



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

November 21, 2017

In Reply Refer To:  
1800B3-ATS

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**In re: Entercom Sacramento License, 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. 6810  
File No. BRH-20130730AND

**KIFM(AM) (formerly KCTC(AM)),**  
**Sacramento, CA**  
Facility ID No. 67848  
File No. BR-20130730ANG

**Petition for Reconsideration**

Dear Counsel:

The Media Bureau (Bureau) has before it a Petition for Reconsideration (Second Petition) filed on October 11, 2017, by Edward R. Stolz II (Stolz), seeking reconsideration of the Bureau's decision that dismissed his prior Petition for Reconsideration (First Petition) and affirmed a Bureau decision granting the above-referenced applications (Renewal Applications) filed by Entercom License, LLC (Entercom) to renew its licenses for various stations in the Sacramento area (Sacramento Stations).<sup>1</sup> For the reasons set forth below, we dismiss the Second Petition.

**Background.** In the First Petition, Stolz challenged the staff's determination in the *Letter Decision* that he lacked standing to file a petition to deny by reasserting his claim of listener standing, and asserting for the first time that he has an "economic interest in this matter," citing pending litigation in the United States Court of Appeals for the District of Columbia Circuit in which Stolz is attempting to recoup Station KUDL from Entercom.<sup>2</sup> Stolz urged the Renewal Applications be designated for hearing upon issues stemming from the designation of a different Entercom Sacramento station renewal application for hearing.<sup>3</sup>

The *Reconsideration Decision* dismissed<sup>4</sup> the First Petition on the basis that Stolz lacked standing to file a petition for reconsideration, stating that the filing of an informal objection<sup>5</sup> does not confer party status upon the objector.<sup>6</sup> The *Reconsideration Decision* considered and rejected multiple arguments raised by Stolz to claim standing to seek reconsideration, specifically holding that: 1) although Stolz owned a residence in the Sacramento Stations' service area, he was not a regular listener of the stations; and 2) although Stolz was attempting to reacquire KUDL, he was not currently a competitor of the Sacramento Stations and is thus not an aggrieved party, and his economic standing argument was in any

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<sup>1</sup> *Entercom Sacramento License, LLC*, Letter Order, 32 FCC Rcd 6880 (MB 2017) (*Reconsideration Decision*); *Entercom Sacramento License, LLC*, Letter Order, 1800B3-JM (Jan. 18, 2017) (*Letter Decision*). Entercom filed an Opposition on October 25, 2017. Stolz filed a Reply on November 3, 2017.

<sup>2</sup> First Petition at 6-7 (citing *Stolz v. FCC*, Case No. 16-1248 (D.C. Cir. 2016)).

<sup>3</sup> *Id.* at 7; see also *Entercom License, LLC*, Memorandum Opinion and Order, 32 FCC Rcd 7149, 7151-52, 7154, paras. 10-11, 16 (2017) (*KDND Order*), *petit. for recon. pending* (Commission affirms Stolz' lack of standing in that hearing proceeding).

<sup>4</sup> Stolz and Entercom both incorrectly state in the Second Petition and the Opposition, respectively, that the Bureau denied the First Petition. In fact, the Bureau *dismissed* the First Petition on the basis that Stolz lacked standing to file it. *Reconsideration Decision*, 32 FCC Rcd at 6681, 6683, 6684 ("we dismiss the [First] Petition"; "we will dismiss the [First] Petition"; "IT IS ORDERED, that the Petition for Reconsideration filed on February 17, 2017, by Edward Stolz II, IS DISMISSED.").

<sup>5</sup> The *Letter Decision* treated Stolz' procedurally defective petition to deny as an informal objection. See *Letter Decision* at 3-4 (finding that Stolz lacked standing to file a petition to deny because, although he owned a residence in Sacramento, he was not a regular listener of the Sacramento Stations).

<sup>6</sup> *Reconsideration Decision* at 6683 (citing *Montgomery County Broad. Corp.*, Memorandum Opinion and Order, 65 FCC 2d 876, 877 n.2 (1977)).

case untimely.<sup>7</sup> The *Reconsideration Decision* further held that, even if the Bureau were to consider the merits of the First Petition, it would deny the petition because Section 309(k)(1) of the Communication Act of 1934, as amended, limits the scope of the "violations" listed in Section 309(k)(1) to the station for which license renewal is being considered, and the Bureau is thus barred from considering the conduct at KDND when reviewing license renewal applications for other stations.<sup>8</sup>

In the Second Petition, Stolz states that although he intends to appeal the issue of standing to the full Commission, he is filing the Second Petition in order to present to the Commission an argument not previously presented to the Bureau.<sup>9</sup> Specifically, Stolz seeks to preserve the argument that the *KDND Order* did not consider the issue of "whether Entercom was in fact 'willingly accepting the severest penalty in a renewal case'" and that the Commission should consider how severe a sanction this is for Entercom in light of its then-pending merger with CBS Radio, which would require Entercom to divest several of its stations to come into compliance with the ownership limits of Section 73.3555(a) of the FCC Rules.<sup>10</sup> Stolz further disagrees with the Bureau's interpretation of Section 309(k)(1) "that the Commission is expressly barred from considering licensees conduct with respect to one of its stations in the context of another of the same licensee's license renewal applications," and thus avers that the conduct at KDND should be considered in the current proceeding involving the Renewal Application for the Sacramento Stations.<sup>11</sup>

*Discussion.* The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original order, or raises additional facts, not known or existing at the time of the petitioner's last opportunity to present such matters.<sup>12</sup> If the petitioner is not a party to the proceeding, it must state with particularity the manner in which its interests are adversely affected and show good reason why it was not possible to participate in the earlier stages of the proceeding.<sup>13</sup>

Stolz has not demonstrated that the *Reconsideration Decision* erred in dismissing the First Petition for lack of standing in this proceeding. Accordingly, we will dismiss the subject Second Petition for the same reasons that we dismissed the First Petition—as an informal objector in this proceeding, Stolz does not have standing to file a petition for reconsideration because he has not demonstrated that he is a regular listener of the Sacramento Stations, and he has failed to show that he is an aggrieved party.<sup>14</sup>

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<sup>7</sup> *Reconsideration Decision*, 32 FCC Rcd at 6683 (citing *William L. Fox, et al.*, Memorandum Opinion and Order, 17 FCC 2d 876, 877, para. 3 (1969) (Arguments for competitor or "economic" standing require an "actual state of competition, not the future prospect thereof."); 47 CFR § 1.106(c) (requiring that the petition rely on facts or arguments unknown to petitioner until after his last opportunity to present them)).

<sup>8</sup> *Reconsideration Decision*, 32 FCC Rcd at 6683 (citing *Sagittarius Broad. Corp.*, Memorandum Opinion and Order, 18 FCC Rcd 22551, 22555, para. 8 (2003)). We note that the Commission specifically held that the conduct at KDND would be examined under Section 309(k)'s public interest standard, not as a matter of character qualifications. *Entercom License, LLC*, Hearing Designation Order and Notice of Opportunity for Hearing, 31 FCC Rcd 12196, at 12209, para. 30 and n.122 (2016).

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

<sup>10</sup> *Id.* at 3-4.

<sup>11</sup> *Id.* at 4-6.

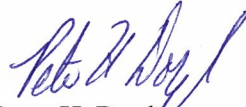
<sup>12</sup> See 47 CFR § 1.106(c),(d); see also *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686, para. 2 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

<sup>13</sup> 47 CFR § 1.106(b)(1).

<sup>14</sup> *Reconsideration Decision*, 32 FCC Rcd at 6683.

*Conclusion/Actions.* Accordingly, IT IS ORDERED, that the Petition for Reconsideration filed on October 11, 2017, by Edward R. Stolz II, IS DISMISSED.

Sincerely,



Peter H. Doyle  
Chief, Audio Division  
Media Bureau