

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

In the Matter of)	
)	
Daytona Beach Broadcasting Association)	
)	
Application for a Construction Permit for)	File No. BNPL-20131115ACE
Station DWDRD-LP, Daytona Beach, Florida)	Facility ID No. 197582

ORDER ON RECONSIDERATION

Adopted: July 31, 2018

Released: August 1, 2018

By the Commission:

1. We have before us a Petition for Reconsideration (Third Petition) filed by Daytona Beach Broadcasting Association (DBBA), seeking reconsideration of the Commission’s order that dismissed in part and otherwise denied the application for review (AFR) DBBA filed in this proceeding.¹ For the reason stated below, we dismiss the Third Petition as untimely.

2. Section 405 of the Communications Act of 1934, as amended (Act), and the FCC’s rules (Rules) require any petition for reconsideration to be filed within thirty days of the date upon which the Commission gives public notice of the decision.² In this case, the *AFR Order* was released on Tuesday, March 13, 2018, and any petition for reconsideration of that order was due on Thursday, April 12, 2018. However, the Third Petition indicates that it was “Respectfully submitted this 17th, day of April, 2018” and the Commission’s broadcast database, CDBS, shows that the Third Petition was filed on Tuesday, April 17, 2018.³ DBBA neither acknowledges nor explains this untimely filing. The Commission generally lacks the authority to extend or waive the statutory 30-day filing period for petitions for reconsideration.⁴ Therefore, we dismiss the Third Petition as untimely.

3. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), and Section 1.106 of the Commission’s

¹ *Daytona Beach Broadcasting Association*, Memorandum Opinion and Order, 33 FCC Rcd 2732 (2018) (*AFR Order*); Letter Order, Ref. 1800B3-ATS (MB Oct. 26, 2017) (*Staff Decision*) (denying second petition for reconsideration (Second Petition) filed by DBBA seeking reinstatement of construction permit for new LPFM station at Daytona Beach, Florida (Permit)); *see also* E-mail from Alexander T. Sanjenis, Esq., Audio Division, Media Bureau, FCC, to Sylvia Johnson (Apr. 11, 2017, 14:34 EDT) (Johnson E-mail) (granting first petition for reconsideration (First Petition) filed by DBBA, reinstating Permit, and affording DBBA 10 days in which to file a covering license application).

² 47 U.S.C. § 405(a); 47 CFR § 1.106(f); 47 CFR § 1.4(b)(2) (“For non-rulemaking documents released by the Commission or staff . . . the release date” is the date of public notice).

³ *See* Third Petition at 4; http://licensing.fcc.gov/cgi-bin/ws.exe/prod/cdbacc/prod/leg_det.pl?Application_id=1628296&File_number=BNPL-20131115ACE.

⁴ *See Reuters Limited v. FCC*, 781 F.2d 946, 951-52 (D.C. Cir. 1986) (holding that express statutory limitations barred the Commission from acting on a petition for reconsideration that was filed after the due date); *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, and extenuating circumstances did not prohibit the petitioner from filing within the prescribed time limits); *see also Pueblo Radio Broad. Service*, 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).

rules, 47 CFR § 1.106, the Petition for Reconsideration filed by Daytona Beach Broadcasting Association IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary