

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

In the Matter of Application of	)	
	)	
<b>Sonoma Charter School</b>	)	Facility ID No. 124274
	)	
For a New Low Power FM Radio Station in	)	Application File No. BNPL-20000605AGO
Sonoma, California.	)	

**MEMORANDUM OPINION AND ORDER**

**Adopted: August 10, 2006**

**Released: August 17, 2006**

By the Commission:

1. The Commission has before it the January 12, 2005, Application for Review filed by Sonoma Charter School ("SCS"). SCS seeks Commission review of the Media Bureau's ("Bureau") December 8, 2004 decision ("Staff Decision")<sup>1</sup> dismissing as untimely SCS's August 2, 2004, Petition for Reconsideration of the Bureau's June 15, 2004 dismissal of SCS's application for a new low power FM ("LPFM") station in Sonoma, California.<sup>2</sup> For the reasons set forth below, we deny the Application for Review.

2. SCS filed its LPFM application for Sonoma on June 5, 2000. On May 5, 2004, the Bureau staff wrote SCS and requested an amendment to the application,<sup>3</sup> indicating that the failure to file the requested amendment would result in the dismissal of the application under Section 73.3568(a)(1) of the Commission's rules.<sup>4</sup> No amendment was submitted, and the Bureau dismissed SCS's application on June 15, 2004.<sup>5</sup> SCS sought reconsideration and reinstatement of the application on August 2, 2004.<sup>6</sup> The Bureau dismissed SCS's petition for reconsideration as untimely in the Staff Decision on appeal here.

3. The Bureau properly dismissed SCS's Petition for Reconsideration. Section 405 of the Communications Act of 1934, as amended, requires that petitions for reconsideration of a Commission action "be filed within thirty days from the date upon which public notice is given of the . . . action complained of."<sup>7</sup> In this instance, Public Notice of the Bureau's dismissal of SCS's application was

<sup>1</sup> *Letter to Sonoma Charter School*, Reference 1800B3 (MB Dec. 8, 2004).

<sup>2</sup> *Letter to Sonoma Charter School*, Reference 1800B3 (MB Jun. 15, 2004).

<sup>3</sup> *Letter to Sonoma Charter School*, Reference 1800B3 (May 5, 2004). The Bureau asked SCS to supply the address of the SCS Board members listed in Section II, Item 3a of the application.

<sup>4</sup> 47 C.F.R. § 73.3568(a)(1).

<sup>5</sup> *Public Notice* of this action was released on June 18, 2004. See *Broadcast Actions*, Report No. 45759 at 1.

<sup>6</sup> *Letter to Marlene H. Dortch* from William F. Hammett, dated July 29, 2004, and received in the FCC Mailroom on August 2, 2004.

<sup>7</sup> 47 U.S.C. § 405. See also 47 C.F.R. Section 1.106(f).

issued on June 18, 2004. Pursuant to Section 1.4 of the Commission's Rules, the 30-day period for filing began on June 19, 2004, and the deadline for filing petitions for reconsideration was July 19, 2004.<sup>8</sup> Thus, SCS's August 2, 2004, Petition for Reconsideration petition for reconsideration was untimely by two weeks.

4. The Commission lacks authority to extend or waive 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."<sup>9</sup> SCS did not present an explanation for the late filing of its reconsideration request. Hence, it has not demonstrated the "extraordinary circumstances" contemplated by *Gardner*.<sup>10</sup>

5. Accordingly, the Application for Review filed by Sonoma Charter School IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>8</sup> See 47 C.F.R. Section 1.4.

<sup>9</sup> See *Gardner v. FCC*, 530 F.2d 1086, 1091-92 (D.C. Cir. 1976) ("*Gardner*").

<sup>10</sup> See *Roy E. Henderson d/b/a Pueblo Radio Broadcasting Service*, 6 FCC Rcd 1416 (1991), citing *Reuters Limited v. FCC*, 781 F.2d 946 (951-52); *Richardson Independent School District*, 5 FCC Rcd 3135, 3135 ¶ 6 (1990), and *Metro Media, Inc.*, 56 F.C.C.2d 909, 909-10 ¶ 2 (1975, recon. denied, 59 F.C.C.2d 1189 (1976)). See also *Scripps-Howard Broadcasting Co.*, 69 F.C.C.2d 1477 (1978) (citing *Gardner*, 30-day filing limit might be waived or extended where party demonstrates that a delay in actual notification of Commission action made it impossible to reasonably comply with the filing statute).