

KMKS - FM

Hot Country 102.5

November 30, 2004

Marlene H. Dortch, Secretary
Media Bureau
Federal Communications Commission
9300 East Hampton Dr.
Capitol Heights, MD 20743-3847

Re: Petition For Reconsideration, Reinstatement and Nunc Pro Tunc Processing
Radio Station KMKS(FM), Bay City, TX
Facility ID No. 58979
File No. BPH - 20030206ACK

Dear Ms. Dortch:

Transmitted herewith, on behalf of Sandlin Broadcasting Co., Inc, is an original and four copies of its Petition for Reconsideration of the dismissal of the above-referenced minor modification application. Note, too, that a curative amendment to the above-referenced application has been filed electronically concurrently herewith. Reinstatement and nunc pro tunc processing of the amended application is requested.

Should any additional information be required, please contact me at 979-244-4242 or kay@kmks.com.

Respectfully Submitted.


Margaret K. Sandlin
President, Sandlin Broadcasting Co., Inc.

cc: Peter H. Doyle (via email: peter.doyle@fcc.gov, james.bradshaw@fcc.gov, & dale.bickle@fcc.gov)

**Before The
FEDERAL COMMUNICATIONS COM-
MISSION
Washington, D.C.**

In re Application of)	
)	
Sandlin Broadcasting Co.,Inc)	FCC File No. BPH-20030206ACK
)	
Station KMKS(FM))	Facility ID # 58979
Bay City, TX)	
)	
For a Construction Permit)	
For Minor Modification of Facilities)	

**To: Chief, Audio Division
Media Bureau**

Petition For Reconsideration

Sandlin Broadcasting Co.,Inc.(Sandlin), by its president and pursuant to Section 1.106 of the Commission's Rules, hereby respectfully petitions the Commission for reconsideration of the Public Notice DA 04-3647, released November 18, 2004, dismissing the above-captioned application. In support of its petition, Sandlin submits the following:

Sandlin proposes minor changes in the facilities of its Station KMKS (FM), Bay City, Texas, specifically, to change the its output power from 50kw to 100kw as allocated (see Docket No. 91-242). The KMKS modification application was filed on the February 06,2003.

On October 8, 2004, the FCC adopted a new edition of Form 301 to incorporate changes permitted in the radio ownership rules by the United States Court of Appeals for the Third Circuit when the court partilally lifted its stay in *Prometheus Radio Project v. FCC*, No. 03-3388 (3d Cir. Sept. 3, 2004). *Public Notice*, DA 04-3204, released October

8, 2004. In the *Public Notice*, the FCC announced that pending applications needed to be amended by November 8, 2004, to use the new edition of the forms “to demonstrate compliance with the new local radio ownership rules”. *Id.*

As KMKS modification application had no bearing on the changes in the multiple ownership rules,¹ an amendment to KMKS’s application was not timely filed. With the release of the November 18, 2004 *Public Notice* dismissing KMKS’s application for not amending to use the new form, KMKS has now cured the oversight by submitting an electronic amendment to its Form 301 to provide the multi ownership responses on the updated form. Sandlin respectfully request reinstatement of its amended application *nunc pro tunc*.

The resubmission of the captioned application and its petition conform to Commission policy on reinstatement of dismissed applications *nunc pro tunc*-i.e., to file a minor curative amendment in conjunction with a petition for reconsideration within thirty (30) days of the dismissal of the application.² Because the minor amendment filed concurrently herewith cures the defects found to exist in the application, and because the minor amendment is tendered within 30 days after dismissal of the application, in connection with this petition for reconsideration, it is submitted that (1) this petition should be granted under the Commission’s policy on incomplete and patently defective AM and FM construction permit applications, *supra*, (2) the amendment should be accepted, and (3) the application should be reinstated *nunc pro tunc* and accepted for filing. It is so requested.

¹Sandlin owns no other station in the market. KMKS(FM) Bay City Texas is the only station owned by Sandlin. One FM station in the same market is permitted regardless of the number of station in the market under both the old and revised FCC Rule 73.3555(a). Compare 47 C.F.R. Sec. 73.3555(a)(2002) with 47 C.F.R. Sec. 73.3555(a)(1)(iv)(2003).

²See *Public Notice*, “Commission Statement of Future Policy on Incomplete and Patently Defective AM and FM Construction Permit Applications. “FCC 84-366, released August 2, 1984, 56 Rad.Reg.2d (P&F) 776 (1984).

I certify that the above statement is true and correct to the best of my knowledge and is submitted in good faith.

Respectfully submitted,

Sandlin Broadcasting Co.,Inc.

Margaret K. Sandlin

Margaret K. Sandlin, Its President

P.O. Box 789

Bay City, TX 77404-0789

Ph. 979-244-4242,

email: kay@kmks.com

November 30, 2004

CERTIFICATE OF SERVICE

I, Margaret K. Sandlin, president of Sandlin Broadcasting Co.,Inc., do hereby certify that the foregoing Petition For Reconsideration of the KMKS Minor Modification application, File No. BPH - 20030206ACK, was sent via Federal Express mail or via email as noted below this November 30, 2004 to the following:

Federal Express:

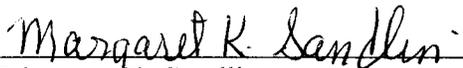
Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, SW - 7th floor
Washington, DC 20554

pdf Via Email Attachmet to:

Peter H. Doyle: peter.doyle@fcc.gov

James Bradshaw: james.bradshaw@fcc.gov

Dale Bickle: dale.bickle@fcc.gov)


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