



Federal Communications Commission
Washington, D.C. 20554

March 20, 2007

DA 07-1357
In Reply Refer to:
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Mr. Martin L. Hensley
Hoosier Public Radio Corporation
15 Wood Street
Greenfield, Indiana 46140

In re: Western Kentucky University
Station WKPB(FM), Henderson, KY
Facility ID No. 71864
File No. BRED-20040402ABF

Hoosier Public Radio Corporation
File No. BPED-20040701AEF

Petition for Reconsideration

Dear Mr. Hensley:

We have before us the "Petition for Reconsideration and Reinstatement Nunc Pro Tunc/Petition for Reconsideration Nunc Pro Tunc WKPB Renewal and License Grant – Motion to Correct Errors/Petition for Hearing" (the "Petition") received by the Commission on April 8, 2005, submitted by Hoosier Public Radio Corporation ("Hoosier"). The Petition asks us to reconsider our March 2, 2005, ruling ("*Staff Ruling*") granting the above-noted license renewal application of Station WKPB(FM) (the "Station") Henderson, Kentucky, licensed to Western Kentucky University ("Licensee"); to designate that renewal application for an evidentiary hearing; and to reinstate an application filed by Hoosier seeking share-time operation of the Station.¹ Also before us is a "Request for Dismissal" of the Petition ("Request") filed by the Licensee.

Background. The Licensee filed the license renewal application for the Station was filed on April 2, 2004, for the license term ending August 1, 2004. Hoosier filed a "Petition to Deny" that application by letter dated July 31, 2004.² Additionally, on July 1, 2004, Hoosier filed the above-noted Share-Time Application. In the *Staff Ruling*, the staff granted the Station's license renewal application, dismissed Hoosier's Share-Time Application and its Petition to Deny and other objections. Public Notice of this decision was released on March 7, 2005.³

¹ File No. BPED-20040701AEF (the "Share-Time Application").

² It is unclear on what date the Petition to Deny was actually filed with the Commission. The attached Certificate of Service, however, notes that it was not mailed until August 2, 2004. Also, on September 20, 2004, Hoosier filed a "Motion to Join the Parties/Request for Review and Declaratory Ruling – RICO Act and Sherman Antitrust Act – Market Allocation/Request For Review and Declaratory Ruling – Ex Parte Applicant Communications/Motion To Compel - Request For Discovery/Petition To Deny – Request For Moratorium" against WKPB(FM) and other stations.

³ Public Notice, *Broadcast Actions*, Report No. 45935 (March 7, 2005).

Discussion. We will dismiss the Petition. A petition for reconsideration is required by statute to be filed within thirty days from the date upon which public notice is given of the decision complained of.⁴ Public notice of the grant of the Application and dismissal of Hoosier’s Share-Time Application was made on March 7, 2005. Petitions for reconsideration were due no later than Wednesday, April 6, 2005. Hoosier’s Petition was received by the Commission’s mail room after that deadline, on April 8, 2005.⁵ The Commission lacks authority to waive or extend the statutory 30-day filing period for petitions for reconsideration unless the petitioner shows that its failure to file in a timely manner resulted from “extraordinary circumstances.”⁶ Hoosier did not present an explanation for the late-filing of the Petition. Because Hoosier’s Petition was not filed within thirty days of the date of public notice announcing the complained-of actions, we must dismiss the Petition.

Conclusion/Actions. For the reasons set forth above, Hoosier Public Radio Corporation’s “Petition for Reconsideration and Reinstatement Nunc Pro Tunc/Petition for Reconsideration Nunc Pro Tunc WKPB Renewal and License Grant – Motion to Correct Errors/Petition for Hearing” IS DISMISSED.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

Cc: Brian M. Madden, Esq.
Philip A. Bonomo, Esq.

⁴ 47 U.S.C. § 405. *See also* 47 C.F.R. § 1.106(f).

⁵ Under the Commission’s Rules, pleadings are considered to be filed with the Commission upon their receipt at the location designated by the Commission. *See* 47 C.F.R. § 1.7.

⁶ *See, e.g., Gardner v. FCC*, 530 F.2d 1086, 1091-92 (D.C. Cir. 1976).