, that all authority to operate the Station was terminated and that the Station's call letters were deleted from the Commission's database.³

On March 1, 2006, more than 30 days after the *Expiration Public Notice*, JPB filed the Application.⁴ The Bureau treated the Application as a petition for reconsideration of the *Expiration Public Notice* and dismissed it as untimely on October 18, 2007.⁵ JPB then filed the 2007 Petition, arguing that the Application should have been considered timely filed because it was in "Pending" status

¹ *Jamie Patrick Broadcasting, Ltd.*, Letter, Ref. 1800B3-AP (MB Oct. 1, 2012) ("*2012 Staff Decision*"). The 2007 Petition sought reconsideration of a Bureau decision dismissing the above-referenced application ("Application") as an untimely petition for reconsideration of the staff letter informing JPB that its license for the Station had expired. See *Jamie Patrick Broadcasting, Ltd.*, Letter, 22 FCC Rcd 18610 (MB 2007) ("*2007 Staff Decision*"); Letter, Ref. 1800B3-JDB (MB Jan. 19, 2006) ("*Expiration Letter*") (informing JPB that its license for the Station had expired because JPB failed to timely file a renewal application). See also *Broadcast Actions*, Public Notice, Report No. 46157 (MB Jan. 24, 2006) ("*Expiration Public Notice*") (Public Notice of *Expiration Letter*).

² 47 C.F.R. § 73.3539(a).

³ See *Expiration Letter* at 1.

⁴ As noted in the *2007 Staff Decision*, JPB filed a request for Special Temporary Authority on March 2, 2006, in which it explained that its failure to file timely the Application was due to difficulties with the Commission's electronic filing system, CDBS. See *2007 Staff Decision*, 22 FCC Rcd at 18610 n.5. See also BLSTA-20060302AAX.

⁵ *Id.* at 18611. The *2007 Staff Decision* explained that the Application was untimely because it was filed more than 30 days after the *Expiration Public Notice*. See also 47 U.S.C. § 405; 47 C.F.R. § 1.106(f).

in the Commission's database, CDBS, on February 2, 2004.⁶ On October 1, 2012, the Bureau dismissed the 2007 Petition as untimely because it was filed one day after the 30-day filing deadline.⁷

In the 2012 Petition, JPB seeks reconsideration of the finding in the *2012 Staff Decision* that the 2007 Petition was untimely filed. JPB argues that it sent the 2007 Petition to the Commission via Federal Express and that, while the company committed to deliver the petition on November 19, 2007, it did not deliver it until the following day.⁸ JPB also repeats its argument that the Application should not have been dismissed because it was timely submitted in CDBS on February 2, 2004.⁹

Discussion. We find that the 2012 Petition is repetitious. The 2012 Petition is JPB's third filing seeking reinstatement of its expired license for the Station and asks the Bureau to consider the merits of the dismissed 2007 Petition. That petition was itself repetitious because it sought review of the *2007 Staff Decision*, which dismissed the Application as an untimely petition for reconsideration. The 2012 Petition will thus be dismissed as a repetitious petition for reconsideration.¹⁰

Moreover, were we to consider the merits of the 2012 Petition, we would deny it. The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration¹¹ and may entertain untimely petitions for reconsideration only where "extraordinary circumstances indicate that justice would thus be served."¹² The failure of a third party, such as counsel or a courier service, to timely file a pleading is not an excuse for waiving the 30-day deadline.¹³ We also reject JPB's argument that the Application should be considered filed on February 2, 2004. At that time, the Application was in "Pending" status, indicating that it had not been submitted to

⁶ See 2007 Petition.

⁷ *2012 Staff Decision* at 2.

⁸ 2012 Petition at 2.

⁹ *Id.*

¹⁰ See 47 C.F.R. § 1.106(k)(3). See also *Great Lakes Broadcast Academy, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 11655 (2004) (second reconsideration petition properly dismissed); see also *A.G.P., Inc.*, Memorandum Opinion and Order, 11 FCC Rcd 4628 (1996) (dismissing repetitious petition for reconsideration); *Iola Broadcasting Company*, Memorandum Opinion and Order, 2 FCC 2d 439 (1966) (it is not in the interests of orderly procedure to permit repeated petitions for reconsideration).

¹¹ See *Reuters Limited v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986) (express statutory limitations barred the Commission from acting on a petition for reconsideration that was filed after the due date). See also *Virgin Islands Telephone Corporation v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993) (upholding the Commission's refusal to entertain a petition for reconsideration where the petition had been filed one day late, and extenuating circumstances did not prohibit the petitioner from filing within the prescribed time limits).

¹² *Gardner v. FCC*, 530 F.2d 1086, 1091 (D.C. Cir. 1976). See also *Fireside Media*, Memorandum Opinion and Order, 25 FCC Rcd 2453 (2010) (finding no "extraordinary circumstances" and dismissing petition for reconsideration as untimely where petitioner failed to timely file petition for reconsideration because he arrived at the Commission's after business hours on the day of the filing deadline).

¹³ See *NetworkIP, LLC v. FCC*, 548 F.3d 116, 127 (D.C. Cir. 2008) (Commission erred in waving 30-day petition for reconsideration deadline where counsel failed to timely file pleading). See also *Totally Jesus*, Memorandum Opinion and Order, 29 FCC Rcd 6414 (2014) (denying waiver of filing deadline for new noncommercial application where counsel waited until the last day of window to file application and was unable to complete filing before the close of the window); *Mary Ann Salvatoriello*, Memorandum Opinion and Order, 6 FCC Rcd 4705, 4708 (1991) (failure of courier to deliver timely deliver filings due to forecasted snowstorm does not justify waiver of filing deadline).

the Commission for processing. We reject JPB's argument that "Pending" can be confused with having filed the application.¹⁴

Conclusion/Actions. Accordingly, IT IS ORDERED that the Petition for Reconsideration filed by Jamie Patrick Broadcasting, Ltd., on October 31, 2012, IS DISMISSED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by a stylized monogram "TH".

Peter H. Doyle
Chief, Audio Division
Media Bureau

¹⁴ See *Ritenour Consolidated School District*, Forfeiture Order, 25 FCC Red 3266, 3267 (MB 2010) (rejecting licensee's good faith argument where station manager had misinterpreted the meaning of "pending" in CDBS).