

FILED/ACCEPTED

OCT 27 2010

Federal Communications Commission
Office of the Secretary

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

| | | |
|---|---|----------------------------|
| In the Matter of |) | |
| |) | |
| EDDIE FLOYD |) | MB Docket No. 10-157 |
| |) | NAL/Acct. No. 201041410018 |
| Licensee of FM Translator Station K273AF, Carson City, Nevada |) | FRN: 0011733425 |
| |) | |
| |) | Facility ID No. 13529 |
| EDDIE FLOYD |) | |
| |) | |
| and |) | |
| |) | |
| WILKS LICENSE COMPANY-RENO LLC |) | |
| |) | |
| For Assignment of License of FM Translator Station K273AF, Carson City, Nevada |) | File No. BALFT-20070904ACU |
| |) | |
| EDDIE FLOYD |) | |
| |) | |
| For Modification of License of FM Translator Station K273AF, Carson City, Nevada |) | File No. BMLFT-20071218ABH |

To: Chief Administrative Law Judge
Richard L. Sippel

**ENFORCEMENT BUREAU'S
OPPOSITION TO REQUEST FOR DEFERRAL OF DATES**

1. The Chief, Enforcement Bureau, by her attorneys and pursuant to Section 1.294 of the Commission's Rules,¹ hereby opposes the "Request for Deferral of Dates" filed on October 22, 2010, by Eddie Floyd ("Request"). As discussed below, Floyd presents no basis for immediately suspending all deadlines in this case.

¹ See 47 C.F.R. § 1.294.

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List A B C D E

2. Floyd requests the Presiding Judge to abruptly place this case on hold on the basis of a bare assertion that he intends to invoke extraordinary relief under the Commission's *Second Thursday* doctrine.² Floyd's Request is itself extraordinary in its brevity. In sole support, the pleading states, "Undersigned counsel has been advised that Floyd has currently filed for bankruptcy. Accordingly, Floyd intends to sell the station and all proceeds would be used to pay innocent creditors. Thus, it is submitted that there is no need to proceed with discovery."³

3. Floyd's one-paragraph pleading is utterly deficient and unpersuasive. Floyd claims (or, more precisely, his new attorney claims to have been advised) that he has filed for bankruptcy and intends to sell FM Translator Station K273AF. However, Floyd provides no evidence in support of his bankruptcy petition, there is no indication that he even qualifies for bankruptcy, he does not identify a buyer for his station, provides no timetable for finding a potential buyer, and offers absolutely no indication of when, if ever, he might be in a position to file a petition for extraordinary relief under *Second Thursday*. Stated otherwise, Floyd's instant request to suspend this hearing proceeding is predicated on nothing more than an unsupported pronouncement of an intention to do something at some unspecified time in the future. To request a stay of all procedural dates under such speculative circumstances is patently inconsistent with the public interest.⁴

4. While there may come a time under appropriate, well documented circumstances to stay procedural dates in this case, that moment clearly has not arrived. Until then, this

² *Second Thursday Corp.*, 19 RR 2d 1199, 25 FCC 2d 1112 (1970) ("*Second Thursday*").

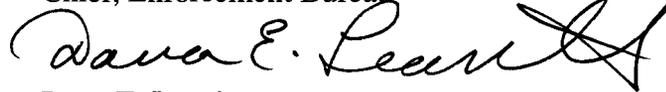
³ Request at 1.

⁴ On October 22, 2010, Floyd also filed a "Request for a Pre-Hearing Conference" for the sole reason "to discuss the sale of Station K273AF . . . pursuant to the doctrine enumerated in *Second Thursday* . . ." The Bureau does not oppose, in principle, such a conference, but respectfully suggests that, absent a comprehensive showing by Floyd of a legitimate plan for effectuating his stated intentions, a conference for the purposes described would be premature at this time.

proceeding should move forward unfettered, with Floyd and Wilks License Company-Reno LLC (“Wilks”) expeditiously serving on the Bureau their respective Answers to the Bureau’s Request for Admissions of Facts and Genuineness of Documents (“Request for Admissions”),⁵ and the parties commencing discovery on schedule.⁶

5. Accordingly, the Bureau respectfully asks the Presiding Judge to deny Floyd’s open-ended request for an indefinite deferral of all dates in this proceeding. Furthermore, the Bureau respectfully requests the Presiding Judge to direct Floyd and Wilks to expeditiously serve on the Bureau their respective Answers to the Bureau’s Request for Admissions.

Respectfully submitted,
P. Michele Ellison
Chief, Enforcement Bureau



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October 27, 2010

⁵ Both Floyd and Wilks were required to serve their respective Answers on the Bureau by October 22, 2010, the same day that Floyd filed his instant Request seeking deferral of all procedural dates. In a pleading supporting suspension of all procedural dates (*see* “Statement in Support” filed on October 22, 2010, by Wilks), Wilks represents that its Answers to the Bureau’s Request for Admissions are complete and, but for Floyd’s Request to defer dates, would have been served in a timely manner. The Bureau expects that Floyd also would be in a position to serve his Answers promptly.

⁶ Pursuant to *Order FCC 10M-09*, released September 29, 2010, discovery is scheduled to begin November 1, 2010.

CERTIFICATE OF SERVICE

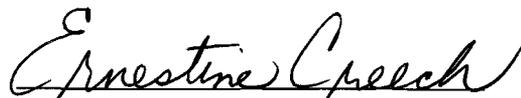
Ernestine Creech, a Paralegal Specialist in the Enforcement Bureau's Investigations and Hearings Division, certifies that she has, on this 27th day of October, 2010, sent by first class United States mail, or delivered by hand, copies of the foregoing "Enforcement Bureau Opposition to Request for Deferral of Dates" to:

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Ernestine Creech

* Courtesy copy filed via electronic mail