

Before the
Federal Communications Commission
Washington, D.C. 20554

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| In the Matter of |) | |
| |) | |
| Entercom Sacramento License, LLC |) | |
| Applications for Renewals of Licenses for |) | |
| |) | |
| KUDL(FM), Sacramento, CA |) | File No. BRH-20050728ATP |
| |) | File No. BRH-20130730ANC |
| |) | Facility ID No. 57889 |
| |) | |
| KRXQ(FM), Sacramento, CA |) | File No. BRH-20050728AUQ |
| |) | File No. BRH-20130730ANI |
| |) | Facility ID No. 20354 |
| |) | |
| KSEG(FM), Sacramento, CA |) | File No. BRH-20050728ATX |
| |) | File No. BRH-20130730ANK |
| |) | Facility ID No. 11281 |
| |) | |
| KKDO(FM), Fair Oaks, CA |) | File No. BRH-20130730AND |
| |) | Facility ID No. 6810 |
| |) | |
| KIFM(AM), Sacramento, CA |) | File No. BR-20130730ANG |
| |) | Facility ID No. 67848 |

SECOND ORDER ON RECONSIDERATION

Adopted: July 3, 2019

Released: July 8, 2019

By the Commission:

1. We have before us a “Petition for Further Reconsideration” (November 2018 Petition) filed by Edward R. Stolz II (Stolz) seeking reconsideration of the order dismissing in part and denying in part his prior Petition for Reconsideration in this proceeding (July 2018 Petition).¹ Stolz again seeks the designation for hearing of the captioned license renewal applications (Renewal Applications) filed by a subsidiary of Entercom Communications Corporation (Entercom) for five radio stations in the Sacramento market.² We dismiss the November 2018 Petition due to lack of standing and, on alternative and independent grounds, deny it.

2. Throughout this proceeding, the Commission and the Media Bureau (Bureau) have held that: 1) Stolz lacks standing in this proceeding;³ and 2) Section 309(k) of the Communications Act of

¹ *Entercom Sacramento License, LLC*, Memorandum Opinion and Order, 33 FCC Rcd 10704 (2018) (*Order on Reconsideration*); Memorandum Opinion and Order, 33 FCC Rcd 6615 (2018) (*AFR Order*); Letter Order, Ref 1800B3-ATS (MB Nov. 21, 2017) (*Second Reconsideration Letter*); Letter Order, 32 FCC Rcd 6880 (MB 2017) (*First Reconsideration Letter*); Letter Order, Ref. 1800B3-JM (MB Jan. 18, 2017) (*Letter Order*).

² Stolz filed the November 2018 Petition on November 26, 2018. Entercom filed an Opposition on December 6, 2018. Stolz filed a Reply on December 18, 2018.

³ *Order on Reconsideration*, 33 FCC Rcd at 10705, para. 3; *AFR Order*, 33 FCC Rcd at 6617-18, paras. 6-9; *Second Reconsideration Letter* at 3; *First Reconsideration Letter*, 32 FCC Rcd at 6883.

1934, as amended (Act), precludes designating the Renewal Applications for hearing based on conduct at a separate station formerly licensed to another subsidiary of Entercom, Station KDND(FM), Sacramento, California.⁴ The November 2018 Petition does not address the Commission's or the Bureau's determination that Stolz lacks standing in the proceeding, nor does the November 2018 Petition challenge the Section 309(k) analysis.⁵ Instead, Stolz states that he has filed a Petition for Further Reconsideration seeking designation of the applications submitted in the Entercom and CBS Corporation (CBS) merger proceeding for hearing.⁶ Stolz argues that the Commission should at the same time designate the Renewal Applications for evidentiary hearing to determine whether Entercom possesses the character qualifications to hold a Commission license in light of Entercom's conduct at KDND.⁷

3. We dismiss the November 2018 Petition because, as we have repeatedly held, Stolz lacks standing in this proceeding.⁸ Under Section 405(a) of the Act,⁹ a petitioner for reconsideration must establish it is a "party" to the proceeding or "any other person aggrieved or whose interests are adversely affected thereby."¹⁰ Stolz, as an informal objector to the Renewal Applications, rather than as a filer of a valid petition to deny those applications,¹¹ is not a "party" to the proceeding for purposes of Section 405(a).¹² Nor is Stolz a person "aggrieved or whose interests are adversely affected." We concluded in the *AFR Order* and affirmed in the *Order on Reconsideration* that Stolz failed to show any direct causal connection between the Commission's grant of the applications and his alleged injury, which concerns his attempt to regain the license for station KUDL.¹³ The November 2018 Petition does not challenge that conclusion or assert that Stolz is aggrieved or adversely affected. As a result, he is not entitled to seek reconsideration.¹⁴ Accordingly, we dismiss the November 2018 Petition. On alternative and independent grounds, we deny the Petition because Stolz has not identified any findings of fact or conclusions of law that he believes are erroneous¹⁵—in fact Stolz has failed to make any connection between the substance of his allegations raised against CBS in the Entercom/CBS proceeding and the question of whether Entercom is entitled to renewal of its licenses.

4. Finally, although we find that dismissal or denial of the November 2018 Petition by the

⁴ *Order on Reconsideration* at 3, para. 4; *AFR Order*, 33 FCC Rcd at 6618-19, para. 10; *First Reconsideration Letter*, 32 FCC Rcd at 6883; 47 § U.S.C. 309(k); see also *Entercom License, LLC*, Hearing Designation Order and Notice of Opportunity for Hearing, 31 FCC Rcd 12196 (2016) (*KDND HDO*) (designating license renewal application of KDND for hearing); Memorandum, Opinion and Order, 32 FCC Rcd 7149 (2017) (*KDND Order*) (denying Stolz's petition for reconsideration and application for review seeking to designate Renewal Applications for hearing); Order, 33 FCC Rcd 4605 (OGC May 8, 2018) (dismissing petition for reconsideration); Memorandum Opinion and Order, FCC 19-60 (July 8, 2019) (denying application for review). The KDND hearing was terminated after Entercom surrendered the station's license. That former station is now identified in the Commission's licensing database as DKDND, but for clarity will be referred to here as KDND.

⁵ The *Order on Reconsideration* also rejected Stolz's argument raised in the July 2018 Petition that our action regarding Tribune Media Company and Sinclair Broadcast Group, Inc., supported the designation for hearing of the Renewal Applications. *Order on Reconsideration* at 3, para. 4; see also *Applications of Tribune Media Company and Sinclair Broadcast Group, Inc.*, Hearing Designation Order, 33 FCC Rcd 6380 (2018). Stolz does not challenge this determination in the November 2018 Petition.

⁶ November 2018 Petition at 2-3; MB Docket No. 17-85. See also *Entercom Commc'ns and CBS Radio Seek Approval to Transfer Control and Assign FCC Authorizations and Licenses to Subsidiaries of CBS Corp. and Shareholders of Entercom Commc'ns Corp.*, Memorandum Opinion and Order, 32 FCC Rcd 9380 (MB 2017); *review denied*, Memorandum Opinion and Order, 33 FCC Rcd 6621 (2018); *recon. denied*, Order on Reconsideration, 33 FCC Rcd 10707 (2018); *recon. denied*, Order on Reconsideration, FCC 19-61 (July 8, 2019).

⁷ November 2018 Petition at 3-4. Stolz does not argue that his basis to designate the Entercom/ CBS applications for hearing, in and of itself, is a basis to designate the Renewal Applications for hearing. See *id.* at Exhibit A, Issues Preserved by this Petition for Further Reconsideration.

⁸ See *supra* note 3.

⁹ See 47 U.S.C. § 405(a).

Bureau, rather than the Commission, would have been appropriate under Section 1.106(p) of the Rules,¹⁶ we have decided to act on the November 2018 Petition in order to bring this matter to a conclusion.

5. **ACCORDINGLY, IT IS ORDERED** that, pursuant to Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), and Section 1.106 of the Commission's rules, 47 CFR § 1.106, the Petition for Further Reconsideration filed by Edward R. Stolz II on November 26, 2018 **IS DISMISSED** for the reasons stated herein, and alternatively **DENIED**.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

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¹⁰ *Id.* The Commission implemented Section 405(a) through Section 1.106(b)(1) of the rules. 47 CFR § 1.106(b)(1) (a petition for reconsideration may be filed by an “party to the proceeding, or any other person whose interests are adversely affected by the action taken”).

¹¹ See *Reconsideration Order*, 32 FCC Rcd at 6881 n.3 and 6883.

¹² 47 U.S.C. § 405(a). See *Fibertower Spectrum Holdings LLC*, Order on Reconsideration, 33 FCC Rcd 6642, 6647, para. 17 (2018) (“[T]o qualify as a party in interest, a petitioner for reconsideration generally must have filed a valid petition to deny against the application”) quoting *Daniel R. Goodman*, Memorandum Opinion and Order on Reconsideration, 13 FCC Rcd 21944, 21962, para. 30 (1998); see also *Urbanmedia One*, Order on Reconsideration, 32 FCC Rcd 5264, 5267-68, para. 6 (2017), and *San Luis Obispo L.P.*, Memorandum Opinion and Order and Forfeiture Order, 11 FCC Rcd 9616, 9617, para. 4 (1996).

¹³ *AFR Order*, 33 FCC Rcd at 6617-18, paras. 6-9; *KDND Order*, 32 FCC Rcd at 7152-53, paras. 11-14.

¹⁴ See *Applications of Charter Commc'ns, Inc., Time Warner Cable Inc., & Advance/Newhouse P'ship*, Order on Reconsideration, 33 FCC Rcd 8915, 8916-17, paras. 3, 5 (2018) (in order to establish standing as a party or a person who is aggrieved or whose interests are adversely affected, petitioner for reconsideration must show that Commission action would cause direct injury that would be prevented or redressed by the requested relief; injury must be concrete and particularized, actual or imminent rather than conjectural or hypothetical, and “certainly impending”); *Sprint Nextel Corp. & Clearwire Corp.*, 27 FCC Rcd 16478, 16480–81 (2012) (petitioner is not a party or person aggrieved or whose interests are adversely affected for purposes of section 405(a) of the Act because the underlying decision did not injure the petitioner); *Applications for A and B Block Broadband PCS Licenses*, Memorandum Opinion and Order, 61 Fed. Reg. 19620-02 (May 2, 1996) (allegations based on potential future status as a licensee “are too contingent and speculative to support the required finding of a direct injury causally linked to the challenged action”).

¹⁵ 47 CFR §1.106(d)(2).

¹⁶ 47 CFR §§ 1.106(p) (“petitions for reconsideration of a Commission action that plainly do not warrant consideration by the Commission may be dismissed or denied by the relevant bureau....Examples include, but are not limited to”); 1.106(p)(1) (failure to identify any material error, omission or reason warranting reconsideration); 1.106(p)(3) (relies on arguments that have been fully considered and rejected by the Commission within the same proceeding); 1.106(p)(8) (relates to an order for which reconsideration has been previously denied on similar grounds).