



Federal Communications Commission
Washington, D.C. 20554

July 12, 2017

In Reply Refer to:
1800B3-ATS

Dr. Bradford G. Brown
Brown Broadcasting System, Inc.
10919 Georgia Highway 15
Sparta, GA 31087

In re: Brown Broadcasting System, Inc.
DWBKZ(AM), Jefferson Georgia
Facility ID No. 7315
File No. BR-20040223AOC

Petition for Reconsideration

Dear Dr. Brown:

We have before us the Petition for Reconsideration (Petition) filed on October 31, 2016, by Brown Broadcasting System, Inc. (BBS), seeking reinstatement of its license for DWBKZ(AM), Jefferson, Georgia (Station). For the reasons set forth below, we dismiss the Petition as untimely.

Background. BBS filed an untimely license renewal application for the Station on February 23, 2004 (Application).¹ On January 29, 2007, the Media Bureau issued a Notice of Apparent Liability in the amount of \$1,500 for this violation of the Rules.² Although the *NAL* indicated that the Bureau was granting the Application,³ the Application could not be granted because BBS had unpaid regulatory fees. On January 31, 2007, the Bureau notified BBS of this delinquency, and on April 19, 2007, the Bureau dismissed the Application pursuant to Section 1.1910(b)(3) of the Rules⁴ and deleted the Station's call sign from the Commission's database, CDBS.⁵

In the Petition, BBS seeks reinstatement of its license. BBS states that "[t]he license expired for lack of its timely renewal."⁶ BBS further states the expiration of its license occurred after its facility at

¹ Section 73.3539(a) of the FCC's Rules (Rules) requires that applications for renewal of license for broadcast stations must 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." 47 CFR § 73.3539(a). The Application should have thus been filed by December 1, 2003, four months prior to the Station's April 1, 2004, expiration date. See 47 CFR §§ 73.1020, 73.3539(a).

² *Brown Broadcasting System, Inc.*, Memorandum Opinion and Order and Notice of Apparent Liability for Forfeiture, 22 FCC Rcd 1119 (MB 2007) (*NAL*).

³ *Id.* at 1122, para. 15.

⁴ 47 CFR § 1.1910(b)(3) ("If a delinquency has not been paid or the debtor has not made other satisfactory arrangements within 30 days of the date of the notice provided pursuant to paragraph (b)(2) of this section, the application or request for authorization will be dismissed.").

⁵ *Brown Broadcasting System Inc.*, Letter Order (MB Apr. 19, 2007) (*Dismissal Letter*). See also *Broadcast Actions*, Public Notice, Report No. 46471 (MB Apr. 24, 2017) (*Dismissal Public Notice*) ("Red Light Dismissal - Any questions regarding this dismissal should be directed to the CORES Help Desk at 1-877-480-3201, Option 4, or via e-mail to: ARINQUIRIES@fcc.gov.").

⁶ Petition at 1.

165 Milledge Avenue in Athens, Georgia, was destroyed in a fire and that BBS did not receive a copy of “the renewal demand.”⁷

Discussion. Initially, we note that BBS is mistaken in its belief that that Station’s license expired because the renewal application was not timely filed. As noted in the *NAL*, the Bureau determined that the license of the Station could be renewed notwithstanding the untimeliness of the Application.⁸ Rather, the Station’s license was cancelled after the Bureau dismissed the Application for BBS’s failure to pay its annual regulatory fees.⁹ These fees were never paid. We also note that the fire at 165 Milledge Avenue referenced in the Petition occurred in 2009, nearly two years after the Application was dismissed and the Station’s license cancelled.¹⁰

Section 405 of the Communications Act of 1934, as amended, and the Rules require any petition for reconsideration to be filed within thirty days of the date upon which the Bureau gives public notice of the decision.¹¹ The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration.¹² In this case, the 30-day period began with the *Dismissal Public Notice* announcing the dismissal of the Application, which was issued on April 24, 2007.¹³ Any petition for reconsideration of the *Dismissal Public Notice*, therefore, was due on May 24, 2007. BBS, however, did not file the Petition until October 31, 2016, over **nine years** after the filing deadline. The Bureau has repeatedly rejected requests to reinstate expired licenses when these requests were filed after the statutory 30-day period for reconsideration.¹⁴ Accordingly, we will dismiss the Petition as untimely.¹⁵

⁷ *Id.*

⁸ *NAL*, 22 FCC Rcd at 1121, para. 8.

⁹ *Dismissal Letter* at 1. The *Dismissal Letter* was addressed to BBS at the address specified in the Application. Each licensee is responsible for updating its address with the Commission and ensuring that any Commission correspondence to that address promptly reaches the licensee or a person authorized to act on behalf of the licensee. See 47 CFR § 1.5.

¹⁰ See Joe Johnson, Online Athens (Feb. 6, 2009), http://onlineathens.com/stories/020609/new_385224395.shtml#.WWPa2XmQx9M.

¹¹ 47 U.S.C. § 405(a), 47 CFR § 1.106(f).

¹² See *Reuters Ltd. v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986) (express statutory limitations barred the Commission from acting on a petition for reconsideration that was filed after the due date).

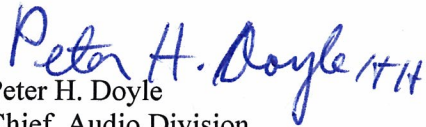
¹³ See 47 CFR § 1.4(b)(4) (“If the full text of an action document is not to be released by the Commission, but a descriptive document entitled “Public Notice” describing the action is released, the date on which the descriptive “Public Notice” is released.”).

¹⁴ See, e.g., *Christian Family Network, Inc.*, Memorandum Opinion and Order, 31 FCC Rcd 2459 (2016) (Commission affirms Bureau dismissal of license renewal application filed more than 30 days after license expired); *Bill Wright d/b/a Keggs Commc’n and KXVI Commc’n*, Memorandum Opinion and Order, 28 FCC Rcd 4856 (2013) (Commission affirms Bureau action dismissing, as untimely, a petition for reconsideration filed more than 30 days after the Media Bureau letter declaring the station license cancelled and the dismissal of a subsequently filed license renewal application as moot).

¹⁵ See *Virgin Islands Tel. Corp. v. FCC*, 989 F.2d 1231, 1237 (D.C. Cir. 1993) (upholding the Commission’s refusal to entertain a petition for reconsideration where the petition had been filed one day late, and extenuating circumstances did not prohibit the petitioner from filing within the prescribed time limits). See also *Pueblo Radio Broad. Serv.*, Memorandum Opinion and Order, 6 FCC Rcd 1416 (1991) (dismissing petition for reconsideration that was filed one day late); *Metromedia, Inc.*, Memorandum Opinion and Order, 56 FCC 2d 909 (1975) (same); *Panola Broad. Co.*, Memorandum Opinion and Order, 68 FCC 2d 533 (1978) (same).

Conclusion/Actions. Accordingly, for the reasons set forth above, IT IS ORDERED THAT the Petition for Reconsideration filed on October 31, 2016, by Brown Broadcasting System, Inc., IS DISMISSED as untimely.

Sincerely,


Peter H. Doyle
Chief, Audio Division
Media Bureau