

Posted
2/1/13

Henry Cotton
Jamie Patrick Broadcasting, LTD
328 West Madison Avenue
Bastrop, LA 71220

October 29, 2012

Received & Inspected
OCT 31 2012
FCC Mail Room

Mr. Peter H. Doyle
Chief, Audio Division
Media Bureau

Re: DKTRY-FM
Bastrop, LA
Jamie Patrick Broadcasting, LTD.
Facility ID 30308
File No. BRH-20060301ACK
DA07-4333
1800B3-MFW
October 1, 2012
Petition for Reconsideration

2012 OCT 31 P 2:53

Dear Mr. Doyle:

It is granted to a delegate authority to the agency's bureaus and offices to dismiss or deny reconsideration petitions if the petition is not submitted timely. The petition here attempts to identify a material error, omission, or reason warranting reconsideration or as well as to state with particularity the reasons the petitioner believes reconsideration is proper.

Attached is the original petition as submitted, via overnight delivery, on November 16, 2007.

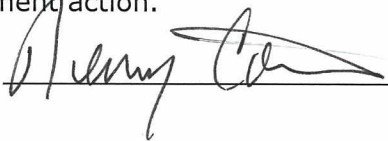
Herewith submitted in triplicate is the petition for Reconsideration of the Federal Communication Commission's decision of October 1, 2012.

Certification:

I, Henry Cotton, certify that I am an officer of the company named above, and acting as an agent of the company, that I have personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the Commission's rules. See 47 C.F.R.

The company represents and warrants that the above certification is consistent with 47 C.F.R. § 1.17 which requires truthful and accurate statements to the Commission. The company also acknowledges that false statements and misrepresentations to the Commission are punishable under Title 18 of the U.S. Code and may subject it to enforcement action.

Signed: _____



Date: October 29, 2012

original

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OCT 31 2012

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PETITION SUMMARY

With respect to the attached Jamie Patrick Broadcasting, LTD petition for reconsideration:

1. Petitioner herewith resubmits the original petition for reconsideration as an attachment with the following summation of content:
 - a. Although same petition was sent by Federal Express with paid receipt promise of 1 day delivery of Monday, November 19, 2007, having arrived one day late, this petition makes no new claims in an effort to rely on no facts or arguments that could have been originally raised but were not.
 - i. Federal Express US Airbill Number 8605 8630 0428 (contained within the petition) is dated November 16, 2007.
 - ii. Line 4a, Express Package Service contains a check mark (X) indicating FedEx Standard Overnight (Saturday Delivery Not Available) with delivery promised on Monday, November 19, 2007.
 - iii. Above Line 4a is the initials (WC) of the receiving Federal Express shipping agent.
 - b. Petitioner still avers that its application for renewal was timely filed on Monday, February 2, 2004. As February 1, 2004, the published filing deadline was on a Sunday, February 1, 2001.
 - i. Petitioner's applications were timely submitted
 1. Form 396: Broadcast Equal Employment Opportunity Program:
 - a. Created Feb 2, 2004
 - b. Time stamped: 11:30AM
 2. Form 323: Ownership Report for Commercial Broadcast Station:
 - a. Created Feb 2, 2004
 - b. Time stamped: 12:02PM
 3. Form 303-S: Application for Renewal of Broadcast Station License:
 - a. Created Feb 2, 2004
 - b. Time stamped: 1:36PM
 4. A new application was not submitted on March 1, 2006 as only application(s) status was changed from "PENDING" to "READY" on March 1, 2006 with the assistance of FCC staff.
 - a. FCC staff assistance was required to perform the manual process of transferring "PENDING" application from one area on the FCC server to another so that FCC staff could process renewal application.
 - b. The new automated process has been streamlined (since the first class of electronic filers 2004)so as to avoid the same type of abnormality that petitioner and so many other broadcast station renewal applicants fell prey to (namely having to manually transfer application to "FILED" as this need was

suggested in Patrick petition. See:

https://licensing.fcc.gov/prod/cdbs/forms/prod/cdbs_ug.htm#new_interface

- i. Summary of Usage, line 15: “After the fee has been received/confirmed by FCC staff, some automatic processing will occur that will change the Status on the Main Menu line for the form to FILED.”
- c. See: Petitioner avers that the word “PENDING” has a conflicting meaning in the Form 303-S electronic status
 - i. “... Where the requisite information has been earlier disclosed in connection with another pending application, or as required by 47 C.F.R. § 1.65(c), the applicant need only provide an identification of that previous submission by reference to the file number in the case of an application, the call letters of the station regarding which the application or Section 1.65 information was filed, and the date of filing. The assignee should also fully explain why the adverse finding is not an impediment to a grant of this application.”

Received & Inspected
Oct 31 2012
FCC Mail Room

ORIGINAL PETITION

Henry Cotton
Jamie Patrick Broadcasting, Ltd.
328 West Madison Avenue
Bastrop, LA 71220
November 14 2008

Received & Inspected
OCT 21 2012
FCC Mail Room

Mr. Peter H. Doyle
Chief, Audio Division
Media Bureau

Re: DKTRY-FM,
Bastrop, LA
Jamie Patrick Broadcasting, Ltd
Facility ID 30308
File No. BRH-20060301ACK
DA07-4333
1800B3- MFW

Petition for Reconsideration

Dear Mr. Doyle

This Petition for Reconsideration and reexamination of the eligibility of the February 2, 2004 license renewal application DKTRY-FM being considered as timely filed within the filing window. This request is in response to your letter of October 18, 2007.

The FCC's rejection of the Jamie Patrick Broadcasting, Ltd.(petitioner) broadcast renewal license application as untimely may have been arbitrary and capricious.

The FCC did however, in its of petitioner's application, state that the reason the petitioner's license renewal denied was because the renewal application was not filed by February 1, 2004. Petitioner agrees that the broadcast renewal application was not filed on Sunday, February 1, 2004.

Petitioner avers that the final day for filing the KTRY FM application was Monday February 2, 2004 and not February 1, 2004 as published by the FCC and again stated in the FCC denial letter of .October 18, 2007.

Because The Federal Communications Commission's cut-off rules for application deadlines are to be strictly enforced with waivers granted only in unusual and compelling circumstances. A prerequisite to such a waiver as is requested by petitioner is that an **applicant demonstrates that it has exercised reasonable diligence**. And that any tardiness must be **attributable to circumstances beyond the applicant's control**; petitioner diligently prepared for a smooth and eventless filing of the electronic license renewal filing process.

The cutoff shall be the close of business of the first full business day thereafter; the close of business on February 2, 2004. See: 47 C.F.R. 73.3539(a). Sunday, February 1, 2004 was not a business day and therefore could not have established the filing deadline. Monday, February 2, 2004, the first full business day after the first day of the month four full months before petitioner's license expires, qualifies as the cutoff day.

Petitioner avers that he diligently and in good faith completed all required forms as well as the broadcast license renewal application on or before the cutoff is evidence by the fact that on February 2, 2004 petitioner's renewal application was indeed completed, submitted to the FCC, saved (stored) and validated within the FCC's CDBS electronic filing system database.

Petitioner avers that February 2, 2004, he did not realize that he failed to press one radio button on the main menu. This mechanical error was not intentional nor because of any lack of reasonable diligence on petitioner's part. Petitioner in error reasoned that the save and validate form process accomplished the actual filing.

There can be no denial that petitioner's actions; timely entering all required data within all required certification fields, then saving and validating the application form within the filing window. There can be no denial that petitioner actions by entering all required data within all required certification fields, then saving and validating the application form within the filing window required effort.

Petitioner avers that his effort was performed in good faith. A reasonable jurist would find that petitioner's reasonable diligence and a good faith effort should be considered when making the determination of whether petitioner's diligent and good faith effort justifies waiver of the Commission's procedural cutoff rule. Petitioner asks the FCC to make a fair and ethical determination in considering whether petitioner provides a rational explanation for its refusal to allow an exception in this particular case.

The FCC has allowed exceptions in similar cases where circumstances were not as exceptional as the combination of extraordinary factors, including petitioner's mechanical error, that contributed to both the February 2, 2004 KTRY FM renewal application being perceived as "untimely filed" and the FCC's perception that the petitioner's corrective action taken which the FCC accepted as a petition for Reconsideration for DKTRY FM to FCC's adverse action of January 19 2006 was also perceived by the FCC as "untimely filed" even though petitioner's corrective action was taken under the direction of and instruction by the FCC.

This is offered as an amended replacement document to petitioners letter of November 17, 2007. Receipt submitted here is evidence of submission:



FedEx Tracking Number 8605 8630 0428

From *Please print and press hard.* Sender's FedEx Account Number
Date Nov 16 2007
Sender's Name HENRY Cotton Phone (318) 669 4846
Company JAMIE PATRICK Broadwater
Address 328 W MADISON Dept./Floor/Suite/Room
City BASTROP State LA ZIP 71226

2 Your Internal Billing Reference
First 24 characters will appear on invoice. OPTIONAL

3 To Recipient's Name Mr. PETER H. Doyle Phone 202 418 2700
Company FEDERAL COMMUNICATIONS COMM
Recipient's Address 445 12TH ST SW AUDIO DIV Dept./Floor/Suite/Room
Address ROUTE TO AUDIO DIVISION
City WASHINGTON State DC ZIP 20554



Find drop-off locations at fedex.com
Simplify your shipping. Manage your account. Access all the tools you need.

Form ID No. 0200 WCI Sender's Copy

4a Express Package Service
☐ FedEx Priority Overnight
Next business morning.* Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
☒ FedEx Standard Overnight
Next business afternoon.* Saturday Delivery NOT available.
☐ FedEx 2Day
Second business day.** Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
FedEx Envelope rate not available. Minimum charge: One-pound rate.
☐ FedEx Express Saver
Third business day.* Saturday Delivery NOT available.
* To most locations.

4b Express Freight Service
☐ FedEx 1Day Freight*
Next business day.** Friday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
☐ FedEx 2Day Freight
Second business day.** Thursday shipments will be delivered on Monday unless SATURDAY Delivery is selected.
☐ FedEx 3Day Freight
Third business day.** Saturday Delivery NOT available.
*** To most locations.

5 Packaging
☐ FedEx Envelope*
☐ FedEx Pak*
Includes FedEx Small Pak, FedEx Large Pak, and FedEx Sturdy Pak.
☐ FedEx Box
☐ FedEx Tube
☐ Other
* Declared value limit \$500.

6 Special Handling
Include FedEx address in Section 3.
☐ SATURDAY Delivery
NOT Available for FedEx Standard Overnight, FedEx First Overnight, FedEx Express Saver, or FedEx 2Day Freight.
☐ HOLD Weekday at FedEx Location
NOT Available for FedEx First Overnight.
☐ HOLD Saturday at FedEx Location
Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations.
Does this shipment contain dangerous goods?
One box must be checked.
☐ No
☐ Yes
As per attached Shipper's Declaration.
☐ Yes
Shipper's Declaration not required.
☐ Dry Ice
Dry ice, 3, UN 1845
x
Cargo Aircraft Only
Dangerous goods (including dry ice) cannot be shipped in FedEx packaging.

7 Payment Bill to:
Enter FedEx Acct. No. or Credit Card No. below.
☐ Sender Acct. No. in Section 1 will be billed.
☐ Recipient
☐ Third Party
☐ Credit Card
☐ Cash/Check
FedEx Acct. No. Credit Card No. Exp. Date
Total Packages Total Weight Total Declared Value*
\$.00
*Our liability is limited to \$100 unless you declare a higher value. See back for details. By using this Airbill you agree to the service conditions on the back of this Airbill and in the current FedEx Service Guide, including terms that limit our liability. FedEx Use Only

8 NEW Residential Delivery Signature Options
If you require a signature, check Direct or Indirect.
☐ No Signature Required
Package may be left without obtaining a signature for delivery.
☐ Direct Signature
Anyone at recipient's address may sign for delivery. For applic.
☐ Indirect Signature
If no one is available at recipient's address, anyone at a neighboring address may sign for delivery. For applic.
520

Alternate Background. Application for renewal of license: Code of Federal Regulations - Title 47 Section 73.3539(a) of the Rules Paragraph (a) Unless otherwise directed by the FCC, an application for renewal of license shall be filed not later than the first day of the fourth full calendar month prior to the expiration date of the license sought to be renewed... any deadline prescribed in this paragraph falls on a non business day, the cutoff shall be the close of business of the first full business day thereafter.

In the several months prior to the filing deadline; petitioner diligently prepared for a timely filing of its application for license renewal. Petitioner has successfully completed four manual licensing renewals over the past 30 years prior to the filing of the electronic application on February 2, 2004.

Petitioner avers that the preparation for a timely filed application begin with a thorough reading all electronic filing instructions. It is the events of that date, February 2, 2004 that gave rise to this litigation. The application was completed and signed stored within the FCC's CORES CDBS Electronic Database Washington and not in the possession of petitioner.

**Jamie Patrick Broadcasting, Ltd here demonstrates that on
or before February 2, 2004, it has exercised reasonable diligence to
timely file its application for renewal of broadcast license.**

Petitioner avers that he continually **exercised reasonable diligence in preparation** for the filing over a six month period prior to the filing deadline by: 1.) Reading electronic filing instructions 2.) Applied for FRN Number 3.) Obtained an FRN Number 4.) Printing blank forms 3.) Manually completed forms by hand to insure accuracy and completeness of forms; including the renewal applications. 4.) Beginning on January 27, 2004 – to enter (transfer) all forms data to electronic forms and application for license renewal 5.) Filed all forms within a 3 hour period on February 2, 2004.

**Form 303-S INSTRUCTIONS FOR SECTION I: GENERAL INFORMATION SPECIFIED THAT:
Petitioner (Applicant) to comply with the Debt Collection Improvement Act of 1996 must obtain a
Facility ID Number.**

**IN PREPERATION FOR FILING BROADCAST RENEWAL APPLICATION;
PETITIONER DILLIGENTLY FILED FOR FRN NUMBER REGISTRATION
FRN NUMBER IS NECESSARY TO FILE ELECTRONICALLY**

SCREENSHOT OF PETITIONER'S FRN NUMBER REGISTRATION ON DECEMBER 22, 2003.

The screenshot shows the FCC Registration website interface. At the top, there is a navigation bar with links: [FCC Home](#), [Search](#), [Updates](#), [E-Filing](#), [Initiatives](#), [For Consumers](#), and [Find People](#). Below this, the page title is "FCC Registration". The main content area shows a search result for "KTRY-FM". The registration date "12/22/2003 05:56:53 PM" is circled in red. The page also includes a "Search Public Information" section and a "Return to FCC Registration Home" link. At the bottom, there is a list of links to other FCC sites.

[FCC Home](#) | [Search](#) | [Updates](#) | [E-Filing](#) | [Initiatives](#) | [For Consumers](#) | [Find People](#)

FCC Registration

FCC > FCC Registration

Search Public Information

[Return to FCC Registration Home](#)

Matches 1-1 (of 1)

Page 1

FRN	Registrant Name	Contact	Address	Registration Date
0010063485	KTRY-FM	Henry C Cotton	328 West Madison Avenue Bastrop, LA 71220 United States	12/22/2003 05:56:53 PM

Page 1

To visit another FCC site, follow the links below:

- [FCC Auctions](#)
- [FCC Broadband Licensing System](#)
- [FCC Electronic Tariff Filing System](#)
- [FCC Emergency Alert System](#)
- [FCC Experimental Licensing Branch Electronic Filing Site](#)
- [FCC International Bureau Application Filing and Reporting System](#)
- [FCC Media Bureau Consolidated Database System](#)
- [FCC Telecommunications Certification Bodies Electronic Filing Site](#)
- [FCC Universal Licensing System](#)
- [Other FCC Electronic Filing & Public Access Systems](#)

My Computer 100%

SCREENSHOT (CAPTURE) OF TIMELY SUBMITTED FORMS AND RENEWAL APPLICATION

Work in Progress:34688

ALL KTRY APPLICATIONS WERE CREATED AND SUBMITTED ON FEBRUARY 2, 2004

Select	Form Title - Description	Status/ Ref No.
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License Incomplete Copy (DO NOT use) of APPLICATION FOR RENEWAL Created: Feb 28 2006 4:15PM	PENDING N/A
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License APPLICATION FOR RENEWAL OF BROADCAST STATION LIC Created: Feb 2 2004 1:36PM	VALID N/A
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations FORM 323 OWNERSHIP REPORT Created: Mar 1 2006 3:34PM	READY 20060301ACG
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations OWNERSHIP REPORT FOR COMMERCIAL BROADCAST STATIONS Created: Feb 2 2004 12:02PM	READY 20060301ACD
<input type="radio"/>	FCC 396 -- Broadcast Equal Employment Opportunity Program Report BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGR Created: Feb 2 2004 11:30AM	VALID N/A

[File Form](#) [Test File](#) [Print Form](#) [Pay Fee](#) [Update Desc](#) [Copy Form](#) [Delete Form](#)

[User's Guide](#)

FCC - Federal Communications Commission - CDBS Electronic Filing System - Wed Mar 1 15:59:04 EST 2006

[System Status](#)

PETITIONER RESEARCHED FEE SCHEDULES IN ADVANCE OF FILING – NOTE DATE OF PUBLIC NOTICE PETITIONER REFERENCED



PUBLIC NOTICE

Federal Communications Commission
445 12th St., S.W.
Washington, D.C. 20554

News Media Information 202 / 418-0500
Fax-On-Demand 202 / 418-2830
TTY 202 / 418-2555
Internet: <http://www.fcc.gov>
<ftp.fcc.gov>

Received & Inspected
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DA 03-2484
August 5, 2003

New Remittance Advice Form 159 is Now Available

The new Form 159 no longer requires the Taxpayer Identification Number (TIN).

As part of a continuing effort to reduce complexity and protect individuals' privacy, the FCC has revised the Remittance Advice Form (Form 159) and Continuation Sheet (Form 159-C). The Taxpayer Identification Number (TIN) blocks have been removed and are no longer required on the Forms.

Since all customers must register for an FCC Registration Number (FRN) before doing business with the FCC requiring a Form 159, and TIN information is collected during the FRN registration process, TIN is no longer required on Forms 159 or 159-C.

The FCC will continue to accept the older version of the Remittance Advice Form 159 and 159-C, but the TIN blocks on those forms (Blocks 12 and 22) are no longer required fields.

The new Remittance Advice Form 159 is available online from the FCC at <http://www.fcc.gov/formpage.html>.

FCC Form Ordering: Call our Forms Distribution Center 1-800-418-3676 (TTY 1-888-835-5322). Send e-mail questions to fccinfo@fcc.gov.

Assistance Completing a Form or Filing Information: Call the Consumer and Governmental Affairs Bureau at 1-888-225-5322 (TTY: 1-888-835-5322). To provide quality service and ensure security, calls are recorded. Send e-mail questions to fccinfo@fcc.gov.

AFTER FILING ON FEBRUARY 2, 2004 - PETITIONER PAID ALL FEES WITHIN THE TIME LIMITS OUTLINED FOR FCC FORMS 323, AND FCC FORM 303-S (FORM 396 HAD NO FEE)

Again; the main reason for petitioner's extreme diligence was due to the fact that 2004 filers were the first class of mandatory electronic filings of applications. Petitioner read instructions more than six months in advance of the filing deadline and made every attempt to follow those instructions:

- Petitioner first printed blank forms and diligently filled out the renewal form offline in order to be more efficient and accurate in the electronic filing process.
- Petitioner started the online process on January 27, 2004.
- After reading instructions in January 2004 to get familiar with the filing process; petitioner's first error was to attempt to file renewal FCC form 303-S first, and then file FCC form 323 and FCC form 396.
- Of course, the CDBS filing system would not allow access or entry into the form 303-S. The Access denial message stated that the ownership report, form 323, and the Equal Opportunity Report, form 396, "must" be **"FILED" prior to filing form 303-S.**
- Petitioner did not realize that his error in attempting to file form 303-S before filing prerequisite forms 323 and 396 would initiate a chain of reasonable but erroneous conclusions on the use and definitions of the terms **"FILE"** and **"PENDING"** within the word use "context" the CDBS electronic filing process.
- Only after electronically FILING forms 323 and form 396 would the FCC CDBS system allow access to the license renewal form (303-S).
- After petitioner **"filed"** form 323 and form 396 using the process of 'save and validate' process changing application status on both forms 323 and 396 to **"PENDING"**; Petitioner was then allowed to access FCC form 303-S only after **"FILING"** forms 323 and 396). Petitioner in error equated "pending" status to mean "filed" or "pending FCC approval" status.
- Petitioner avers that a reasonable person could erroneously follow a faulty pretext and arrive at an erroneously interpretation of the meaning or definition inferred in the use of the word **"file."**
 - a. Based upon grammatical usage and contextual clues whenever "filed" is referenced inconsistently within the Form 303-s application as compared to
 - b. the status altering electronic flagging or tagging of "filed" as applied to the mechanical function of the and thereby alter or deviate from the correct flow of the filing process.
- Petitioner avers that given the mixed grammatical and/or contextual application (use) of the word **"file"**; a reasonable applicant, exercising reasonable diligence, could easily over analyze or erroneously process conditionals or truth statements
- If P then Q in the following manner that could easily be drawn from the context of the use of the word "file"
 - a. The in Section III of the FCC form 303-S clearly states that an applicant must first "FILE" FCC form 323 and FCC form 396.
 - b. The CDBS electronic filing system will grant access to FCC form 303-S if and only if form 323 and FCC form 396 were "FILED" prior to the "FILING" of FCC form 303-S.
- **Section III - TO BE COMPLETED BY AM and FM LICENSEES ONLY**

- **1. Biennial Ownership Report:** Licensee certifies that:
 - a. the station's Biennial Ownership Report (FCC Form 323 or 323-E) has been filed with the Commission as required by 47 C.F.R. Section 73.3615. See Explanation in Exhibit No.
 _____ Yes No
- **2. EEO Program:** Licensee certifies that:
 - a. a. The station's Broadcast EEO Program Report (FCC Form 396) has been filed with the Commission, as required by 47 C.F.R. Section 73.2080(f)(1).
- If a renewal applicant must have already “filed” both FCC form 323 - **Biennial Ownership Report required by 47 C.F.R. 73.3615**.and FCC form 396 as required by 47 C.F.R. Section 73.2080(f)(1)
- Then the renewal applicant is **granted access to** and may proceed to file FCC form 303-S. It logically follows that:
 - a. Form 303-S could only be accessed “If and only If” FCC form 323 and FCC form 396 were “filed”.
 - b. Provided statement “a” above is true and the CDBS electronic filing system actually “locks” the applicant out of in order to prevent the license renewal applicant to proceed with the application process until both FCC form 323 - **Biennial Ownership Report required by 47 C.F.R. 73.3615**.and FCC form 396 as required by 47 C.F.R. Section 73.2080(f)(1) “filed”.
 - c. These facts could contribute to the erroneous interpretation that the **“Save’ with “Validate”** process being functionally equivalent to “file form”. This scripted lock out feature of the CDBS electronic filing system insures filing of both form 323 and form 396 are on FILE within the system’s database before applicant files the renewal application.
 - d. Because the CDBS electronic filing system grants applicant access to FCC form 303-S license renewal application. Applicant is also allowed to proceed and file FCC form 303-S after saving and validating both form 323 and form 396. It logically follows that the converse of statement “a” above must also be true.
 - e. Converse of statement “a” above: **If** a renewal applicant is granted access to form 303-S, **Then** the applicant has “filed” both FCC form 323 and FCC form 396.
 - f. The following conclusion can be logically drawn and must be accepted as true. Depressing the “Validate” radio button after depressing the “Save” radio button (the **“Save”** and **“Validate”** processes) did in fact accomplish the “File Form” process. Either
- Petitioner arrived at his erroneous conclusion as stated in the converse (statement “e” above) of conditional from statement resulting in a truth value that the “save and validate” application process accomplished or finalized the “FILING” process.
- Petitioner further avers that any reasonable applicant could have arrived at the same or similar conclusion. Of course, such a conclusion would not serve the Commission’s purpose of insuring that both forms 323 and 396 were (completely) filed which the “save and validate” only process would not

accomplish. allowed filing of license renewal form 303-S before both forms were actually completely filed.

- Petitioner avers that “Status” indicators were in conflict with life orientation prior experience with filing FCC forms. The use of the descriptor “PENDING” has, for the past 27 years, been used synonymously with **“PENDING COMMISSION REVIEW AND APPROVAL”**.

CDBS

Page 1 of 1

Work in Progress:

Select	Form	Status
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License	PENDING
<input type="radio"/>	Section II - Legal	PENDING
<input type="radio"/>	Section III - AM and FM Licensees	PENDING

SCREENSHOT SHOWING 2/2/2004 STATUS (PENDING)

Although petitioner avers that he never received notice of the January 19, 2006 decision, he immediately upon learning of the FCC action petitioner had no idea of what had gone wrong. Petitioner had:

1. Read all form filing instructions
2. Printed all forms and carefully fill out all forms by hand to aid in the electronic filing
3. Submitted, on February 2, 2004, all required forms within the renewal filing window.
4. Immediately upon filing, paid all form filing fees on February 2, 2004 .

Petitioner avers that he does not desire to become a “test case” on what technically constitutes “FILING” in the electronic filing universe. Nor does petitioner desire to engage in a hair splitting contest over any definition of what constitutes a “FILED” application with reference to the CORES CDBS electronic filing system.

Arguments could go on for several years to come. Petitioner being of the senior age of 60 years does not have the funds not the time to engage in such an exercise in futility.

Assuming *arguendo* that such a debate would proceed; petitioner feels that a strong argument could be made for the saving and validation of a document could be interpreted to be synonymous with “filing”.

Such a determination should hinge on whether or not the “save” and or “validate” process of the CDBS system was server side or client side.

Using client side (stored in petitioners computer) JavaScript is an efficient way to validate the user input in complex web applications such as the FCC’s CORES CDBS system. When there are many fields in the form, the JavaScript validation becomes too complex. To make the form validations process easier the idea would be to create a set of "validation

descriptors" associated with each element in a form. The "validation descriptor" is nothing but a string specifying the type of validation to be performed.

Petitioner reasoned that regardless client side validation would demand that certain conditions be met:

- a) The form validators should be created only after defining the HTML form (only after the </form> tag.)
- b) The form should have a distinguished name.
- c) If there is more than one form in the same page, validators should be added for each of them.
- d) The names of the forms and the validators should **not clash** with any other name nor conflict with the context or use of key words or descriptors in companion instructions.
- e) You can't use the javascript onsubmit event of the form if it you are using certain validator script. It is because the validator script automatically overrides the onsubmit event. If you want to add a custom validation

Table of Validation Descriptors

required req	The field should not be empty
maxlen=??? maxlength=???	checks the length entered data to the maximum. For example, if the maximum size permitted is 25, give the validation descriptor as "maxlen=25"
minlen=??? minlength=???	checks the length of the entered string to the required minimum. example "minlen=5"
alphanumeric / alnum	Check the data if it contains any other characters other than alphabetic or numeric characters
num numeric	Check numeric data
alpha alphabetic	Check alphabetic data.
email	The field is an email field and verify the validity of the data.
lt=??? lessthan=???	Verify the data to be less than the value passed. Valid only for numeric fields. example: if the value should be less than 1000 give validation description as "lt=1000"
gt=??? greaterthan=???	Verify the data to be greater than the value passed. Valid only for numeric fields. example: if the value should be greater than 10 give validation description as "gt=10"
regexp=???	Check with a regular expression the value should match the regular expression. example: "regexp=^[A-Za-z]{1,20}\$" allow up to 20 alphabetic characters.
dontselect=??	This validation descriptor is valid only for select input items (lists) Normally, the select list boxes will have one item saying 'Select One' or some thing like that. The user should select an option other than this option. If the index of this option is 0, the validation description should be "dontselect=0"

The most time consuming part of a web form design is adding input validations. The validation errors are displayed just next to the input elements That makes it easy for your visitors to quickly spot the errors. And, Importantly, the validations are conducted both in the client side and on the server side. That means, even if the filer of the forms computers has disabled JavaScript in their browsers, invalid data is not let in. It is validated by the server side script as well.

For this reason, petitioner reasonably assumed that validation and storage on the server side allows the script authors have complete access to and control of the forms further processing depending on the desired use of the "onsubmit" action.

The next important step in creating the FCC form 303-S is to have a server side form processor script. This form processor script would handle the data submitted in the form.

The form processor script could send the submitted form data to one or more email addresses, save the form data in a csv (comma separated values) file and send an auto response to the applicant who submitted the form as well as be used to change form status indicators say from no status to "PENDING". as a flag indicating that the forms status had changed .

The long and short of it is that the "validate" or "save" or "file form" button could all accomplish identical "onsubmit" functions. Those functions could only be determined by the author of the script itself.

Clearly the electronic filing users guide meaning of the term "file" is not completely consistent with the grammatical and contextual use of certain keywords e.g. "file" within the printed FCC form 303-S. More precisely the term **"has been filed with the Commission as required by 47 C.F.R. Section 73.3615"** (past tense).

The fact that all forms are stored within the FCC's CORES CDBS electronic filing system raises, at least in the mind of the petitioner the question of delivery. What is the difference between say Federal Express or UPS delivering a form or application to the incorrect room at the FCC.

Because of error; said form does not arrive at the correct desk or lock box before the cutoff.

How is that different than a form being saved stored within the same storage positions at the same storage address on the hard drive of the FCC CORES CDBS computer.

The only difference is that a bit was flipped, an indicator was set, a conditional was changed indicating the application was accessible to FCC staff for inspection and processing.

At the time of filing; petitioner had no clue as to what the effect of the exact function of each "onsubmit" buttons fully accomplished. The fact is that petitioner made a mechanical or interpretive error would rise to the level that would justify the FCC's refusal to accept petitioner's application.

Petitioner avers that the preponderance of the evidence proves that the application was submitted in good faith. It would be erroneous arbitrary and capricious for the Commissions to conclude that petitioner would walk the five thousand two hundred seventy nine feet and eleven inches but was unwilling or knowingly refused to continue for a final inch (press the "FileForm" button back on the Main Menu page) required to cross the finish line is beyond comprehension.

After all, it should not have taken two years for petitioner to learn that there was an error in submitting the renewal application. The "onsubmit" validation and or save process could have generated an auto responder to email petitioners that their application process was not complete. A courtesy email notice could and should have been generated, at least, by the morning of the cutoff date. After all it's easy to generate the java script to accomplish this courtesy. To say the FCC electronic filing system was perfected for us, the class of first electronic filers in 2004 would be an overstatement. Again petitioner does not place the blame nor the responsibility for a "timely" filing on the FCC. It would just be good policy to be as accommodating to broadcasters who are trying to serve the public.

Broadcasters don't just "not comply" for the fun of it. Petitioner avers that had the process not changed to an electronic filing

Petitioner **does not take lightly the gravity of his mechanical or clerical error**, however, petitioner avers that for the FCC to use such a reason, to deprive him of a means to continue to serve his community of license would be a reason, would be "so insubstantial as to render that **denial** an abuse of discretion." *E.g., Thomas*

Radio Co. v. FCC, 230 U.S. App. D.C. 270, 716 F.2d 921, 924 (D.C. Cir.1983). [**10] Although this burden is a heavy one, see *WAIT Radio v. FCC*, 148 U.S. App.D.C. 179, 459 F.2d 1203, 1207 (D.C. Cir.), *cert. denied*, 409 U.S. 1027, 34 L. Ed. 2d 321, 93S. Ct. 461 (1972), as was made clear in *Washington Star* that it is carried when an agency arbitrarily waives a deadline in one case but not in another that clearly exceeds many successful wavier grants.

Given the fact that petitioner followed the directions of the FCC to the best of his ability that the FCC has failed to offer a reasonable distinction between this case and occasions in the past when waivers of filing deadlines have been granted. In particular, the Commission's refusal in this case to accept applications timely tendered and being stored within the computer system of the commission in its **February 2, 2004** unaltered, unedited, and un-appended state appears inconsistent with its decision in *Caldwell Television Associates, Ltd.*, 53 Rad. Reg. 2d (P & F) 1686 (1983), to accept an application under the old manual delivery process and processing procedure that arrived one day late.

ACCOUNT OF PERIOD JANUARY 19 THRU THE COMPLETION OF FILING OF THE LEGAL STA OF MARCH 1, 2006 IN ANSWER TO FCC LETTER

While petitioner acknowledge that he failed to “make a case” or “specifically detail” each and every barrier that served as an impediment to the filing of a timely response to the FCC letter of January 19, 2006 had be overcome by perseverance. Each impediment was clearly beyond the control of petitioner.

Petitioner mistakenly thought it not necessary to detail all of the factors that served as an impediment to what the applications instruction suggested would take less than “three hours” to complete (See: Form 303-S Paperwork Reduction Act of 1996 declaration). Had the FCC Media Bureau not been directly involved in the resolution of these impediments; petitioner would have detailed and provided extensive documentation of any apparent errors and or series of circumstances or events that would aid the Commission in making a proper determination consistent with the spirit and letter of the Act. The

Petitioner completed all required forms and support documents required for Legal STA approval on March 1, 2006. On this single day – March 1, 2006, just as was the case in the initial filing of all forms on February 2, 2004, all form completion activities were accomplished within a three hour period **on a single day**. Because

FCC staff within the Media Bureau, based upon their full knowledge of all circumstances that had an impact on the timeliness of completion of the filings, would determine whether or not a grant of a Legal STA was justified. FCC staff was well aware of the unimaginable chain of events that caused **all** of the delay in what appeared to be untimely and tardy filings.

Additionally, petitioner avers that because of his respect and gratitude to FCC staff’s high level of professionalism, patience, diligence and dignified manner in which every Media Bureau staff member afforded petitioner; there was no way petitioner would attempt to shift blame for **his own apparent mechanical error** within a publically accessible document. Any comments on what I felt were flaws in the CDBS electronic system was expressed orally to both David and Allen.

LEGAL STA - EXHIBIT 38

THIS IS REQUEST FOR A SPECIAL TEMPORARY AUTHORIZATION FOR JAMIE PATRICK BROADCASTING, LTD. TO RESUME BROADCASTING ON KTRY-FM AT BASTROP, LOUISIANA.

ON FEBRUARY 2, 2005 JAMIE PATRICK BROADCASTING, LTD. COMPLETED ITS APPLICATION FOR RENEWAL (FORMS 303-S 323 AND 396)

WHEN WE, IN GOOD FAITH, COMPLETED ALL THREE APPLICATIONS IN 2004; LITTLE DID WE KNOW THAT WE HAD TO GO THROUGH ADDITIONAL STEPS TO ACTUALLY COMPLETE THE FILING PROCESS WITHIN THE NEW ELECTRONIC FILING SYSTEM; WE DID, HOWEVER, TALK TO FCC STAFF PERSONS TO GET ASSURANCE THAT WE HAD COMPLETED THE PROCESS; HOWEVER WE MAY NOT HAVE COMMUNICATED COMPLETELY ENOUGH FOR THE REPRESENTATIVE TO UNDERSTAND THAT WE HAD NOT CLICKED THE FINAL “FILE” BUTTON ON A MENU SCREEN... WE NEVER MADE IT TO THE SCREEN WITH THE MULTIPLE SELECTIONS WITH THE “FILE” OPTION AS A CHOICE.

WE COMPLETED ALL THREE APPLICATIONS ON TIME AND THOUGHT THAT WHEN WE SAVED AND/OR VALIDATED THE APPLICATIONS THAT THEY WERE IN THE FCC DATABASE READY FOR REVIEW BY FCC STAFF.

IN ADDITION WE ALSO FILED RA FORM 159 PAYING FEES FOR FORM 323 AND 303-S. THERE WAS NO CHARGE FOR FORM 396. THIS PAYMENT WAS SENT TO THE DROP BOX 358165 (PITTSBURGH PA)..

WE LEARNED THAT OUR LICENSE HAD BEEN CANCELLED ON JANUARY 19, 2006 JUST THIS WEEK (FEBRUARY 27, 2006). WE WERE NOT IN THE BASTROP LOUISIANA AREA HELPING RELATIVES AND FRIENDS IN SOUTH LOUISIANA (NEW ORLEANS) GETTING OVER THE KATRINA AND RITA HURRICANE DISASTERS DURING THE TIME THE CERTIFIED NOTIFICATION REACHED US DURING JANUARY OF THIS YEAR.

WITH THE HELP OF FCC STAFF (ALLEN AND DAVID) WE WERE GUIDED THROUGH THE COMPLETE ELECTRONIC PROCESS.

WE ARE RESUBMITTING RA'S (FORM175) TO PAY APPROPRIATE FEES ASSOCIATED WITH THE VARIOUS APPLICATIONS.

WE DO APOLOGIZE TO THE COMMISSION FOR NOT FULLY GRASPING THE COMPLETE ELECTRONIC FILING PROCESS. THERE WERE MISUNDERSTANDINGS IN TERMINOLOGY USED WITHIN THE SITE DURING OUR 2004 FILING. OUR MAJOR ERROR WAS CENTERED ON THE MEANING OF THE STATUS TERM "IN PROCESS". WE REALIZE THAT WE WERE IN ERROR AND FOR THAT WE ARE VERY SORRY.

THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER.

HENRY COTTON - PRESIDENT

While Exhibit 38 may have failed to provide a convincing and compelling argument sufficient for the Commission to accept petitioner's application for broadcast station license renewal, though perceived an "untimely" filing because of mechanical or interpretation error.

Petitioner failed to associate hurricane disaster relief with failure to be at his residence to check all correspondence. Or to keep abreast of all FCC Public Notices was to his detriment. People residing in other areas of the country and world may not realize that the disaster relief effort was not terminated when the evacuees were able to vacate the Louisiana Superdome or the New Orleans Convention Center. Those events marked a time of escalation of the need to provide all the resources that we could muster, including every waking moment.

For more than a year after August 2005, petitioner worked with the volunteer effort to help accommodate and offer compassion and comfort to individuals who had lost all of their worldly possessions. Petitioner is not using our disasters as a convenient excuse. The hurricanes that made landfall in southern Louisiana in late 2005 created an unbelievable situation and circumstance so extraordinary that for a person to understand the full extent and toll assessed as a result of Katrina and Rita; that individual would have had lived through and experienced the chaos in order to comprehend how petitioner failed to receive notice of the Commissions letter of or have immediate knowledge of the FCC decision of January 19, 2006.

Petitioner avers that, of necessity, the Northeast Louisiana areas' response to the hurricane Katrina and hurricane Rita disaster relief effort had to be an all consuming task. North Louisiana became location of first resort because our geographical area was the closest "high and dry" refuge area for persons who were of limited resources.

The daily demands on area volunteers involved in this noble service to humanity, including petitioner, were overwhelming. The extent of petitioner's dedication and commitment provide aid and comfort to affected victims was no less than total. Petitioner avers that countless numbers of individuals who could take time away

from their business or employment to aid in the relief effort did just that. Petitioner, without regret, was total commitment and dedication to lend total support to extended family members, friends and strangers who were devastated by the most catastrophic and cataclysmic human tragedy that our state has ever witnessed.

Louisianan residents, as well as other neighbors from all over the Gulf South, needed our help and we did everything to assist them. Doing all that he could during this dreadful period, petitioner here makes no apology for his decision to volunteer and work tirelessly assisting the hurricane Katrina and hurricane Rita disaster relief effort in support of during individuals going through their most trying times.

PETITIONER'S IN TIMELY RESPONSE TO FCC LETTER OF JANUARY 19, 2006 FOLLOWED THE DIRECTIONS OF THE FCC

Petitioner, not being able to determine the reason for the FCC letter of January 19, 2006, placed an immediate telephone call to the Media Bureau. Petitioner learned was shocked when he learned that he had made a mechanical error; “**not clicking on the “file form” button** on the main menu account page after completely entering, saving and validating all filed forms and the license renewal application”.

Not to be misunderstood, petitioner here states clearly he was upset only with himself. Still; it was the end of the world and financial ruin for petitioner and placed unbearable emotional stress and extreme financial hardship on petitioner, petitioner's employees and their families.

Petitioner avers that he was an emotional wreck and could not have physically nor emotionally survived this most stressful event but for the polite and helpful posture of Media Bureau staff.

Petitioner avers that immediately upon learning of his renewal application status; he followed FCC's directions in accordance with the Rules: Application for renewal of license Code of Federal Regulations - Title 47 Section 73.3539(a) of the Rules Paragraph (a) **Unless otherwise directed by the FCC.**

Petitioner avers that in January 2006 and immediately upon learning that the February 2, 2004 renewal application process had not being “filed **completed**”, he contacted the FCC and fully and to the letter followed the directions of the FCC.

After petitioner's immediate call to the FCC Media Bureau and reached Mr. Wagner. After asking for an explanation as to the reason for the adverse FCC's January 19, 2006 decision; Mr. Wagner referred petitioner to Mr. Fisher.

Mr. Fisher provided a detailed explanation of petitioner's mechanical error applying a calm and respectful demeanor which helped petitioner cope with a panic stricken and extreme depressive state. Mr. Fisher made clear that time was of the essence. Mr. Fisher then directed petitioner to follow all instructions of an Information Technology specialist that he would assign to assist in completing the mechanical process that petitioner had, in error, failed to accomplish.

The FCC Information Technology specialist (ALLEN) instructed petitioner to login to the CDBS system. However, the CDBS system would not allow petitioner to login. Petitioner could not access CDBS system because his FRN Number and Account number was no longer valid. There immediate action could not be accomplished as petitioner could not access to FCC online electronic filing system (CDBS).

After several days of trying to solve the CDBS access problem, the FCC determined that the system had assigned a petitioner a different FRN numbers. Petitioners old account number was no longer associated with KTRY-FM. Neither of the two FRN numbers allowed petitioner access to the DKTRY CDBS account.

Over the next several days petitioner tried all numbers that were assigned in all possible combinations of FRN, account number, and facility ID numbers. From late January through mid February 2006; the FCC help desk (Evelyn and other help desk staff) assisted petitioner resolve account access problems.

SCREENSHOT OF LOGIN ATTEMPTS DURING THE MONTH OF FEBRUARY 2006 - ACCESS TO CDBS CORES FCC WAS DENIED USING ANY COMBINATION OF ALL THREE FRN'S

Petitioner still could not access

After several days and countless attempts; petitioner was *instructed by FCC help desk staff* to file for a **new** FRN number. The logic was that there must be some glitch in the system that would not allow petitioner to access the CORES CDBS electronic filing system.

Following FCC directions; the petitioner would then be instructions file for a new FRN that should allow access to the CDBS system. That new assigned FRN number was **"0006280242"**. In addition another FRN number had somehow been assigned by the FCC subsequent to the February 2, 2004 date

Petitioner had a total of three different FRN Numbers on file with the FCC. None of these FRN Numbers allowed access to petitioners account. **Petitioner again relied upon the directions of the FCC.**

The consensus reached was to erase petitioners original FRN that was used to timely file the February 2, 2004 broadcast renewal application.

This approach did not work.

SCREENSHOT OF JANUARY 2006 REQUEST FOR **NEW** FRN NUMBER (TOP OF FORM)

FCC Home | Search | Updates | E-Filing | Initiatives | For Consumers | Find People

FCC Registration

FCC > FCC Registration

Error(s):
"Employee Identification Number" or an "Exception Reason" is required (not both), and EIN must be 9-digits without dash!

FRN Registration

Return to FCC Registration Home

Register a Domestic Business

Business Type: Federal Agency Subtype: Administration

Business Name: JAMIE PATRICK BROADCASTING

If your business has an Employer Identification Number or Taxpayer Identification Number, enter it here: 72-121664

If your business does not have an Employer Identification Number, select a reason:

Contact Information

Organization: COTTON COMMUNICATIONS Position: PRES

Salutation: Mr First Name: HENRY

Middle Initial: C Last Name: COTTON

Suffix:

Address Line 1: 328 WEST MADISON A Address Line 2:

City: BASTROP State: LOUISIANA

Zip Code: 71220 Phone: 318 281 3333 ext.

Fax: 318 556 3633 Email: henrycotton@mail.com

FRN Password

Done My Computer 100%

Screenshot of JANUARY 2006 REQUEST FOR NEW FRN NUMBER (BOTTOM OF FORM)

NOTICE TO INDIVIDUALS REQUIRED BY THE PRIVACY ACT OF 1974 AND THE PAPERWORK REDUCTION ACT OF 1995

The solicitation of the personal information requested in this form is authorized by the Communications Act, Sections 8 & 9, and the Debt Collection Improvement Act of 1996, P.L. 104-134. This form will be used primarily to capture information to maintain required accounts receivable, and collect fines and debts due the Commission. As part of the Debt Collection Improvement Act, agencies are authorized to refer specific Taxpayers Identification information which includes Employers Identification Numbers and Social Security Numbers to the Department of Treasury for further investigation and possible enforcement of a statute, rule, regulation or order. If we believe there may be a violation or potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government, is a party to a proceeding before the body or has an interest in the proceeding. If information requested on the form is not provided, processing of the application filing may be delayed or returned without action pursuant to Commission rules.

If you owe a past due debt to the Federal Government, the Taxpayer Identification Number (such as your Social Security Number) and other information you provide may also be disclosed to the Department of the Treasury, Financial Management Service, other federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide this information to these agencies through the matching of computer records when authorized.

We have estimated that each response to this collection of information will take, on average, 15 minutes. Our estimate includes the time to read the instructions, look through existing records, gather and maintain required data, and actually review and complete the form. If you have any comments on this estimate, or on how we can improve the collection of this data to reduce the burden it causes you, please write the Federal Communication Commission, AMD-PERM, Washington, DC 20554, Paperwork Reduction Project (3060-0917). We will also accept your comments via the Internet if you send them to Judith-B.Herman@fcc.gov. Please DO NOT SEND COMPLETED APPLICATION FORMS TO THIS ADDRESS.

Remember--You are not required to respond to a collection of information sponsored by the Federal government, and the government may not conduct or sponsor this collection, unless it displays a currently valid OMB control number or if we fail to provide you with this notice. This collection has been assigned an OMB control number of 3060-0917.

This notice is required by the Privacy Act of 1974, Public Law 93-579, December 31, 1974, 5 U.S.C. Section 552a(e) (3) and the Paperwork Reduction Act of 1995, Public Law 104-13, October 1, 1995, 44 U.S.C. 3507.

On February 28, 2006 petitioner was directed to write a letter to the FCC giving the original 1.) Facility ID number, 2.) Tax Identification number, and 3.) FRN number.

Jamie Patrick Broadcasting, LTD.

KTRY FM 93.9
328 West Madison Avenue
Bastrop, LA 71220
318-281-3333 fax 318-556-0043
cell 318-669-4896

Received & Inspected

OCT 31 2012

FCC Mail Room

February 28, 2006

Mr. Stephen French FEDERAL COMMUNICATIONS COMMISSION

Re: Federal ID# UPDATE INFORMATION

Dear Sir:

In an effort to update our CORES data we are supplying the following information.

FACILITY #	FEDERAL ID#	FRN #
30308	72-1216648	0010-0634-35

I certify that I am President of Jamie Patrick Broadcasting, LTD and am the person authorized to act on behalf of the corporation.

Sincerely,

Henry Charles Cotton
President& CEO

(END OF LETTER)

Saved February 28, 2006 screenshot of petitioners account (top of main menu page)

Federal Communications Commission
CDBS Electronic Filing System

Account number: 84688

Account Maintenance

New Application: 84688

NOTICE: EEO forms 395-A and 395-B are suspended. See Commission Order FCC 01-34, at http://www.fcc.gov/Bureaus/Mass_Media/Orders/2001/fcc01034.pdf

Form Name	Edition
FCC 301 -- Construction Permit For Commercial Broadcast Station	Sep 2004
FCC 301-CA -- Application for Authority to Construct or Make Changes in a Class A Television Broadcast Station	Feb 2005
FCC 302-CA -- Application For Class A Television Broadcast Station Construction Permit or License	Jun 2002
FCC 302-DTV -- Application For Digital Television Broadcast Station License	Jun 2002
FCC 302-FM -- Application For FM Broadcast Station License	Jun 2002
FCC 302-TV -- Application For Television Broadcast Station License	Jun 2002
FCC 303-S -- Application For Renewal of Broadcast Station License	Jul 2004
FCC 314 -- Application For Consent To Assignment Of Broadcast Station Construction Permit Or License	Sep 2004
FCC 315 -- Application For Consent To Transfer Control Of Entity Holding Broadcast Station Construction Permit Or License	Sep 2004
FCC 316 -- Application For Consent To Assign Broadcast Station Construction Permit Or License Or To Transfer Control Of Entity Holding Broadcast Station Construction Permit Or License	Jun 2002
FCC 317 -- Annual DTV Ancillary/Supplementary Services Report For Digital Television Stations	Nov 2003
FCC 318 -- Application for Construction Permit for a Low Power FM Broadcast Station	Mar 2000
FCC 319 -- Application for Low Power FM Broadcast Station License	Apr 2001
FCC 323 -- Ownership Report for Commercial Broadcast Stations	Jun 2002
FCC 323-E -- Ownership Report for Noncommercial Educational Broadcast Stations	Jun 2002
FCC 337 -- Application for Extension of Time to Construct a Digital Television Broadcast Station	Jun 2002
FCC 340 -- Construction Permit For Reserved Channel Noncommercial Educational Broadcast Station	Mar 2001
FCC 345 -- Application For Transfer Of Control Of A Corporate Licensee Or Permittee, Or for Assignment Of License Or Permit Of TV Or FM Translator Station Or Low Power Television Station	Jan 2001
FCC 346 -- Application For Authority To Construct Or Make Changes In A Low Power TV, TV Translator or TV Booster Station	Feb 2005
FCC 347 -- Application For A Low Power TV, TV Translator Or TV Booster Station License	Jun 2002
FCC 349 -- Application For Authority To Construct Or Make Changes In An FM Translator Or FM Booster Station	Mar 2001

My Computer 100%

Saved February 2, 2006 screenshot of petitioners account (bottom of main menu page)

Work in Progress: 84688

Select	Form Title - Description	Status/Ref No.
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License APPLICATION FOR RENEWAL OF BROADCAST STATION LIC Created: Feb 2 2004 1:36PM	PENDING N/A
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations OWNERSHIP REPORT FOR COMMERCIAL BROADCAST STA Created: Feb 2 2004 12:02PM	VALID N/A
<input type="radio"/>	FCC 396 -- Broadcast Equal Employment Opportunity Program Report BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGR Created: Feb 2 2004 11:30AM	PENDING N/A

[User's Guide](#)

FCC - Federal Communications Commission - CDBS Electronic Filing System - Tue Feb 28 15:47:14 EST 2006

[System Status](#)

Please note date finally gained access to CDBS electronic system subsequent to January 19, 2006 FCC adverse rule.

On March 1, 2006; petitioner was directed, by the FCC help desk, to reenter an update to the CORES database with petitioners **original FRN Number**.

FCC Federal Communications Commission

FCC Home | Search | Updates | E-Filing | Initiatives | For Consumers | Find People

AMERICA THE BEAUTIFUL

FCC Registration

FCC > FCC Registration < FCC Site Map

Update FRN Registration

[Return to FCC Registration Home](#)

As of today, Mar 1 2006 3:26PM, you have updated FCC Registration Number (FRN) **0010063485**. Please print this page for your records.

Domestic Business Registration			
Business Type:	Private Sector	Subtype:	Corporation
Business Name:	KTRY		
EIN:	Administrative Exception		
Contact Information			
Organization:	Jamie Patrick Broadcasting,LTD-	Position:	President
Salutation:		First Name:	Henry
Middle Initial:	C	Last Name:	Cotton
Suffix:			
Address Line 1:	328 West Madison Avenue	Address Line 2:	
City:	Bastrop	State:	LOUISIANA
Zip Code:	71220	Phone:	318 281 3333
Fax:	318 556 0043	Email:	henrycotton@mail.com
FRN Password			
Password:			
Personal Security Question and Answer			
PSQ:			PSQ Answer:

Amateurs, Aircraft, Marine, Antenna Structure Registration (ASR), and any other service licensed through the Universal Licensing System (ULS) should click on the following link to access ULS and associate their call sign(s) with their new FRN and password. Existing call signs must be associated with an FRN before you can file in ULS.

- [FCC Universal Licensing System](#)

To visit another FCC site, follow the links below:

- [FCC Auctions](#)

Internet 100%

The reason that a timely written answer to the FCC letter of January 19, 2006 was that he relied upon the direction of the FCC. Said reason was completely beyond the control of petitioner. Petitioner avers that the first date that he could access the CDBS electronic system was 3:47 p.m. on February 2006.

Petitioner agreed with the FCC in its October 18, 2007 letter of dismissal that petitioner did not address the perceived “untimely filing” within its renewal application. Petitioner, in error, believed that because the FCC clearly knew before petitioner knew why the renewal application was perceived as “untimely filed”. FCC staff, was fully aware of the reason for the “untimely filing encompassed the DKTRY-FM “untimely” license renewal matter. Petitioner just did not think it necessary to go into elaborate and extensive detail. I just did not want to compromise the integrity of the timely filed renewal application by disturbing the February 2, 2004 renewal application.

Because petitioner cannot afford counsel; petitioner offers an apology for any procedural violations or any apparent lack of foresight.. Petitioner had opined that to edit or append renewal application would constitute an “untimely filing” of the application. For plaintiff to tell the FCC that “I failed to hit the “File Form” button during the timely submission of the renewal application” just didn’t seem necessary. After all, it was the Commission that told me what I had failed to do; depress one very important button.

Petitioner followed the detailed instructions of the FCC Information Technology specialist from an earlier telephone instructive session (conversation). The FCC IT specialist (David) had previously directed petitioner to generate duplicate forms for all three applications that were submitted on February 2, 2006 in the order: 1.)

Form 323 Ownership Report then 2.) Form 396 Broadcast Equal Opportunity Report and a “copy duplicate” of the February 2, 2004 timely submitted Form 303-S; Application for Renewal of Broadcast License.

After gaining access the petitioner’s DKTRY-FM account petitioner, again, followed the instructions and directions of the FCC Information Specialist (David) and generated two of the three forms to be filed between February 28, 2006 and March 1, 2006.

Work in Progress:34688

Petitioner finally gained access to the CDBS and duplicated all 3 Forms

Select	Form Title - Description	Status/ Ref No.
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License Incomplete Copy (DO NOT use) of APPLICATION FOR RENEW/ Created: Feb 28 2006 4:15PM	PENDING N/A
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License APPLICATION FOR RENEWAL OF BROADCAST STATION LIC Created: Feb 2 2004 1:36PM	VALID N/A
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations FORM 323 OWNERSHIP REPORT Created: Mar 1 2006 3:34PM	READY 20060301ACG
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations OWNERSHIP REPORT FOR COMMERCIAL BROADCAST STATIONS Created: Feb 2 2004 12:02PM	READY 20060301ACD
<input type="radio"/>	FCC 396 -- Broadcast Equal Employment Opportunity Program Report BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGR Created: Feb 2 2004 11:30AM	VALID N/A

NOTE DATE AND TIME

File Form Test File Print Form Pay Fee Update Desc Copy Form Delete Form

[User's Guide](#)

FCC - Federal Communications Commission - CDBS Electronic Filing System - Wed Mar 1 15:59:04 EST 2006

[System Status](#)

On March 1, 2006 petitioner was able to reach Mr. Fisher. Because David was not available, petitioner was directed to a different IT specialist (Allen). Mr. Fisher informed the FCC Information Technology specialist that petitioner was now able to access petitioner’s account on the CDBS electronic filing system.

Following FCC staff instructions; petitioner was able to execute a successful login to the KTRY FM CDBS account main menu page. The FCC IT specialist realized petitioner’s original applications were saved, validated and still active with “PENDING” status. FCC personal instructed petitioner to select each application and depress the file button.

This procedure required only two steps and took a total of three minutes to mechanically press the file form button once for each of the two prerequisite forms and finally the broadcast license renewal application.

Plaintiffs avers and CDBS logs will confirm the fact that petitioner performed no additional entries append, amend edit or modifications any form after the February 2, 2004 cutoff.

Because there were no `entries or modifications on any form after the filing cut date; the FCC should be considered reconsideration of its decision to reject petitioners application for license renewal as filed on February 2, 2004.

Petitioner here offers proof that his submission was not due to tardiness nor lack of a good faith effort to complete the filing process. Even though petitioner acknowledges the fact that he made a mec than a “good faith” effort was as reasonable confirming that the fact that on or before February 2, 2004; petitioner made a good faith effort to completely and accurately file all applications required in full compliance of the Code of Federal Regulations - Title 47 Section 73.3539(a) of the Rules Paragraph

Perform the two steps above then repeat for Form 396 and again for Form 303-S.

Work in Progress: 34688

STEP 1: SELECT APPLICATION **THEN GO TO** **STEP 2: PRESS FILE FORM**

Select	Form Title - Description	Status/Ref No.
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License APPLICATION FOR RENEWAL OF BROADCAST STATION LICENSE Created: Feb 2 2004 1:36PM	READY 20060301ACK
<input type="radio"/>	FCC 322 -- Ownership Report for Commercial Broadcast Stations OWNERSHIP REPORT FOR COMMERCIAL BROADCAST STATIONS Created: Feb 2 2004 12:02PM	READY 20060301ACD
<input type="radio"/>	FCC 396 -- Broadcast Equal Employment Opportunity Program Report BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGRAM REPORT Created: Feb 2 2004 11:30AM	READY 20060301ACI

File Form Test File Print Form Pay Fee Update Desc Copy Form Delete Form

[User's Guide](#)

FCC - Federal Communications Commission - CDBS Electronic Filing System - Wed Mar 1 16:33:10 EST 2006

[System Status](#)

Again, petitioner avers that the save and validate process or mechanical exercise of “filing” form 323 and filing form 396, a requirement perquisite to gain access CDBS online form 303-S on February 2 2004, **redefined, at least in his mind**, the meaning of the word “**FILE**” as well as reestablish the required processes or steps (save and validate) necessary to “**FILE**” the license renewal form.

It is certain that the CDBS denied petitioner access to form 303-S until, as the error message clearly stated that “forms 323 and 396 must be filed prior to filing form 303-S”.

Petitioner admits that he made an error by not finding the programs main menu and pressing the “file form” button.

File Form Test File Print Form Pay Fee Update Desc Copy Form Delete Form

Instead, petitioner saved and validated all forms for filing saving them within the FCC database. There were no graphical user interface options to “Test File” or “File Form” available at the competition (end or bottom) of each form on the CDBS graphical user interface..

Validate Save Menu

Again petitioner avers that all actions and responses to the FCC letter of January 19, 2006. The FCC Media Bureau Directed the entire error correction process through instructions received from the FCC Information Specialist directing petitioner go to the CDBS DKTRY-FM account main menu and 1.) Select each original form that was completed and unaltered on February 2, 2004. 2.) Locate and depress the “file form” button for

each form. The information specialist informed petitioner that he would monitor this action to insure that the status on all applications would change from “PENDING” to “READY”.

In real time; the FCC Information Specialist observed petitioner’s action (depressing the “file form” button) on his monitor (screen) at the FCC through what he called a “back door” to the CDBS system.

After petitioner completing the required action, depressing the “FILE FORM” button on the CDBS after selecting each of the three original forms (including petitioner’s license renewal application); the FCC IT specialist confirmed that each of the three forms status had, in fact, changed from “PENDING” to “READY” within the FCC CDBS system database. The FCC IT specialist informed petitioner that petitioner had completed the process.

RESULTING FINAL FORM AND RENEWAL APPLICATION STATUS SCREENSHOT AFTER IT SPECIALIST HELP ON MARCH 1 2006

FCC 396 -- Broadcast Equal Employment Opportunity Program Report Mar 2003
FCC 396-A -- Broadcast Equal Employment Opportunity Model Program Report Feb 2003
FCC 396-C -- Multi-Channel Video Program Distributor EEO Program Annual Report Sep 2003
Additional non-form Filings Mar 2005

Work in Progress: 34688

Select	Form Title - Description	Status/ Ref No.
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License Incomplete Copy (DO NOT use) of APPLICATION FOR RENEW/ Created: Feb 28 2006 4:15PM	PENDING N/A
<input type="radio"/>	FCC 303-S -- Application For Renewal of Broadcast Station License APPLICATION FOR RENEWAL OF BROADCAST STATION LICENSE Created: Feb 2 2004 1:36PM	READY 20060301ACK
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations FORM 323 OWNERSHIP REPORT Created: Mar 1 2006 3:34PM	READY 20060301ACG
<input type="radio"/>	FCC 323 -- Ownership Report for Commercial Broadcast Stations OWNERSHIP REPORT FOR COMMERCIAL BROADCAST STATIONS Created: Feb 2 2004 12:02PM	READY 20060301ACD
<input type="radio"/>	FCC 396 -- Broadcast Equal Employment Opportunity Program Report BROADCAST EQUAL EMPLOYMENT OPPORTUNITY PROGRAM REPORT Created: Feb 2 2004 11:30AM	READY 20060301ACI

File Form Test File Print Form Pay Fee Update Desc Copy Form Delete Form

User's Guide

FCC - Federal Communications Commission - CDBS Electronic Filing System - Wed Mar 1 16:17:30 EST 2006

System Status

Petitioner, feeling pretty illiterate, asked if he was the only broadcaster within this 2004 first electronic filing class who had come to the erroneous deduction that the license renewal filing process ended with “**PENDING**” status after the save and validate procedure after each forms competitions. Petitioner was informed that there were other members of the 2004 first electronic filing class that were on the same side of the learning curve’s normal distribution and that petitioner’s application was by no means alone.

If it is any “**consolation**” to petitioner there were other similarly situated members of the “first electronic filing class”. The specialist indicated that the contractors were cleaning up the glitches in the CDBS design as part of the Commissions’ (FCC) Quality Assurance Quality Improvement program.

Petitioner avers that the system was “**not perfect**” and the specialist said; quoting his exact words describing the size of the group of broadcasters that I was a member of (making this mechanical and or judgmental error of omission) was “**not a small class**” of similarly situated broadcasters.

Petitioner was not happy because of, nor found any consolation in, the fact that there were other broadcasters who also experienced problems during the 2004 electronic license renewal filing process. There was no consolation because petitioner felt that he was part of the problem because he failed to complete the process because he, even after reading instructions, induced and deduced because of contextual interpretation during the filing process.

Petitioner, in admitting his mechanical and/or interpretative error based upon the context in which keywords such as “**filed**” and terms such as “**must be “filed” before form 303-S**” were deployed.

Petitioner offered suggestions to FCC IT specialist about what he felt were shortcomings in the CDBS Graphical User Interface design with reference to the contractors’ selections of form status **descriptors that petitioner felt contributed to his mechanical** error and lack of understanding the logic of selected words and terms. I tried not to be judgmental and second guess CDBS Graphical User Interface design and descriptor selection logic. Instead petitioner felt that publicly criticism of what he felt were obvious logic and design flaws in the system’s interface would be disrespectful to the contractors and designers of the CDBS electronic filing system. I was sure that the individuals that had taken on such a massive undertaking of the CDBS electronic filing system had worked countless hours to build the electronic database, map the site and insure ease of navigation.

Petitioner worked for over eight years for the International Business Machines Corporation as a Systems Engineer and is familiar with interfacing databases and with well scripted submission forms. My comments were reflective of my own system planning and design team experiences.

Even though I thought that had I been on the system design team I could have been a contributor to the scripting of a better forms submission processing system. I at least would have made a case of these suggestions even if they were shot down because they may not add to the processes improvement. Petitioner felt it inappropriate blame the CDBS technical writers and/or designers of the CDBS system’s Graphical User Interface **for my own obvious mechanical filing error of omission.**

The system GUI and user friendliness could be improved. I chose to privately and orally make quality improvement comments to a very receptive and knowledgeable IT specialist. Petitioner presented comments to the proper person, a person in a position to relay my comments and feeling from an end users perspective, to key individuals working on this massive undertaking.

Petitioner respectfully offered input, as form directions instructed. Comments and reasons petitioner felt contributed to his mechanical error were outlined and directed to the IT specialist. Those comments included, but were not limited to suggestions: 1.) Petitioner that **would have selected “READY” as a status descriptor** resulting from a “save” followed by a “validate form” action to indicate that the identified or selected form passed the validation test and was acceptable or “READY” to be filed.

I agree that he did not degrade nor did he feel that he should in his application appear to ‘second guess’ the CDBS’s Graphical User Interface design or selection sequence of applying identifying status descriptors of forms as they progress through the system.

My error cause undue work on the part of a great number of FCC staff for months after the fact as well as create undue hardship to our organization. Petitioner's staff has been and remains unemployed to this day.

SUMMARY OF PROCEEDINGS

ALL FORM DATA ENTRY WAS COMPLETED DURING BRIEF PERIODS OF TIME. JANUARY 27 THRU FEBRUARY 2, 2004; THE INITIAL LICENSE RENEWAL FILING WINDOW AND AGAIN BETWEEN FEBRUARY 27 THRU MARCH 1, 2006 FOR FCC DIRECTED FORMS FILE CORRECTIVE ACTIONS AND FILING OF PETITIONER'S LEGAL STA.

ACCOUNT OF PERIOD BETWEEN THE FILING OF THE LEGAL STA OF MARCH 1, 2006 AND FINAL APPROVAL OF STA BY THE AUDIO DIVISION ON JUNE 1, 2006

Petitioner avers that he immediately attempted to pay fees associated with the Legal STA. However, the fee payment was rejected in a "Cause Of No Action" because of DKTRY-FM outstanding regulatory fees.

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, DC 20554

OFFICIAL BUSINESS
PENALTY FOR PRIVATE USE, \$300



KTRY - FM

Attn: Henry Cotton

328 West Madison Avenue

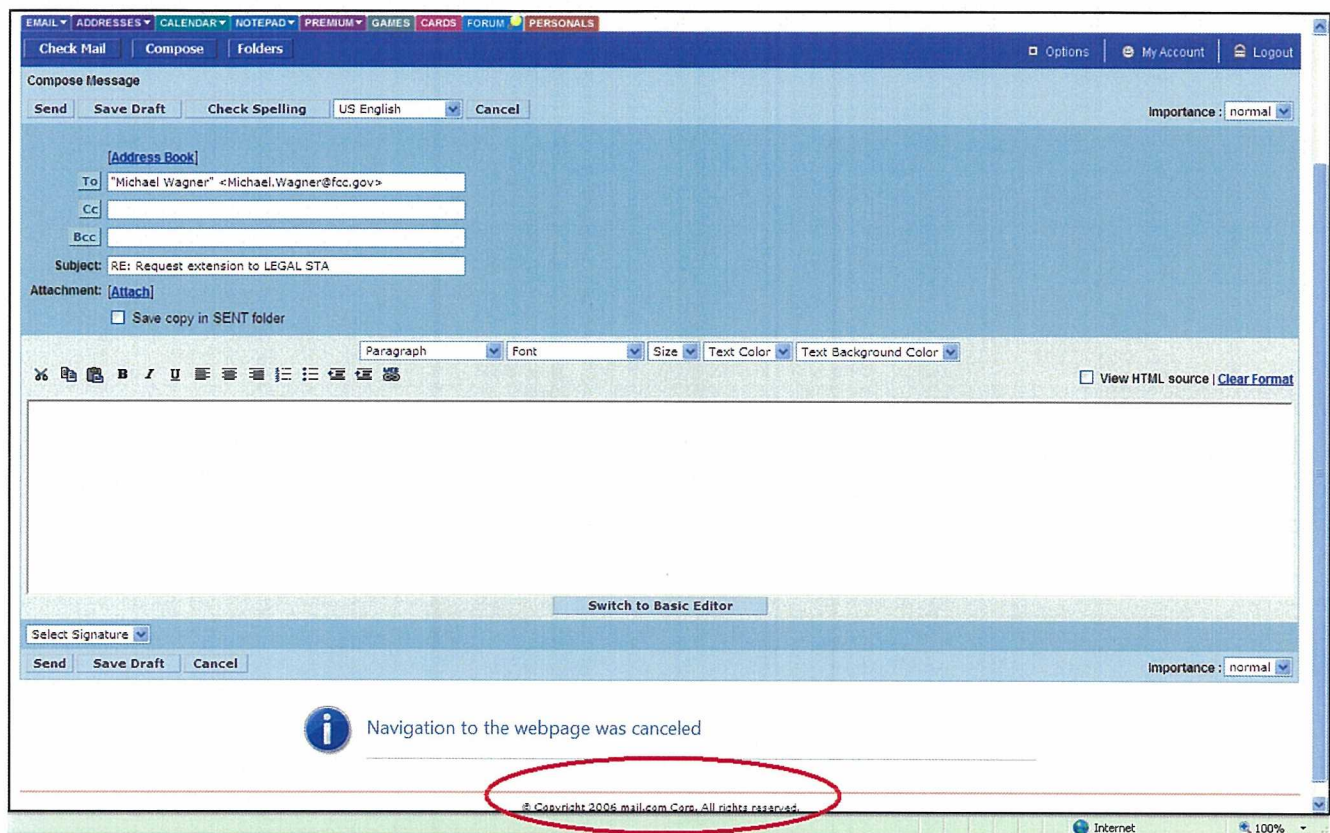
Bastrop, LA 71220

LEGAL STA ISSUES AND INADEQUATE STATEMENT OF WHAT PETITIONER FELT CONTRIBUTED THE CAUSE OF APPARENT “UNTIMELY FILING” OMITTED THE FULL EXTENT OF CORRECTING FRN NUMBER PROBLEMS

FURTHER DELAYS IN LEGAL STA APPROVAL CAUSED BY REGULATORY FEE ISSUES.

PETITIONER’S “FAILURE TO FILE LEGAL STA EXTENSION”

Petitioner avers that he filed an application for extension of Legal STA.



In October of 2006, petitioner began the process to file for an STA extension.

----- Original Message -----

From: henry cotton [mailto:hencot@mail.com]

Sent: Tuesday, October 31, 2006 10:17 AM

To: Michael Wagner

Subject: Request extension to LEGAL STA

Dear Mr. Wagner,

We am requesting an extension to the LEGAL STA that grants KTRY-FM operating authority.

We need additional time to correct certain issues that require considerable resources. We lost revenue during the period that we were not operating in February and March of this year.

We had so much negative News coverage during our outage that it has been an uphill task to fully recover. During the five months that we have resumed operation we have regained the confidence of more and more advertisers with each passing day.

We are on target to finish all that we need to accomplish relative to operating in full and complete compliance with FCC Regulations by May 15, 2007.

Thank you for everything.

Henry Cotton

KTRY FM 318-669-4896

PROMPT, COURTEOUS AND HELPFUL RESPONSE FROM MR. MICHAEL WAGNER-

From: "Michael Wagner"

To: "henry cotton"

Subject: RE: Request extension to LEGAL STA

Date: Tue, 31 Oct 2006 11:30:54 -0500

Mr. Cotton:

Received & Inspected
OCT 31 2012
FCC Mail Room

Requests by a commercial broadcast station for Special Temporary Authority to operate during the processing of its late-filed license renewal application must be filed with Mellon Bank in Pittsburgh. See the Application Fee Filing Guide for Media Bureau available for downloading at <http://www.fcc.gov/fees/appfees.html> .

Such requests (both original requests and each extension), which may be in the form of a letter, must be accompanied by FCC Form 159 (Remittance Advice) and the appropriate filing fee (currently \$150).

STA requests (and each extension) must also be accompanied by an Anti-Drug Abuse Act certification. The example of this which follows is a one-page edition of the version which is on the Audio Division's website at <http://www.fcc.gov/mb/audio/antidrug.html> . You may also copy the essential wording from many of the FCC's forms and incorporate that certification into the letter requesting the STA.

I see that you current STA is due to expire on November 17, 2006, so it appears that you have a little time. But do get the STA request on file ASAP, and you'll be covered.

Michael Wagner

Audio Division, Media Bureau

NOTE: PETITIONER NOTES THAT MR. WAGNER WAS UNBELIEVABLE IN HIS TOLERANCE OF PETITIONER IN LIGHT OF THE FACT THAT PETITIONER CANNOT AFFORD COUNSEL.

Again petitioner avers that; all forms required for license renewal were timely submitted before the close of business on February 2, 2004 including the Jamie Patrick Broadcasting, Ltd., KTRY FM Form 303-S License Renewal application. All forms timely submitted on February 2, 2004 remain to this day remains, without editing or appending in any way, at the exact digital storage position within the FCC CDBS database.

Petitioner therefore prays upon the Commission for a fair examination of the facts submitted before considering the questions:

- a. Did petitioner make a good faith effort to timely file all required forms including its application for Broadcast License Renewal on or before the close of business Monday, February 2, 2004?
- b. Did petitioner have a good faith belief that he had, in fact, completed the Licenses Renewal Process on or before the close of business Monday, February 2, 2004?
- c. Given petitioner procedural circumstance; does a reasoned determination by the FCC that any perceived disadvantages in rightly granting petitioner a wavier outweigh the advantages of rigidity?

Petitioner affirms that:

- a) Petitioner make a good faith effort to timely file all required forms including its application for Broadcast License Renewal on or before the close of business Monday, February 2, 2004. Petitioner captured every screen thought the full electronic filing process proving diligence in his efforts and
- b) Petitioner had a good faith belief that he had, in fact, completed the Licenses Renewal Process on or before the close of business Monday, February 2, 2004 after entering all certifications and processing all forms including the February 2, 2004 broadcast renewal application and
- c) Petitioner procedural circumstance prevented a timely completion of its request for Special Temporary Authorization in response to Commissions January 19, 2006 letter were exceedingly beyond the control of DKTRY-FM.

Petitioner further avers that the Commission should find that in 2004 there existed a succession of circumstances that contributed to the appearance that petitioner, after making every attempt to exercise an extreme level of due diligence, like other similarly situated broadcast applicants in this first electronic filing class may have become confused and through erroneous misinterpretation did not complete the license renewal filing process.

Again, given the fact that petitioner;

- a) Before the FCC's filing cutoff:
 - a. exercised reasonable diligence in the preparation of its broadcast renewal application
 - b. timely tendering it the FCC form 303-S before the filing deadline
 - c. had a good faith belief that it has fulfilled all FCC requirements in completing the electronic filing process
- b) Immediately upon learning that petitioner's complete saved and validated broadcast renewal application had lay dormant within the FCC CORES CDBS electronic filing system because of petitioner's clerical or mechanical error
 - a. followed the directions of the FCC to the best of his ability in the immediate correction of petitioner's mechanical error
 - b. had no control of any delay in the processing of the Legal STA which took more than three months to electronically process

the FCC in its letter of October 18, 2007 by failing to include oral communication between FCC staff where petitioner clearly followed the detailed directions and instructions of the FCC. And in refusing to consider documented CORES CDBS access logs as evidence that circumstances that contributed to any apparent appearance that petitioner was tardy or careless in any filing, or filing deadline proves that the FCC has failed to offer a reasonable distinction between this case and occasions in the past when waivers of filing deadlines have been granted.

In particular, the Commission's refusal in this case to accept petitioner's **February 2, 2004** broadcast renewal application which were clearly timely tendered, being stored within the computer system of the Commission in its still, unedited, unaltered, unmodified and un-appended state appears inconsistent with its decision in *Caldwell Television Associates, Ltd.*, 53 Rad. Reg. 2d (P & F) 1686 (1983), to accept an application under the old manual delivery process and processing procedure that arrived one day late in comparison to not accepting petitioners application that was within the system ahead of the filing cutoff.

The FCC began its analysis in *Caldwell*, as it did in its October 18, 2007 letter rejecting petitioners broadcast renewal application, by reiterating its general policy regarding application deadlines: whild not quoting *Caldwell* in the letter " Our cut-off rules are to be strictly enforced with waivers granted only in unusual and compelling circumstances. A prerequisite to such a waiver is that an applicant **[**8]** demonstrate that it has exercised reasonable diligence. Any tardiness must be attributable to circumstances beyond the applicant's control.*Id.* at 1687; *Green Country Mobilephone, Memorandum Opinion and Order* at 3-4.

The Commission found this standard met by the applicant in *Caldwell*: In this case, no reasonable person would deny the fact that petitioner did exercise reasonable diligence to assure timely delivery of its application.

See: GREEN COUNTRY MOBILEPHONE, INC., and SOUTH TEXAS MOBILEPHONE, INC., Appellants v. FEDERAL COMMUNICATIONS COMMISSION, Appellee, LDS CELLULAR, INC., Intervenor No. 84-1226 before the UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

"On the day before the cut-off date, CTA delivered its application to [the courier] in sufficient time for that company to deliver it to the Commission the next day under normal circumstances. While it may have been more prudent for CTA to have allowed extra time for unforeseeable delays in delivery, certainly severe weather conditions in another part of the country would not have been reasonably anticipated and constitute circumstances beyond the applicant's control. Consequently, we believe that "unusual and compelling circumstances" have been demonstrated to warrant waiver of [the deadline]. . . .53 Rad. Reg. 2d (P & F) at 1687. The Commission's order

in this case attempted to distinguish *Caldwell* on the [**9] basis that "the last-minute failure of a copy machine," in contrast to the delay of an airplane by adverse weather, "can be reasonably anticipated, and contingency plans or actions can be put into effect to assure timely submission of applications." *Id.* at 4. We can find no principled distinction between the two causes of delay. Photocopy machines may or may not be as fickle as the weather, but even attorneys and business people are presumably as familiar with bad weather as they are with duplication difficulties. We cannot approve an "airplane" rule or a "weather" rule as an example of consistent, reasoned decision making. If an overnight delay is excusable because an airplane was unexpectedly caught in fog, we can see no reason why a three-minute delay should not be excusable because a duplicating machine unexpectedly broke down. This is especially so given the appellants' uncontested assertion that in the past the FCC has routinely accepted applications filed shortly after 5:30 p.m."

Petitioner avers that its circumstance is more complex in this instant case than was the circumstance in either CTA or *Caldwell*. The new paradigm of the electronic "digital filing universe" does not need a test case in order to get us all, broadcast applicants and the FCC, to join together and iron out flaws in the process.

Converting from an archaic manual paper batch processing system to a well functioning and efficient system electronic filing system was, and still is, a massive undertaking. In any case it is normal to have some cases fall through the cracks. This was one such case. Petitioner again is willing to bear the full blame and has borne all the pain and suffering often associated with the responsibility of bearing such blame.

Again, petitioner offers his apology for his failure to fully understand all that was required to fully complete the Commission the renewal application process in February of 2004. Petitioner again admits that he did not click the correct button back on the main menu page. Petitioner had never seen nor does there exist a form anywhere on the internet where you complete a survey or process any form where you have to leave the form page in order to find an "onsubmit" radio button. To this day the logic baffles petitioner.

The CORES design favors more of a "shopping cart" type of system where you shop for forms and at the end of the form you add to your cart. Then finally you must check out. Petitioner suggested that the Commission change or at least offer the option of filing individual forms at the end of the form in addition to having to go back to the main menu page to "check out". But again, petitioner must refrain from criticism of the FCC's electronic filing system.

Petitioner avers that his attempt to apply logic in defining key words and terms based upon the words and or terms contextual was a serious mistake. Not being familiar with the FCC's choice and selection of the contextual application.

Petitioner in stating that he did not fully understanding of the process was based entirely upon the mixed contextual selected application and use of the word "Filed" and the status descriptor "PENDING". Petitioner did not mean to give the impression that his error was based upon a lack of knowledge of computers or of electronic filing of documents.

Petitioner avers that this single misinterpretation cause him to come to the erroneous conclusion that the form 303-S filing process was complete the process that constituted "filing" under the Commission's new electronic filing system

Petitioner avers that he exercised reasonable diligence and the lateness of the completion of the electronic filing process was not due to tardiness but was attributable to misunderstanding of filing instructions and other circumstances beyond his control.

Petitioner avers that the KTRY-FM staff have worked very hard and endured so much racial hostility over the past 30 years in order to serve the public in general and the underserved African American public in particular. That all has gone for naught simply because I failed to mechanically press a button on the main menu page within CDBS was, and is to this day, overwhelming to accept and endure.

We, KTRY staff, spent months working with the FCC in trying to resolve all issues related to this electronic filing matter. And now in this action I failed again to reduce to writing all oral and written FCC directions and our response to all of those directives that would fully reveal the extraordinary circumstances that were all beyond our control. After all, the FCC had to explain my error. Petitioner did not have a clue as to what he did, what he did not do nor did petitioner have any idea what he may have done incorrectly in submitting "filing" the renewal application before the cutoff and within the renewal application filing window on February 2, 2004..

Petitioner avers that had he, without FCC identification and preplanned resolution petitioner's mechanical error of omission of the February 2, 2004 renewal application been assigned the task for; he could not have made a determination as to what went wrong during he form filing and renewal application filing process; even if given a month of Sundays to.

Again petitioner avers, as expressed in all of petitioner's correspondence with the Media Bureau, that he was humbled and thankful for the instant response from all levels within the Media Bureau to his catastrophic, disastrous and stressful situation; a condition admittedly caused by petitioner's own "mechanical" or "interpretative" error.

Because the Media Bureau treated petitioner with dignity and respect even though petitioner made a mechanical or an interpretative error even at the expense of appearing to be an individual that is not computer literate. It is a result of that care and dignified manner that FCC staff guided petitioner in the immediate correction of said error; petitioner, in the March 1, 2006 Legal STA Exhibit 38, made every effort not to even appear to cast any negativity or blame on the Commission's processes. Nor was it appropriate to place critical blame on what petitioner felt were short comings of the CDBS electronic filing system's Graphical User Interface design with reference to the use of the term "Filed" and the selection of form status descriptors. Petitioner avers acknowledged its error. The error was what it was; an un willing error that was not intentional. How many ways can petitioner (applicant) say "I goofed up".

Petitioner's mistake increased their FCC staff workload. There was not a single Media Bureau staff member who gave the slightest hint of not being more than willing to assist. And regardless of the Audio Divisions final determination, petitioner will remain forever indebted to FCC staff for their assistance, their tremendous effort and energy spent on my behalf. Petitioner, being sixty years of age with limited financial resources and a broadcaster serving a small market for more than 30 years, doubts that he could have emotionally endured the loss of everything that he and the DKTRY-FM staff has worked so very hard to build.

. I also apologized to the FCC staff for my hapless and shameful error and thanked in particular Mr. Wagner, who tolerated my excessive contact, to Mr. Fisher and others FCC staff members for their guidance and directions in completing the filing process that, in petitioner's view, was in good faith, timely filed. I regret and I am very sorry that I failed to submit documentation of oral and written communications between myself and the FCC that provide acceptable explanations to the Commission. I just did as the code of federal regulation suggest: that is to rely on the directions of FCC staff

The Audio Division must now determine whether or not petitioner made a required good faith effort to and had a good faith belief that he had in fact completed the electronic broadcast renewal application. Either petitioner's error rises to the level of petitioner's blatant disregard of Commission rules or petitioner committed made his error inadvertently but not willfully or carelessly.

Finally, petitioner does not request that the Commission to arbitrarily ignore or bend at its rigid deadlines but that the wavier exceptions requested here be administered in a consistent and rational manner.

As to account security matters, petitioner request that new FRN account number be assigned unless secure information, purposely disclosed real time screen capture, within this letter be blotted out before public access.

Thank You

Henry Cotton