



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

July 27, 2018

In Reply Refer to:
1800B3-ATS

Ms. Lisa Gray-Garcia
POOR Magazine
8032 MacArthur Boulevard
Oakland, CA 94605

Mr. Peter Franck
Alameda Community Radio
1616 Dayton Avenue
Alameda, CA 94501

Mr. Mustafa Laury
700 Rand Avenue
Oakland, CA 94610

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In re: **Family Stations, Inc.**
FM Translator Station K241DC,
San Francisco, CA
File No. BNPFT-20180427ABN
Facility ID No. 203025

Petitions for Reconsideration

Dear Petitioners and Counsel:

We have before us the Petition for Reconsideration filed jointly by POOR Magazine and Alameda Community Radio (Joint Petitioners) and the Petition for Reconsideration filed by Mustafa Laury (Laury), seeking reconsideration of the grant of the application (Permit Application) of Family Stations, Inc. (FSI), for a construction permit for a new FM translator station (Translator) at San Francisco, California (respectively, Joint Petition and Laury Petition; collectively, Petitions). For the reasons discussed below, we dismiss the Petitions.

Background. FSI filed the Permit Application on April 27, 2018, seeking authorization to construct a cross service FM translator station to rebroadcast Station KEAR(AM), San Francisco, California. The Media Bureau (Bureau) gave public notice of the filing of the Permit Application on May 4, 2018, noting that petitions to deny were required to be filed within 15 days of the public notice.¹ An informal objection (Objection) was filed by Center for International Media Action, Common Frequency, and Prometheus Radio Project (Objectors) on May 16, 2018. The Bureau denied the Objection on June 8, 2018,² and granted the Permit Application that same day.³ Objectors filed a Petition for Reconsideration

¹ See *Broadcast Applications*, Public Notice, Report No. 29229 (MB May 4, 2018) (Filing PN).

² Center for International Media Action, Common Frequency, and Prometheus Radio Project, Letter Order, DA 18-597 (MB June 8, 2018) (*Staff Letter*).

³ See *Broadcast Actions*, Public Notice, Report No. 49256 (MB June 13, 2018) (Grant PN).

application occurred shortly after the application was filed, thus “effectively precluding” participation in the proceeding.¹¹

The Joint Petitioners and Laury have not satisfied the procedural standard for seeking reconsideration despite having failed to participate earlier in the proceeding. Here, parties were notified that the Permit Application would be granted after the 15-day petition to deny period had run.¹² Because the Bureau did not grant the Permit Application until 35 days had passed following the Filing PN, the Joint Petitioners and Laury had ample opportunity to file a petition to deny or informal objection prior to the grant of the Permit Application, and the Joint Petitioners and Laury have provided no good reason for their failure to do so earlier.¹³ 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.”¹⁴ 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.¹⁵ Accordingly, we would dismiss the Petitions on this basis had they been timely filed.

Conclusion/Actions. For the reasons set forth above, IT IS ORDERED, that the July 16, 2018 Petition for Reconsideration jointly filed by POOR Magazine and Alameda Community Radio and the July 16, 2018 Petition for Reconsideration filed by Mustafa Laury ARE DISMISSED.

Sincerely,



Albert Shuldiner
Chief, Audio Division
Media Bureau

¹¹ See *Ted and Jana Tucker*, Memorandum Opinion and Order, 4 FCC Rcd 2816, 2816, para. 3 (1989) (standing to file a petition for reconsideration found when application was granted four days after public notice issued); *Aspen FM, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 17852, 17854-55, para. 9 (1997) (standing to file a petition for reconsideration found when application was granted five days after acceptance).

¹² See Filing PN (“Petitions to deny this application must be on file no later than 15 days from the date of the notice accepting this application for filing.”).

¹³ See *Channel 23 L.P.*, Memorandum Opinion and Order, 29 FCC Rcd 15073, 15074-75, para. 5 (2014) (“the Commission has generally dismissed petitions pursuant to Section 1.106(b)(1) of the Commission’s rules when the grant has occurred more than 30 days after the filing of the application”); compare *Caron Broad., Inc.*, Letter Order, 32 FCC Rcd. 5692, 5695 (MB 2017) (accepting a petition for reconsideration where petitioner had failed to timely object to a 250-mile FM translator move but because of unique circumstances related to AM Revitalization proceeding, consideration of petition was in the public interest).

¹⁴ See, e.g., *Canyon Area Residents for the Env’t*, 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)).

¹⁵ See *Ass’n for Cmty. Educ., Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682 (2004) (*ACE*) (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 Order, 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).