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

In the Matter of	)	
	)	
Aerco Broadcasting Corporation	)	Facility ID No. 4077
Licensee of Station WSJU-TV	)	NAL/Acct. No.: 201441420003
San Juan, Puerto Rico	)	FRN No.: 0003759560

ORDER ON RECONSIDERATION

Adopted: June 7, 2016 **Released: June 7, 2016**

By the Chief, Video Division, Media Bureau:

1. In this Order on Reconsideration, we dismiss the January 9, 2015 Petition for Reconsideration (Petition) filed by Aerco Broadcasting Corporation (Aerco),[1] the licensee of station WSJU-TV, San Juan, Puerto Rico (Station), pursuant to our delegated authority under Section 1.106(b)(3) of the Commission's rules (Rules).[2] Aerco seeks reconsideration of the *Memorandum Opinion and Order*[3] (*MO&O*) issued by the Commission denying in part and dismissing in part Aerco's Application for Review (AFR).[4]

2. The *MO&O* affirmed the Division's finding that Aerco was liable in the amount of $20,000 for its apparent willful and repeated violations at the Station of Sections 73.3526(e)(11)(i) & (iii) of the Rules for failing to timely electronically file quarterly TV issues/programs lists and quarterly Children's Television Programming Reports, and Section 73.3514(a) of the Rules for failing to report the aforementioned violations in the Station's license renewal application.[5] In its AFR, the Licensee argued that the forfeiture should be reduced or cancelled based on: (1) the Station's history of providing locally produced public affairs programming;[6] (2) the fact that certain late-filed Children's Television Programming Reports were filed soon after the deadline and that no members of the public complained of the violations;[7] (3) Aerco's claimed inability to pay;[8] and (4) the fact that Aerco did not intend to deceive the Commission by failing to disclose its violations in its license renewal application.[9] Aerco's Petition is essentially a word-for-word copy of its AFR and again raises each of these arguments.[10] Aerco does not dispute that it committed the violations at issue.

[1] Petition for Reconsideration of Aerco Broadcasting Corp. (filed Jan. 9, 2015) (Petition).

[2] 47 C.F.R. § 1.106(b)(3).

[3] *Aerco Broadcasting Corp.*, Memorandum Opinion and Order, 29 FCC Rcd 15086 (2014) (*Aerco*).

[4] Application for Review of Aerco Broadcasting Corp. (Sept. 12, 2014) (AFR).

[5] 47 C.F.R. §§ 73.3526(e)(11)(i), (iii) and 73.3514(a), *respectively*. *See* File No. BRCDT-20120928ACZ.

[6] AFR at paras. 5-11; Petition at paras. 3-5.

[7] AFR at paras. 12-17; Petition at paras. 6-9

[8] AFR at paras. 21-35; Petition at paras. 14-25.

[9] AFR at paras. 18-20; Petition at paras. 10-13. The Commission dismissed this argument pursuant to Section 1.115(c) of the Rules as the delegated authority had not been presented, nor had an opportunity, to pass on this argument.

[10] *Compare* AFR to Petition. *Supra* notes 6-9.

3. Commission rules specify limited circumstances under which a party may seek reconsideration of a Commission denial of an application for review. Under Section 1.106(b)(2) of the Rules, a petition for reconsideration seeking review of a denial of an AFR will be entertained only if the petition (i) "relies on facts or arguments which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters to the Commission," and/or (ii) "relies on facts or arguments unknown to petitioner until after his last opportunity to present them to the Commission, and he could not through the exercise of ordinary diligence have learned of the facts or arguments in question prior to such opportunity."[11] A petition that fails to introduce relevant new facts or changed circumstances may be dismissed by staff as repetitious.[12] Aerco's arguments have all been previously raised and either dismissed or denied by the Commission, as well as by the Division. Aerco has not presented any new facts or arguments that warrant reconsideration under Section 1.106(b)(2).[13]

4. 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(b)(3) of the Commission's rules, 47 C.F.R. § 1.106(b)(3), the Petition for Reconsideration filed by Aerco Broadcasting Corporation IS DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Barbara A. Kreisman
Chief, Video Division
Media Bureau

[11] 47 C.F.R. § 1.106(b)(2).

[12] 47 C.F.R. § 1.106(b)(3).

[13] Aerco also argues that under Section 1.106(c)(2) the Commission is permitted "to consider facts or arguments, not previously presented, if reliance thereon is required in the public interest." While in limited circumstances Section 1.106(c) permits the Commission or delegated authority to consider new facts and arguments as part of a petition for reconsideration, what the Commission had before it was an application for review. Section 1.115(c) of the Rules specifically states that: "no application for review will be granted if it relies on question of fact or law upon which the designated authority has been afforded no opportunity to pass." 47 C.F.R. § 1.115(c).