



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

December 1, 2016

*In Reply Refer To:*  
1800B3-IB

Stephen B. Pershing, Esq.  
Counsel to Sincere Seven  
1416 E Street, N.E.  
Washington, DC 20002

Peter Tannenwald, Esq.  
Fletcher, Heald & Hildreth, P.L.C.  
Counsel to Radio One Licenses, LLC  
1300 N. 17<sup>th</sup> St., 11<sup>th</sup> Floor  
Arlington, VA 22209

In re: Sincere Seven  
WOOK-LP, Washington, DC  
Facility ID No. 195472  
File No. BNPL-20131114AYL  
**Petition for Reconsideration**

Dear Counsel:

We have before us: (1) a September 16, 2016 petition from Sincere Seven (S7), an applicant to construct a new low power FM (LPFM) station at Washington, D.C.;<sup>1</sup> and (2) an Opposition by Radio One Licenses, LLC (Radio One).<sup>2</sup> S7 seeks reconsideration of an August 17, 2016 Media Bureau (Bureau) decision<sup>3</sup> which declined to reconsider<sup>4</sup> the Bureau's May 10, 2016 dismissal of S7's application (Application).<sup>5</sup> For the reasons set forth below, we dismiss the Second Petition as repetitious.

**Background.** The Bureau concluded in the May Decision that WOOK Radio D.C. (WOOK RDC), an organization founded by William Tucker (Tucker), was the undisclosed real party in interest behind the Application and had used S7 as a "front" in order to game the Commission's comparative selection process.<sup>6</sup> Specifically, the Bureau determined that a Fiscal Sponsorship

---

<sup>1</sup> S7, Sincere Seven's Petition for Reconsideration of Order of August 17, 2016 (filed Sept. 16, 2016) (Second Petition).

<sup>2</sup> Radio One is the licensee of three stations also licensed to serve Washington, D.C.—WKYS(FM), WOL(AM), and WYCB(AM). In November 2015, the Bureau granted in part Radio One's petition for reconsideration of the grant of S7's application and required S7 to amend the application to disclose all parties and criminal convictions. *See Peter Tannenwald, Esq.*, Letter Order, Ref. No. 1800B3-EA/ATS (MB Nov. 30, 2015) (November Letter).

<sup>3</sup> *Perry Redd*, Letter Order, Ref. No. 1800B3-IB (MB Aug. 17, 2016) (August Decision).

<sup>4</sup> *See* S7, Petition for Reconsideration of FCC's Dismissal of Sincere Seven's LPFM Application (filed Jun. 13, 2016) (First Petition).

<sup>5</sup> *See Peter Tannenwald, Esq.*, Letter Order, Ref. No. 1800B3-ATS (MB May 10, 2016) (May Decision).

<sup>6</sup> *See* May Decision at 5, *citing Astroline Commc'ns Co. v. FCC*, 857 F.2d 1556, 1564 (D.C. Cir. 1998).

Agreement (FSA) between WOOK RDC and S7<sup>7</sup> put Tucker in control and furthered his attempted use of S7's long-time local status to qualify for more comparative points than WOOK RDC could have received on its own.<sup>8</sup> The Bureau also noted that it would have had an independent basis for dismissing the Application, *i.e.*, S7's failure to respond to the November Letter's requirement that S7 amend the Application by December 30, 2015 to identify and provide basic information about all parties.<sup>9</sup> S7 disputed those findings in its First Petition, arguing that S7 had attempted to provide the Bureau with the requested information, and that the Bureau ignored evidence and reached speculative and incorrect conclusions about the FSA and S7's relationship with Tucker.<sup>10</sup> The Bureau rejected S7's arguments and denied reconsideration in the August Decision.<sup>11</sup> S7's Second Petition continues to allege staff errors concerning these same matters.

**Discussion.** The Commission will consider a petition for reconsideration only when the petitioner shows a material error in the original decision or raises changed circumstances or additional facts not known or existing at the petitioner's last opportunity to present such matters.<sup>12</sup> A petition for reconsideration of action on an earlier petition for reconsideration which does not rely on relevant facts or arguments not previously presented may be dismissed as repetitious.<sup>13</sup> S7 raises no new facts or arguments that would support reconsideration of the August Decision.<sup>14</sup> The Second Petition merely repeats and expounds upon unsuccessful arguments from the First Petition, including the purpose of the FSA, Tucker's role, S7's attempt to provide the Bureau with requested information, and S7's receipt of a temporary restraining order in litigation against Tucker.<sup>15</sup> S7 states that it seeks

---

<sup>7</sup> Tucker shared the FSA with the Bureau as part of an Opposition. *See* Sincere Seven's Non-Profit Organization Fiscal Sponsorship Agreement with WOOK-LP Radio (Oct. 30, 2013) (FSA) attached to Tucker, Opposition to Supplement to Petition for Reconsideration (filed Dec. 28, 2015) (Tucker Opposition).

<sup>8</sup> *See* May Decision at 5. Because the Bureau dismissed the Application on that basis, it did not reach Radio One's argument that S7 should be disqualified based on an undisclosed drug-related criminal conviction of its Executive Director. *See* May Decision at 5-6.

<sup>9</sup> *Id.* at 6, *citing* 47 CFR § 73.3568(a)(1); *South Texas FM Investments, LLC*, Letter Order, 27 FCC Rcd 14831 (MB 2012).

<sup>10</sup> Among S7's initial claims were that: (1) S7 is the only party behind the Application, with Tucker merely acting on S7's behalf; (2) the purpose of the FSA was different from that which Tucker presented to the Commission; (3) S7's termination of its relationship with Tucker and receipt of a favorable preliminary court ruling against him demonstrates that S7 was in control; and (4) that it satisfied the Bureau's request for information when it mailed a hard copy by the due date and uploaded an electronic copy to the Commission's database (without pressing "submit"). *See* First Petition at 1-4, 8-9.

<sup>11</sup> *See* August Decision at 3. The Bureau also noted in the August Decision, as it had previously in the May Decision, that it would have had independent grounds for dismissing the Application based on a major change in the composition of S7's board that was inconsistent with 47 CFR § 73.871(c)(3). *Id.* at n.11, *citing* May Decision at 5-6. S7 devotes a significant portion of the Second Petition to this matter but we need not reach its arguments because this issue was not the primary basis for the Bureau's action.

<sup>12</sup> *See* 47 CFR § 1.106(c).

<sup>13</sup> *Id.* § 1.106(k)(3).

<sup>14</sup> *Id.* § 1.106(c). *See James A. Kay, Jr.*, Second Memorandum Opinion and Order, 25 FCC Rcd 7639, 7640-41, para. 4 (2010) ("The rule against repetitious petitions for reconsideration is designed precisely to deter disappointed parties from asking for the same relief again and again in the hope that they will eventually get a different answer.").

<sup>15</sup> Second Petition at 2-9.



to clarify the issues and to “illuminate them as has not been done before,”<sup>16</sup> but does not show that it could not have done so previously.

The only S7 claims that may be related to its desire now to provide additional detail are: (1) its professed lack of knowledge of the Application’s representations because Tucker allegedly refused to provide S7 with materials he filed on S7’s behalf;<sup>17</sup> and (2) S7’s claimed realization in the course of pending litigation that Tucker “wanted the FCC to believe he had control.”<sup>18</sup> The dates on which Tucker told the Commission that he was in control and on which S7 first saw the Application, initiated litigation, and received a temporary restraining order all occurred in 2015 and thus predate S7’s June 13, 2016 First Petition. S7 could have addressed these matters in greater detail at that time, if it so desired. Additionally, with respect to allegedly unknown content of the Application, S7 (like Radio One or any other member of the public) could have examined the Application over the internet at fcc.gov or in person at Commission headquarters in Washington, D.C., where S7 is also located. In any event, it is well established that an applicant bears responsibility for the actions and omissions of its contractors and agents, such as those it authorizes to prepare and prosecute an application.<sup>19</sup> With respect to S7’s claimed realization during ongoing litigation that Tucker presented his role differently to the Commission than to S7, S7 provides no new information or documents that it could not have presented earlier. Nor does S7 provide any earlier unavailable information with respect to its failure, by December 30, 2015, to amend the Application with information that the Bureau needed to evaluate S7’s qualifications.<sup>20</sup>

**Conclusion/Actions.** Accordingly, IT IS ORDERED that the Petition for Reconsideration filed by Sincere Seven on September 16, 2016, is DISMISSED as repetitious.

Sincerely,



Peter H. Doyle  
Chief, Audio Division  
Media Bureau

---

<sup>16</sup> *Id.* at 1.

<sup>17</sup> *Id.* at 2.

<sup>18</sup> *Id.* at 6.

<sup>19</sup> See *Cram Commc'ns, LLC*, Memorandum Opinion and Order, 23 FCC Rcd 658, 662, n.27 (2008), and cases cited therein.

<sup>20</sup> See 47 CFR § 73.3568(a)(1) (“failure to respond to official correspondence or request for additional information, will be cause for dismissal.”). See also *Innovative Women’s Media Ass’n v. FCC*, 16 F.3d 1287, 1289 (D.C. Cir. 1994), citing *The Dunlin Group*, Memorandum Opinion and Order, 6 FCC Rcd 4642, 4644, para. 9 (Rev. Bd. 1991) (among the valid grounds for dismissing an application pursuant to Section 73.3568(a) is open defiance of an order to produce a witness); *LPFM MX Group 37*, Memorandum Opinion and Order, 31 FCC Rcd 7512, 7516–17 (2016) (applicant’s failure to provide requested information needed to evaluate basic qualifications is comparable to failure to produce a witness because each impedes efforts to adduce relevant evidence).