



Federal Communications Commission
Washington, D.C. 20554

October 18, 2007

DA 07-4333

In Reply Refer to:

1800B3-MFW

Released: October 18, 2007

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

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

Application for Renewal of License

Petition for Reconsideration

Dear Mr. Cotton:

This letter concerns the March 1, 2006, application (the "Application") filed by Jamie Patrick Broadcasting, Ltd. (the "Licensee") to renew the license of expired FM Station DKTRY-FM, Bastrop, Louisiana. For the reasons set forth below, we will treat the Application in part as a Petition for Reconsideration under Section 1.106 of the Commission's Rules (the "Rules")¹ and dismiss that filing as untimely.

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 February 1, 2004, four months prior to the Station's June 1, 2004, license expiration date, but was not. Accordingly, on January 19, 2006, 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 January 24, 2006.⁴ More than 30 days later, on March 1, 2006, the Licensee filed the Application. The Licensee provides no explanation in the Application for its failure to timely file the DKTRY-FM license renewal application.⁵

¹ 47 C.F.R. § 1.106.

² 47 C.F.R. § 73.3539(a).

³ *Letter to Jamie Patrick Broadcasting, Ltd.* (Aud. Div. rel. Jan. 19, 2006) ("Cancellation Letter").

⁴ *See Broadcast Actions*, Public Notice, Report No. 46157 (Jan. 24, 2006), p.16.

⁵ In a request for Special Temporary Authorization filed on March 2, 2006, the Licensee explains simply that it attempted to timely file the KTRY-FM license renewal application in 2004 and thought it had filed the Application, but it had difficulties with the electronic filing process and did not properly complete the filing of the Application.

Discussion. Although the Licensee filed no formal petition for reconsideration of the Cancellation Letter, we believe it appropriate to treat the 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 require petitioners to seek reconsideration 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. BRH-20060301ACK) of Jamie Patrick Broadcasting, Ltd. for renewal of expired FM Station DKTRY-FM, Bastrop, Louisiana, treated in part as a Petition for Reconsideration, IS DISMISSED as untimely.

Any operation of the DKTRY-FM 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

See BLSTA20060302AAX, Exhibit 38. The staff granted the request for STA on May 17, 2006, and it expired on November 11, 2006. *See Letter to Mr. Henry Cotton* (Aud. Div. rel. May 17, 2006). The Licensee did not seek extension or file a request for further STA to continue Station operations.

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. 1876); *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.