



Federal Communications Commission
Washington, D.C. 20554

November 5, 2014

In Reply Refer to:
1800B3-ATS

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In re: Rosendo Casarez, Jr.
DKCRX(AM), Roswell, New Mexico
Facility ID No. 57700
File Nos. BR-20131112BWH

Petition for Reconsideration

Dear Counsel:

We have before us the Petition for Reconsideration ("2014 Petition") filed on October 7, 2014, by Rosendo Casarez, Jr. ("Casarez"), former licensee of Station DKCRX(AM), Roswell, New Mexico ("Station"). The 2014 Petition seeks reconsideration of a Media Bureau ("Bureau") decision that denied Casarez's November 22, 2013, Petition for Reconsideration ("2013 Petition"), determined that Casarez's license for the Station had expired, and dismissed the above-referenced renewal application for the Station's license ("Renewal Application").¹ For the reasons stated below, we dismiss the 2014 Petition as untimely and repetitive.

Background. As discussed in the *Staff Decision*, Casarez failed to file a timely renewal application for the Station's license,² and on October 23, 2013, the staff advised Casarez that the license had expired.³ Casarez filed the Renewal Application on November 12, 2013, and the 2013 Petition on November 22, 2013, requesting that the Commission reinstate his license. Casarez explained that he was unable to timely file the Renewal Application because his studio was destroyed on March 18, 2010, when a 10,000 gallon water tank on the roof of the studio building exploded, destroying all the equipment and records in the studio. Casarez thus requested that the Commission accept the untimely Renewal Application and reinstate his license for the Station based on the "extraordinary circumstances" presented by this event. The *Staff Decision* denied the 2013 Petition because the license had expired as a matter of law under Section 312(g) of the Communications Act of 1934, as amended ("Act"),⁴ after the Station had not operated for a 12-month period, and no factors warranted the staff's exercise of discretion under Section 312(g) to reinstate the license "to promote equity and fairness."⁵

The 2014 Petition again seeks reinstatement of the license and argues that: 1) the staff should have exercised its discretion under 312(g) to reinstate the license because of the hardship that Casarez

¹ See *Rosendo Casarez, Jr.*, Letter, Ref 1800B3-ATS (MB May 1, 2014) ("*Staff Decision*"). See also *Broadcast Applications*, Public Notice, Report No. 28233 (MB May 6, 2014) ("*May Public Notice*").

² The Renewal Application was due on June 1, 2013, four months before the October 1, 2013 license expiration date. See 47 C.F.R. § 73.3539(a).

³ See *Rosendo Casarez, Jr.*, Letter, Ref. 1800B3-VM (MB Sep. 30, 2013); *Radio License Expirations*, Public Notice, and 28 FCC Rcd 13975 (MB 2013). See also *Broadcast Actions*, Public Notice, Report No. 48100 (MB Oct. 23, 2013) (announcing that Casarez's license for the Station had expired as a matter of law because Casarez had not filed a timely renewal application).

⁴ 47 U.S.C. § 312(g).

⁵ *Staff Decision* at 2.

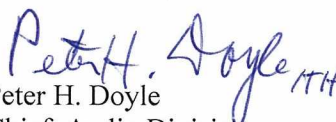
faced following the destruction of his studio;⁶ and 2) Section 309(k)(1) of the Act requires granting the Renewal Application because Casarez has satisfied the criteria for renewal of his license under that section.⁷

Discussion. Section 405 of Act, and the Commission's Rules require any petition for reconsideration to be filed within thirty days of the date upon which the Bureau gives public notice of the decision.⁸ The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration.⁹ In this case, the action in question is the *May Public Notice* announcing the denial of the 2013 Petition, which was issued on May 6, 2014.¹⁰ Any petition for reconsideration of the *May Public Notice*, therefore, was due on or before June 5, 2014. Petitioner, however, did not file the 2014 Petition until October 7, 2014, over two months after the filing deadline. Accordingly, we will dismiss the 2014 Petition as untimely.¹¹

Additionally, a petition for reconsideration of an order which has previously been denied on reconsideration may be dismissed by the Bureau as repetitious.¹² The 2014 Petition asks the Bureau to consider the merits of the 2013 Petition. The 2014 Petition will also be dismissed as a repetitious petition for reconsideration of a prior order denying reconsideration.¹³

Conclusion/Actions. Accordingly, for the reasons set forth above, IT IS ORDERED that the Petition for Reconsideration filed on October 17, 2014, by Rosendo Casarez, Jr. IS DISMISSED as untimely and repetitive.

Sincerely,


Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Rosendo Casarez, Jr.

⁶ 2014 Petition at 4.

⁷ *Id.* at 7, citing 47 U.S.C. 309(k)(1).

⁸ 47 U.S.C. § 405(a), 47 C.F.R. § 1.106(f).

⁹ 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).

¹⁰ 47 C.F.R. § 1.4(b)(4) ("If the full text of an action document is not to be released by the Commission, but a descriptive document entitled "Public Notice" describing the action is released, the date on which the descriptive "Public Notice" is released.").

¹¹ See *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). See also *Pueblo Radio Broadcasting Service*, Memorandum Opinion and Order, 6 FCC Rcd 1416 (1991) (dismissing petition for reconsideration that was filed one day late); *Metromedia, Inc.*, Memorandum Opinion and Order, 56 FCC 2d 909 (1975) (same); *Panola Broadcasting Co.*, Memorandum Opinion and Order, 68 FCC 2d 533 (1978) (same).

¹² 47 C.F.R. § 1.106(k)(3).

¹³ See *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).