



Federal Communications Commission
Washington, D.C. 20554
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In Reply Refer To:
1800B3-JM

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In re: Entercom Sacramento Licenses, LLC

**KUDL(FM) (formerly KBZC(FM)),
Sacramento, CA**

Facility ID No. 57889
File No. BRH-20050728ATP
File No. BRH-20130730ANC

KRXQ(FM), Sacramento, CA

Facility ID No. 20354
File No. BRH-20050728AUQ
File No. BRH-20130730ANI

KSEG(FM), Sacramento, CA

Facility ID No. 11281
File No. BRH-20050728ATX
File No. BRH-20130730ANK

KKDO(FM), Fair Oaks, CA

Facility ID No. 57889
File No. BRH-20130730ANC

**KIFM(AM) (formerly KCTC(AM)),
Sacramento, CA**

Facility ID No. 67848
File No. BR-20130730ANG

Application for Renewal of Licenses

Informal Objection

Dear Counsel:

We have before us the referenced applications (collectively, the Applications) of a subsidiary of Entercom Communications (Entercom) to renew the licenses of five stations (collectively, the Stations) for the license terms ending December 1, 2005, and December 1, 2013 (2005 Renewal Applications and 2013 Renewal Applications, respectively). We also have before us two Petition to Deny the Applications, one filed on November 1, 2005, by Irene Stolz (the 2005 Petition), the other filed November 1, 2013, by Edward R. Stolz II (Stolz), and related responsive pleadings.¹ For the reasons set forth below, we will treat the Petitions to Deny as Informal Objections,² deny the Objections, and grant the Applications.

Background. On July 28, 2005, Entercom filed the Applications to renew the Stations' licenses for the license term ending December 1, 2005. On November 1, 2005, Irene Stolz filed the 2005 Petition against the 2005 Renewal Applications.³ The 2005 Petition avers that the 2005 Renewal Applications should not be granted because Entercom has shown a "willful and reckless disregard" for the FCC's rules⁴ as evidenced by: (a) Entercom's violation of the multiple ownership rules in the Sacramento market by its "unlawful" acquisition of what is now Station KUDL(FM), Sacramento;⁵ (b) a "veritable cornucopia of Notices of Apparent Liability and Letters of Inquiry pertaining to FCC rule violations" issued to Entercom regarding its stations in Sacramento, Kansas City, and Seattle;⁶ and (c) Entercom's role as a target of "payola" investigations by the New York State Attorney General and the Commission.⁷

On September 6, 2012, the Media Bureau staff treated the 2005 Petition as an informal objection due to Stolz's lack of standing, denied it as it related to the KKDO(FM) and KCTC(AM) 2005 Renewal Applications, and granted those applications.⁸ Those actions were not appealed and are now final.

¹ Entercom filed an Opposition to the 2005 Petition on December 1, 2005, to which Stolz replied on December 21, 2005. On June 20, 2006, Stolz filed an "Erratum to Informal Objection to License Renewal Applications." Entercom filed a Motion to Dismiss on June 30, 2006. Stolz filed an Opposition to Motion to Dismiss on July 20, 2006, to which Entercom replied on August 1, 2006. Lastly, counsel for Stolz filed a Notice of Withdrawal of Counsel on October 1, 2007. Entercom's "Motion to Dismiss" is an unauthorized filing pursuant to 47 CFR § 1.45, and Bureau staff previously dismissed it on those grounds. *See Letter to Mr. Edward R. Stolz II, Executor of the Estate of Irene M. Stolz et al.*, Reference 1800B3-MM, n.2 (MB Sep. 6, 2012) (*2012 Bureau Letter*). We decline to consider it again here.

With respect to the 2013 Renewal Applications, Entercom filed an Opposition to the Objection (Opposition) on November 27, 2013. Stolz filed a Reply to the Opposition on December 23, 2013. Entercom submitted a supplement to its Opposition on January 3, 2014 (Supplement). Stolz' Supplement also is an unauthorized pleading pursuant to Section 1.45, and we dismiss it.

² For administrative convenience and clarity, we will refer to Irene Stolz's 2005 pleading as the "2005 Petition" throughout this document.

³ The Petition also included the license renewal application of Station KDND(FM) Sacramento, California, File No. BRH-20050728AUU, which has since been designated for evidentiary hearing. *See Entercom License, LLC Applications for Renewal of License for Station KDND(FM), Sacramento, California*, Hearing Designation Order and Notice for Opportunity for Hearing, FCC 16-153, 2016 WL 6393114, para. 84 (2016) (also dismissing in part, and otherwise denying the 2005 Petition as it related to KDND) (*KDND HDO*).

⁴ *See* 2005 Petition at 13-14.

⁵ *Id.* at 3-5.

⁶ *Id.* at 9-12.

⁷ *Id.* at 12-13.

⁸ *See 2012 Bureau Letter.*

On November 1, 2013, Edward R. Stolz filed a Petition to Deny the 2013 Renewal Applications. In that pleading, Stolz states that he incorporates by reference the 2005 Petition in so much that the Commission has not acted with respect to the 2005 Renewal Applications of Sacramento, California stations KUDL(FM), KRXQ(FM), and KSEG(FM).⁹ The Objection urges the Applications be designated for hearing, and that the Commission grant Stolz intervenor status, to determine whether: (1) Entercom violated the statutory indecency prohibitions¹⁰ on KUDL(FM) in the previous license term, and if so, the effect of such violation on its qualifications to be a Commission licensee; (2) Entercom's license renewal application for KUDL(FM) should be denied as antithetical to Section 309(k)(1) of the Communications Act of 1934, as amended (the Act);¹¹ and (3) Entercom is in compliance with the Commission's multiple ownership rules.¹² Stolz further demands the Commission hold a "field hearing" as to the KUDL(FM) license renewal application, that he again be permitted to intervene, and that the Commission rule on all pleadings simultaneously.¹³

In its Opposition, Entercom argues Stolz lacks standing to file the Petition, citing the *2012 Bureau Letter* which found Stolz failed "to prove he lives within the broadcast contour of any of the listed stations."¹⁴ Additionally, Entercom argues the staff has previously rejected all claims in the petition, including alleged violation of indecency standards, character questions, payola violations, and compliance with the multiple ownership rules, and found Entercom qualified to renew licenses and acquire new stations.¹⁵

Discussion. Procedural Issues: Standing. Under Section 309(d) of the Act,¹⁶ a party has standing to file a petition to deny if grant of an application would result in, or be reasonably likely to result in, some injury of a direct, tangible or substantial nature.¹⁷ The Commission also accords party-in-interest status to a petitioner who demonstrates either that he resides in the service area of the station that is the subject of the petition or that he listens to or views the station regularly, and that such listening or

⁹ The Petition also included the 2013 license renewal application of Station KDND(FM), File No. BRH-20130730ANM, which subsequently was designated for evidentiary hearing in the *KDND HDO*.

¹⁰ 18 U.S.C. § 1464.

¹¹ 47 U.S.C. § 309(k)(1).

¹² 47 CFR § 73.3555(a). The Objection also requested, apparently in error, that the Commission examine "whether the renewal application for KPNT(FM) should be denied." KPNT(FM) is owned by Emmis Communications Corporation, not Entercom, thus we do not address this argument.

¹³ Objection at 4.

¹⁴ Opposition at 3(citing the *2012 Bureau Letter*).

¹⁵ Opposition at 4-9 (citing, e.g., *WVEI-FM, Easthampton, MA*, Letter Decision, 22 FCC Rcd 16644, 16645, n. 4 (MB 2007)(*WVEI-FM*)(granting application for assignment of license to an Entercom subsidiary for Station WVEI-FM, Easthampton, Massachusetts, over the informal objection filed by Irene M. Stolz); *CBS Radio Stations, Inc. (Assignor) and Entercom Memphis License, Inc. (Assignee), et al*, Memorandum Opinion and Order, 22 FCC Rcd 20058, 20067-68, paras. 21-25 (MB 2007)(*Memphis Entercom Order*)(granting applications for assignment of license to Entercom subsidiaries for 15 radio stations over informal objections filed by Stolz in the name of Royce International Broadcasting Company); *See Entercom Portland License, LLC*, Letter Decision, 23 FCC Rcd 3695, 3695 (MB 2008)(granting 30 renewal applications over informal objections filed by the Estate of Irene M. Stolz)).

¹⁶ 47 U.S.C. § 309(d).

¹⁷ *See, e.g., Telesis Corp.*, Memorandum Opinion and Order, 68 FCC 2d 696, 698-99, para. 8 (1978).

viewing is not the result of transient contacts with the station.¹⁸ To do so, the petitioner must provide an affidavit or declaration that establishes such standing.¹⁹

For the reasons set forth in the 2012 *Bureau Letter*, we find that Irene Stolz lacked standing to file a Petition to Deny the 2005 Renewal Applications, and we will treat that pleading as an informal objection under Section 73.3587 of the Rules.²⁰

With respect to the 2013 filing, Stolz alleges that he should be afforded party-in-interest status because he "owns a residence in the Arden-Arcade district in Sacramento, California" which is located within KBZC's primary service contour.²¹ In an affidavit, Stolz merely states "when I am at said residence, I listen to FM Broadcast Station KBZC," with no indication of how regularly Stolz occupies this residence.²² We find that this amounts to, at most, transient contacts with the Stations. Accordingly, we find Stolz lacks standing to file a petition to deny the 2013 Renewal Applications. Nevertheless, we will consider the Petition as an informal objection under Section 73.3587 of the Rules.²³

Substantive Issues. Informal objections must, pursuant to Section 309(e) of the Act,²⁴ provide properly supported allegations of fact that, if true, would establish a substantial and material question of fact that grant of the application would be *prima facie* inconsistent with Section 309(k) of the Act,²⁵ which governs our evaluation of an application for license renewal.

As a threshold matter, we have previously found that "using incorporation by reference to reprise arguments already made and rejected is improper."²⁶ Thus, to the extent that Stolz attempts to incorporate by reference in the Objection arguments raised in the 2005 Petition, we dismiss those arguments.

Additionally, the plain language and structure of Section 309(k) clearly establish that the scope of the "violations" listed in Section 309(k)(1) is limited to the station for which license renewal is being considered.²⁷ Thus, to the extent that the Objection also claims we should consider Entercom's activities at stations other than those referenced here, we reject those arguments on this basis as well. This includes alleged payola and other rule violations involving stations whose renewals are not before us.

¹⁸ See *Tabback Broad. Co.*, Memorandum Opinion and Order, 15 FCC Rcd 11899, 11900 n. 3 (2000), and *Chet-5 Broad., L.P.*, Memorandum Opinion and Order, 14 FCC Rcd 13041, 13042, para. 4 (1999).

¹⁹ See *Petition for Rulemaking to Establish Standards for Determining the Standing of a Party to Petition to Deny a Broadcast Application*, 82 FCC 2d 89 (1980); see also *Infinity Broad. Corp. of California*, Memorandum Opinion and Order, 10 FCC Rcd 9504, 9504, paras. 8-10 (1995); *Tabback Broad. Co., supra*, and *Niles Broad. Co.*, Memorandum Opinion and Order, 7 FCC Rcd 5959, 5959, para. 3 (1992).

²⁰ 47 CFR § 73.3587.

²¹ Objection at 2.

²² Objection, Exhibit A.

²³ 47 CFR § 73.3587.

²⁴ 47 U.S.C. § 309(e).

²⁵ 47 U.S.C. § 309(k).

²⁶ *KFCD(AM), Farmersville, Texas*, Letter Decision, 23 FCC Rcd 2646, 2648 (MB 2008).

²⁷ *Sagittarius Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 22551, 22555, para. 8 (2003).

Indecency arguments. With respect to Stolz's reference to the Notice of Apparent Liability for indecent programming involving Station KRXQ(FM),²⁸ the Commission previously investigated allegations of indecent programming by Entercom and found that they do not put Entercom's qualifications in question.²⁹ Additionally, Stolz's general and unsupported allegation in the Objection that Entercom violated 18 U.S.C. § 1464 at station KUDL(FM) "in the previous license term," without more, fails to raise a substantial and material question of fact.³⁰

Violations of Multiple Ownership Rules. Although in the Objection Stolz makes no specific claims that Entercom violated the local radio ownership rules³¹ in the Sacramento market other than to allege that the Commission should hold a hearing to determine Entercom's compliance, it did specifically raise that issue in the 2005 Petition.³² However, the Commission has recently upheld the Bureau's determination that Entercom's ownership of KUDL(FM) and its other stations in the Sacramento market complied with Section 73.3555 of the Rules.³³

For the foregoing reasons, we find that Stolz has failed to raise a substantial and material question of fact regarding the propriety of granting the above-captioned license renewal applications. We therefore deny the Objections.

Conclusion/Actions. We have evaluated the Applications pursuant to Section 309(k) of the Act,³⁴ and we find that the above-captioned stations have served the public interest, convenience, and necessity during the subject license term. Moreover, we find that for these stations, there have been no serious violations of the Act or the Rules, nor have there been violations of the Act or the Rules by Entercom Sacramento which, taken together, would constitute a pattern of abuse.

Accordingly, IT IS ORDERED, that the Petition to Deny filed by Irene M. Stolz on November 1, 2005, treated herein as an Informal Objection, IS DENIED as it relates to Stations KUDL(FM), KRXQ(FM), and KSEG(FM).

IT IS FURTHER ORDERED, that the Petition to Deny filed on November 1, 2013, by Edward Stolz, treated herein as an Informal Objection, IS DISMISSED to the extent indicated herein and OTHERWISE DENIED.

²⁸ 2005 Petition at 9-10, citing *Entercom Sacramento License, LLC*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 20129 (2004).

²⁹ See e.g., *Entercom Kansas City License, LLC*, Notice of Apparent Liability for Forfeiture, 19 FCC Rcd 25011, 25018, para. 17 (2004) (concluding that a monetary forfeiture alone was the appropriate sanction).

³⁰ See *Memphis Entercom Order*, Memorandum Opinion and Order, 22 FCC Rcd at 20064, para. 12 (rejecting Stolz's similarly general and unsupported claims of indecency).

³¹ 47 CFR § 73.3555.

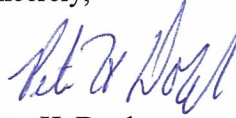
³² 2005 Petition at 5-6.

³³ See *Royce Int'l Broad. Co., Assignor*, Memorandum Opinion and Order, 30 FCC Rcd 10556 (2015), *affirmed*, 31 FCC Rcd 7439 (2016), *appeal docketed*, Case No. 16-1248 (D. C. Cir.).

³⁴ 47 U.S.C. § 309(k).

IT IS FURTHER ORDERED, that pursuant to Section 309(k) of the Act,³⁵ that the referenced Applications (File Nos. BRH-20050728ATP, BRH-20130730ANC, BRH-20050728AUQ, BRH-20130730ANI, BRH-20050728ATX, BRH-20130730ANK, BRH-20130730ANC, and BR-20130730ANG) ARE GRANTED.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

³⁵ 47 U.S.C. § 309(k).