

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Latin Broadcasting Company)	File No.: EB-FIELDSCR-12-00003967
)	NAL/Acct. No.: 201332560004
Owner of Antenna Structure Number 1250803)	FRN: 0003763976
Dallas Center, IA)	

MEMORANDUM OPINION AND ORDER

Adopted: August 21, 2015

Released: August 21, 2015

By the Regional Director, South Central Region, Enforcement Bureau:

1. We dismiss as untimely the Petition for Reconsideration (Petition) filed by Latin Broadcasting Company (LBC), owner of antenna structure number 1250803 in Dallas Center, Iowa (the Antenna Structure), seeking reconsideration of the Forfeiture Order issued by the Enforcement Bureau. In the Forfeiture Order, the Enforcement Bureau imposed a forfeiture of \$11,000 against LBC for willfully and repeatedly violating Section 303(q) of the Communications Act of 1934, as amended (Act)¹ and Sections 17.48(a), 17.51(a), and 17.57 of the Commission's rules (Rules)² by failing to exhibit required lighting on the Antenna Structure, notify the Federal Aviation Administration (FAA) of the lighting outage, and inform the Commission regarding a change in antenna structure ownership information.

2. Section 405(a) of the Act, as implemented in Section 1.106(f) of the Rules, requires a petition for reconsideration to be filed *within* thirty (30) days of the date from which public notice of the action is given.³ Public notice of the action in this case was given on July 15, 2014, the date the Forfeiture Order was released.⁴ Therefore, a petition for reconsideration of the Forfeiture Order had to be filed with the Commission by August 14, 2014 in order to be considered timely.⁵ LBC's Petition, however, was not filed with the Commission until August 18, 2014.⁶ The time period for filing petitions for reconsideration is prescribed by statute, and the Commission may not, with one narrow exception not applicable here, waive or extend the filing period.⁷ Because we have no basis to extend or waive the 30-day filing period, we must dismiss LBC's Petition as untimely.⁸

¹ 47 U.S.C. § 303(q).

² 47 C.F.R. §§ 17.48(a), 17.51(a), 17.57.

³ 47 U.S.C. § 405(a); 47 C.F.R. § 1.106(f).

⁴ See *Latin Broad. Co.*, Forfeiture Order, 29 FCC Rcd 8223 (Enf. Bur. 2014), *aff'g Latin Broad. Co.*, Notice of Apparent Liability for Forfeiture and Order, 28 FCC Rcd 2170 (Enf. Bur. 2013); 47 C.F.R. § 1.4(b)(2) (stating public notice for non-rulemaking documents occurs on the release date).

⁵ See 47 C.F.R. §§ 1.106(f), 1.4(j).

⁶ See *Latin Broad. Co.*, Petition for Reconsideration (filed Aug. 18, 2014) (on file in EB-FIELDSCR-12-00003967).

⁷ The narrow exception to the statutory filing period allows the Commission to extend or waive the 30-day filing period only in "extraordinary circumstances," such as where the late-filing is due to the Commission's failure to give a party timely notice of the action for which reconsideration is sought. See *Gardner v. FCC*, 530 F.2d 1086 (D.C. Cir. 1976). However, no such circumstances are present here.

⁸ See, e.g., *Washington Broad. Mgmt. Co., Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 6607 (2000); *Bay Broad. Corp.*, Memorandum Opinion and Order, 15 FCC Rcd 23449 (Enf. Bur. 2000).

3. Even if we were to consider LBC's Petition on its merits, we would deny it. Reconsideration is appropriate only when the petitioner either demonstrates a material error or omission in the underlying order or raises additional facts not known or not existing until after the petitioner's last opportunity to present such matters.⁹ LBC's Petition fails to present such information warranting reconsideration. It reiterates an argument previously presented to the Enforcement Bureau and rejected: that the \$11,000 penalty imposed is unenforceable under the Small Business Regulatory Enforcement and Fairness Act of 1996 (SBREFA)¹⁰ because the Commission allegedly never complied with its obligations under the SBREFA.¹¹ We note that the Commission recently affirmed its determination that it has complied with its obligations under the SBREFA.¹² It also reiterates another argument previously rejected by the Enforcement Bureau that imposing a \$4,000 forfeiture for failing to report a pro forma ownership change is excessive.¹³ As the Enforcement Bureau noted in the Forfeiture Order, Section 17.57 of the Rules requires owners to notify the Commission of *any* change in ownership, not only those involving a change of control, and it is undisputed that LBC failed to comply with that requirement for over three and a half years.¹⁴ We find no material error in the Bureau's decision.¹⁵ Therefore, even if the Petition was not time barred, we would find that the Enforcement Bureau properly decided the matter raised and uphold the Forfeiture Order for the reasons stated therein.

4. Accordingly, **IT IS ORDERED** that, pursuant to Section 405 of the Act and Section 1.106 of the Rules, the Petition for Reconsideration filed by Latin Broadcasting Company is hereby **DISMISSED**.¹⁶

5. **IT IS FURTHER ORDERED** that, pursuant to Section 503(b) of the Act and Sections 0.111, 0.311, and 1.80 of the Rules, Latin Broadcasting Company **IS LIABLE FOR A MONETARY FORFEITURE** of eleven thousand dollars (\$11,000) for violation of Section 303(q) of the Act and Sections 17.48(a), 17.51(a), and 17.57 of the Rules.¹⁷

6. Payment of the forfeiture shall be made in the manner provided for in Section 1.80 of the Rules within thirty (30) calendar days after the release date of this Memorandum Opinion and Order.¹⁸ If

⁹ See 47 C.F.R. § 1.106(c); *EZ Sacramento, Inc.*, Memorandum Opinion and Order, 15 FCC Rcd 18257, 18257, para. 2 (Enf. Bur. 2000) (citing *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub. nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966)); see also *Ely Radio, LLC*, Memorandum Opinion and Order, 27 FCC Rcd 7608, 7610, para. 6 (Enf. Bur. 2012) (articulating the standard of review for Petitions for Reconsideration).

¹⁰ Pub. L. No. 104-121, 110 Stat. 847 (1996), as amended by Pub. L. No. 110-28, 121 Stat. 112 (2007).

¹¹ Petition at 2-3.

¹² See *N. Cnty. Broad. Corp.*, Memorandum Opinion and Order, 29 FCC Rcd 13261 (2014) (the Commission's existing forfeiture policy, including the various factors by which a proposed forfeiture may be adjusted upward or downward based on the facts presented, complies with the SBREFA).

¹³ Petition at 1-2.

¹⁴ Forfeiture Order, 29 FCC Rcd at 8225, para. 7.

¹⁵ LBC also asserts that it is irrelevant that it changed the addresses, phone numbers, and e-mails for both its owner and designated contact person, absent proof that the old information would not reach the owner. However, this factual information is part of the record and we find no evidence that the Enforcement Bureau erred by referencing it in the Forfeiture Order. *Id.*

¹⁶ 47 U.S.C. § 405; 47 C.F.R. § 1.106.

¹⁷ 47 U.S.C. §§ 303(q), 503(b); 47 C.F.R. §§ 0.111, 0.311, 1.80, 17.48(a), 17.51(a), 17.57.

¹⁸ 47 C.F.R. § 1.80.

the forfeiture is not paid within the period specified, the case may be referred to the U.S. Department of Justice for enforcement of the forfeiture pursuant to Section 504(a) of the Act.¹⁹

7. Payment of the forfeiture must be made by check or similar instrument, wire transfer, or credit card, and must include the NAL/Account Number and FRN referenced above. Latin Broadcasting Company shall send electronic notification of payment to SCR-Response@fcc.gov on the date said payment is made. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²⁰ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters “FORF” in block number 24A (payment type code). Below are additional instructions that should be followed based on the form of payment selected:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank at (314) 418-4232 on the same business day the wire transfer is initiated.
- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

8. Any request for making full payment over time under an installment plan should be sent to: Chief Financial Officer—Financial Operations, Federal Communications Commission, 445 12th Street, S.W., Room 1-A625, Washington, DC 20554.²¹ Questions regarding payment procedures should be directed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

¹⁹ 47 U.S.C. § 504(a).

²⁰ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

²¹ See 47 C.F.R. § 1.1914.

9. **IT IS FURTHER ORDERED** that a copy of this Memorandum Opinion and Order shall be sent by first class mail and certified mail, return receipt requested, to Latin Broadcasting Company, 301 Ashworth Rd., West Des Moines, IA 50265 and to its counsel, David Tillotson, 4606 Charleston Terrace, NW, Washington, DC 20007-1911.

FEDERAL COMMUNICATIONS COMMISSION

Dennis P. Carlton
Regional Director
South Central Region
Enforcement Bureau