

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of )
NCE Reserved Allotment Group 14 )
Florida Community Radio, Inc. )
Application to Construct a New Noncommercial Educational FM Station at Otter Creek, Florida ) File No. BNPED-20100226AGX Facility ID No. 185126
and )
Citrus County Association for Retarded Citizens, Inc. )
Application to Construct a New Noncommercial Educational FM Station at Otter Creek, Florida ) File No. BNPED-20100226AGR Facility ID No. 185070

MEMORANDUM OPINION AND ORDER

Adopted: April 18, 2017

Released: April 18, 2017

By the Acting Chief, Media Bureau:

1. We have before us the "Petition for Reconsideration and Clarification of the Commission's Erroneous Application for Review Decision Rendered on March 13, 2017 by the Full Commission En Banc" (Petition) filed on April 13, 2017, by Florida Community Radio, Inc. (FCR). The Petition seeks reconsideration of the March 13, 2017, Commission decision<sup>1</sup> that denied in part and dismissed in part FCR's November 30, 2016, Application for Review (AFR).<sup>2</sup>

2. Section 1.106(p) of the FCC's Rules provides that the "[p]etitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau(s) or office(s)."<sup>3</sup> Among these are untimely petitions for reconsideration of

<sup>1</sup> NCE Reserved Allotment Group 14, Memorandum Opinion and Order, 32 FCC Rcd 2285 (2017) (AFR Order).

<sup>2</sup> The Commission determined that the applications of FCR (FCR Application) and Citrus County Association for Retarded Citizens (CCARC Application) for a construction permit for a new noncommercial station at Otter Creek, Florida, were mutually exclusive, and initially identified the FCR Application as the tentative selectee of NCE Reserved Allotment Group 14. See Comparative Consideration of 37 Groups of Mutually Exclusive Applications, Memorandum Opinion and Order, 26 FCC Rcd 7008, 7024, paras. 42-43 (2011). CCARC filed a Petition to Deny the FCR Application, and the Commission rescinded its tentative selection of that application and identified the CCARC Application as the new tentative selectee. Comparative Consideration of Seven Groups of Mutually Exclusive Applications, Memorandum Opinion and Order, 30 FCC Rcd 5135, 5142-44, paras. 19-23 (2015). FCR twice challenged this action. The Media Bureau denied both of these challenges, affirmed the tentative selection of the CCARC Application, and dismissed the FCR Application. See NCE Reserved Allotment Group 14, Letter Order, Ref. 1800B3-ALV (MB Feb. 29, 2016); NCE Reserved Allotment Group 14, Letter Order, Ref. 1800B3-ATS (MB Oct. 26, 2016). The AFR sought Commission review of the Bureau's decision. The AFR Order upheld both Bureau actions.

<sup>3</sup> 47 CFR § 1.106(p).

Commission actions.<sup>4</sup> The 30-day period for filing petitions for reconsideration is statutory<sup>5</sup> and generally may not be waived.<sup>6</sup> The *AFR Order* was released on March 13, 2017, and thus public notice was given on that day.<sup>7</sup> A Petition for Reconsideration of this order must have been filed within thirty days, on or by April 12, 2017. However, the Petition was filed April 13, 2017, one day late, and must be dismissed.<sup>8</sup>

3. Accordingly, IT IS ORDERED that the Application for Review filed on April 13, 2017, by Florida Community Radio, Inc., IS DISMISSED, pursuant to Section 1.106(p) of the FCC's Rules.<sup>9</sup>

FEDERAL COMMUNICATIONS COMMISSION

Michelle M. Carey  
Acting Chief  
Media Bureau

---

<sup>4</sup> 47 CFR § 1.106(p)(7) (Bureau may dismiss petitions for reconsideration that “[f]ail to comply with the procedural requirements set forth in paragraphs (f) and (i) of this section”); 47 CFR 1.106(f) (“The petition for reconsideration and any supplement thereto shall be filed within 30 days from the date of public notice of the final Commission action, as that date is defined in § 1.4(b) of these rules . . .”).

<sup>5</sup> 47 U.S.C. § 405(a).

<sup>6</sup> 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).

<sup>7</sup> 47 CFR § 1.4(b)(2).

<sup>8</sup> 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, finding that “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).

<sup>9</sup> 47 CFR § 1.106(p).