



Federal Communications Commission
Washington, D.C. 20554

January 6, 2015

In Reply Refer to:
1800B3-ATS

Mr. Tracy E. Carman
Media Preservation Foundation
541 Laurel Street
Longmeadow, MA 01106

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The Law Office of Dennis J. Kelly
P.O. Box 41177
Washington, DC 20018

In re: Media Preservation Foundation
New LPFM, Springfield, Massachusetts
Facility ID No. 196787
File No. BNPL-20131113BIB

Catholic Communications Corporation
New LPFM, Springfield, Massachusetts
Facility ID No. 192781
File No. BNPL-20131115ACG

CatolicaSpringfield.com
New LPFM, Springfield, Massachusetts
Facility ID No. 192782
File No. BNPL-20131115ACJ

Petition for Reconsideration

Dear Mr. Carman and Counsel:

We have before us the Petition for Reconsideration (“Petition”) filed by Media Preservation Foundation (“MPF”) seeking reconsideration of the Media Bureau (“Bureau”) grant of the applications of Catholic Communications Corporation (“CCC”) and CatolicaSpringfield.com (“Catolica”), and dismissal of MPF’s application, for new LPFM stations at Springfield, Massachusetts (“CCC Application,” “Catolica Application,” and “MPF Application” respectively).¹ For the reasons set forth below, we dismiss the Petition.

Background. MPF, CCC, and Catolica filed their respective applications during the October 2013 LPFM filing window, proposing to serve Springfield, Massachusetts. The Bureau determined that the MPF Application, the CCC Application and one other application submitted during the filing window were mutually exclusive and identified them as MX Group 184, while the Catolica Application was identified as part of MX Group 190.²

¹ The Petition was filed on December 5, 2014. CCC and Catolica both filed oppositions on December 18, 2014. MPF filed a reply on December 29, 2014.

² *Media Bureau Identifies Mutually Exclusive Applications Filed in the LPFM Window and Announces 60-Day Settlement Period; CDBS Is Now Accepting Form 318 Amendments*, Public Notice, 28 FCC Rcd 16713 (MB 2013). The other application in MX Group 184 was filed by Town of Enfield Ct. (“Enfield”) (File No. BNPL-20131114BHP) (“Enfield Application”). The other applications in MX Group 190 were filed by St. Jerome Parish

On September 5, 2014, the Bureau identified the CCC Application and Enfield Application as tentative selectees of MX Group 184, and all three applications in MG Group 190 as tentative selectees. The *September Public Notice* filed afforded all applicants in MX Groups 84 and 190 90-day periods in which to file time-share agreements or major change amendments in order to resolve their mutual exclusivities.³ The 90-day period for filing major amendments began on September 8, 2014, and ended on December 8, 2014.⁴ During this time, Enfield and World of Life filed amendments that resolved all their mutual exclusivities with the other applicants in their respective groups, and St. Jerome requested the dismissal of its application. No objection or petition to deny was filed against the CCC Application or the Catolica Application, and on November 6, 2014, the Bureau granted both applications and dismissed the MPF Application as a non-tentative selectee.⁵

MPF filed the Petition on December 5, 2014, arguing that grant of both the CCC Application and the Catolica Application should be rescinded because both applicants are allegedly controlled by the the Roman Catholic Bishop of Springfield.⁶ MPF further requests that both applications be dismissed and the MPF Application granted as the sole remaining member of MX Group 184.⁷ CCC and Catolica filed Oppositions on December 18, 2014, in which they argue that the Petition should be dismissed because MPF did not participate previously in the proceeding.

Discussion. Section 1.106(c) of the Commission's Rules ("Rules") provides that a petition for reconsideration which relies on facts or arguments not previously presented to the Commission may be granted only if it satisfies the circumstances provided in Section 1.106(b)(2) of the Rules.⁸ MPF has not met this threshold requirement because it has failed to show that the Petition satisfies either of these circumstances. In accordance with Section 309(b) of the Communications Act of 1934, as amended,⁹ the *September Public Notice* specified a 30-day filing deadline for any pleading opposing a grant of the CCC Application and the Catolica Application. MPF did not file a petition to deny during that period and provides no explanation for its failure to file such a petition, nor has it argued – let alone demonstrated – that was unable to raise its arguments against the CCC Application and the Catolica Application prior to the grant of those applications and the dismissal of the MPF Application.

Holyoke Educational Radio Association ("St. Jerome") (File No. BNPL-20131114BIY) and Word of Life Church of God ("Word of Life") (File No. BNPL-20131112AKC).

³ *Commission Identifies Tentative Selectees in 11 Groups of Mutually Exclusive Applications Filed in the LPFM Window; Announces a 30-Day Petition to Deny Period and a 90-Day Period to File Voluntary Time-Share Proposals and Major Change Amendments*, Public Notice, 29 FCC Rcd 10847 (2014) ("*September Public Notice*").

⁴ *Id.* at 10851.

⁵ *See Broadcast Actions*, Public Notice, Report No. 48364 (MB Nov. 12, 2014).

⁶ Petition at 2.

⁷ *Id.* at 3.

⁸ *See* 47 C.F.R. §§ 1.106(c); 1.106(b)(2) ("(i) The petition relies on facts or arguments which related to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission; or (ii) The petition relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such an opportunity."). *See also WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966). Alternatively, Section 1.106(c)(2) allows a petition relying on new facts or arguments to be granted if the Bureau determines that consideration of such factors or arguments is required in the public interest. MPF has not argued that this provision applies, and we find that it does not apply. Reaching an expeditions final determination with respect to the application in MX Group 184 will best serve the public interest.

⁹ 47 U.S.C. § 309(b).

It is axiomatic that an adjudicatory process cannot operate efficiently or accurately if a party does not participate in a proceeding but is permitted to “sit back and hope that a decision will be in its favor and, when it isn't, to parry with an offer of more evidence.”¹⁰ The staff may dismiss a petition for reconsideration seeking to overturn the grant of an application where the petitioner did not show good cause for failing to participate earlier in the proceeding.¹¹ Accordingly, we will dismiss the Petition.

Conclusion/Actions. Accordingly, for the reasons set forth above, IT IS ORDERED THAT the Petition for Reconsideration filed on December 5, 2014, by Media Preservation Foundation IS DISMISSED.

Sincerely,

A handwritten signature in blue ink that reads "Peter H. Doyle" followed by a stylized monogram "PHD".

Peter H. Doyle
Chief, Audio Division
Media Bureau

cc: Catholic Communications Corporation
CatolicaSpringfield.com

¹⁰ See, e.g., *Canyon Area Residents for the Environment*, Memorandum Opinion and Order, 14 FCC Rcd 8152, 8154 (1999) (quoting *Colorado Radio Corp. v. FCC*, 118 F.2d 24, 26 (D.C. Cir. 1941)).

¹¹ See *The Association for Community Education, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682 (2004) (refusing to treat an untimely informal objection to an FM translator application on Section 74.1204(f) grounds as a petition for reconsideration because the objector had failed to participate earlier and had not shown good reason for its failure to participate); *Revival Christian Ministries*, Letter, 28 FCC Rcd 2041 (MB 2014) (dismissing petition for reconsideration that argued translator modification would cause interference in violation of Section 74.1204(f) because petitioner had failed to file an objection to the application prior to its grant).