



Federal Communications Commission
Washington, D.C. 20554

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In Reply Refer to:

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In re: DK272BO, Bishop, CA
Gary Robinson
Facility ID 23311
File No. BRFT-20030610ADW
File No. BRFT-20050729DII

Applications for Renewal of License

Petition for Reconsideration

Dear Mr. Martin:

This letter concerns the June 10, 2003, application filed by Gary Robinson (the "Licensee") to renew the license of expired FM Translator Station DK272BO, Bishop, California (the "2003 Renewal Application"). Also on file is the July 29, 2005, supplemental application filed by the Licensee to renew the license of Station DK272BO for the succeeding license term (the "2005 Renewal Application"). We will treat the 2003 Renewal Application as a petition for reconsideration of an April 10, 2003, staff letter advising the Licensee that its authority to operate the Station was terminated.¹ For the reasons set forth below, we dismiss that filing as untimely, and dismiss the 2005 Renewal Application as moot.

Background. Section 73.3539(a) of the 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."² An application for renewal of the Station's license should have been filed by August 1, 1997, four months prior to the Station's December 1, 1997, license expiration date, but was not. Accordingly, on April 10, 2003, the Staff wrote to the Licensee, indicating that the Station's license had expired and that (1) all authority to operate the Station was terminated; and (2) the Station's call letters were deleted from the Commission's data base. The Licensee was also advised that any further operation of the Station was unauthorized and must cease immediately.³ *Public Notice* of these actions was released on April 16, 2003.⁴ Nearly two months later, on June 10, 2003, Robinson filed the 2003 Renewal Application. Subsequently, on July 29, 2005, Robinson filed the supplemental 2005 Renewal Application, which was timely for California stations for which licenses were to expire on

¹ 47 C.F.R. § 1.106.

² 47 C.F.R. § 73.3539(a).

³ *Letter to Gary Robinson* (Aud. Div. rel. Apr. 10, 2003) ("Cancellation Letter").

⁴ *See Broadcast Applications*, Public Notice, Report No. 25465 at 7 (rel. Apr. 16, 2003).

December 1, 2005.⁵ The Licensee provides no explanation for its failure to timely file the DK272BO license renewal application.

Discussion. Although the Licensee filed no formal petition for reconsideration of the Cancellation Letter, we believe it appropriate to treat the 2003 Renewal Application as essentially seeking reconsideration of that document. Nevertheless, Section 405 of the Communications Act of 1934, as amended (the “Act”),⁶ and Section 1.106(f) of the Rules,⁷ indicate that petitions for reconsideration must be filed no later than 30 days after *Public Notice* of the action for which reconsideration is sought. The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration set forth in Section 405 of the Act. Although the Commission may not refuse to consider a late-filed petition for reconsideration if the petitioner shows that its failure to file for reconsideration in a timely manner resulted from “extraordinary circumstances,”⁸ no such showing has been made here.

Conclusion/Actions. For the reasons set forth above, the application (File No. BRFT-20030610ADW) of Gary Robinson for renewal of expired FM Translator Station DK272BO, Bishop California, treated in part as a Petition for Reconsideration, IS DISMISSED as untimely. Additionally, the supplemental license renewal application (File No. BRFT-20050729DII) IS HEREBY DISMISSED AS MOOT.

Any operation of the DK272BO facilities is unauthorized and must cease immediately. Finally, it is imperative to the safety of air navigation that any prescribed painting and illumination of the station’s tower be maintained until the tower is dismantled. Accordingly, the owner of the towers supporting the referenced stations’ transmitting antennas must maintain the tower in the manner prescribed by the Commission’s rules and the terms of the expired license.⁹

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Gary Robinson

⁵ A licensee whose renewal application is in deferred status must file a supplemental renewal application on the date a regular renewal application would otherwise be due. *See Faith Center, Inc.*, Memorandum Opinion and Order, 99 FCC 2d 1164 (1984), quoting *Carlisle Broadcasting Associates*, Memorandum Opinion and Order, 59 FCC 2d 885 (1976).

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

⁷ 47 C.F.R. § 1.106(f).

⁸ *Gardner v. FCC*, 530 F.2d 1085, 1091-92 (D.C. Cir. 1976); *Richardson Independent School District*, Memorandum Opinion and Order, 5 FCC Rcd 3135, 3136 (1990). That an application is filed one day late does not constitute an “extraordinary circumstance” that would warrant its consideration. *Pueblo Radio Broadcasting Service*, *supra*.

⁹ *See* 47 U.S.C. § 303(q) and 47 C.F.R. § 17.6.