

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

In the Matter of)
COCOA MINORITY EDUCATIONAL MEDIA) File No. BNPL-20131114BST
ASSOCIATION) Facility ID No. 197241
Application for a New Low Power FM Broadcast)
Station at Cocoa, Florida)

ORDER ON RECONSIDERATION

Adopted: February 18, 2016

Released: February 18, 2016

By the Chief, Media Bureau:

1. We have before us the "Petition for Reconsideration and Clarification of the Commission's December 16, 2015 Decision Upholding the Staff's Erroneous Dismissal of Petitioner's Timely Filed 318 LPFM Application" (Petition), filed January 19, 2016, by Cocoa Minority Educational Media Association (CMEMA). CMEMA seeks reconsideration of the Commission's December 16, 2015, Memorandum Opinion and Order, dismissing in part and otherwise denying CMEMA's Application for Review of the staff's dismissal of its application for a new low power FM broadcast station at Cocoa, Florida.1 For the reasons discussed below, the Petition is dismissed.

2. The CMEMA MO&O was released on December 16, 2015. Under Section 405(a) of the Communications Act of 1934, as amended, a party aggrieved by any action of the Commission must file a petition for reconsideration within 30 days of the date that public notice of that action is given.2 Under the Commission's rules, the 30-day period commences the day after release of the order, in this case, December 17, 2015.3 Thus, the 30th day was Friday, January 15, 2016. CMEMA electronically filed the Petition on the following business day, Tuesday, January 19, 2016. The Petition was therefore late-filed. The 30-day period is statutory, and cannot be waived or extended by the Commission except in "extraordinary circumstances," such as where the late filing is due to the Commission's failure to give timely notice of the action for which reconsideration is sought.4 As there is no indication of such extraordinary circumstances that would justify waiver or extension of the 30-day statutory period, the Petition must be dismissed as untimely.

3. As an alternative and independent basis for dismissal, CMEMA's Petition does not rely on facts or arguments that relate to events that occurred or circumstances that have changed since CMEMA's last opportunity to present such matters to the Commission, nor does it rely on facts or arguments unknown to CMEMA until after its last opportunity to present such matters to the

1 Cocoa Minority Educational Media Ass'n, Memorandum Opinion and Order, FCC 15-168 (Dec. 16, 2015) (CMEMA MO&O).

2 47 U.S.C. § 405(a).

3 47 CFR § 1.4(b)(2) and Example 3.

4 See Gardner v. FCC, 530 F.2d 1086, 1091 (D.C. Cir. 1976).

Commission, that it could not through the exercise of ordinary diligence have learned prior to such opportunity. Absent one of those two circumstances, the staff may dismiss the Petition as repetitious.⁵ CMEMA, in the Petition, merely re-states the same arguments it presented to the Commission in its application for review, arguments the Commission rejected in the *CMEMA MO&O*. “It is settled Commission policy that petitions for reconsideration are not to be used for the mere reargument of points previously advanced and rejected.”⁶ This constitutes an independent basis for dismissing the Petition.⁷

4. For the foregoing reasons, CMEMA’s Petition IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

William T. Lake
Chief, Media Bureau

⁵ 47 CFR §§ 1.106(b)(2) - (3).

⁶ *S&L Teen Hospital Shuttle*, Order on Reconsideration, 17 FCC Rcd 7899, 7900 para. 3 (2002) (citing *Mandeville Broadcasting Corp. and Infinity Broadcasting of Los Angeles*, Order, 3 FCC Rcd 1667, 1667 para. 2 (1988), and *M&M Communications, Inc.*, Memorandum Opinion and Order, 2 FCC Rcd 5100, 5100 para. 7 (1987)).

⁷ See 47 CFR § 1.106(p)(3).