



Federal Communications Commission
Washington, D.C. 20554

DA 18-729
Released: July 13, 2018

In Reply Refer To:
1800B3-TSN

Center for International Media Action
Common Frequency, Inc.
Prometheus Radio Project
P.O. Box 42158
Philadelphia, PA 19101

In re: “All Pending Translator Applications”
Petition for Reconsideration

Dear Objectors:

Center for International Media Action, Common Frequency, Inc., and Prometheus Radio Project (collectively “Objectors”) have filed Petitions for Reconsideration (collectively “Petitions”) of the Media Bureau’s (Bureau) June 8, 2018, *Letter Decision* dismissing, and alternatively denying, Objectors’ informal objections (Objections) to 994 pending translator applications.¹ Objectors seek reconsideration of the *Letter Decision* as to 328 of the FM translator applications to which they originally objected.² We dismiss all the Petitions except one.

Background. The Objections were filed against 994 FM translator applications that were pending as of the May 16, 2018, Objections filing date.³ Objectors argued that the pending FM translator applications did not ensure filing opportunities for low-power FM (LPFM) stations, pursuant to Section 5 of the Local Community Radio Act of 2010.⁴ The Bureau dismissed the Objections as to those translator applications that had previously been granted or dismissed, and as to applications for modification of FM translators, and dismissed all the Objections for failing to allege properly supported facts that, if true, would establish a substantial and material question of fact that grant of the application would be

¹ *Center for International Media Action; Common Frequency, Inc.; Prometheus Radio Project*, Letter Decision, DA 18-597 (MB June 8, 2018) (*Letter Decision*).

² Appendix A to the Petitions lists the 328 applications as to which Objectors seek reconsideration. All 328 are applications for new FM translator construction permits.

³ The Petitions were timely filed on July 9, 2018, the last day on which petitions for reconsideration could be filed. 47 U.S.C. § 405(a), 47 CFR § 1.106(f).

⁴ Pub. L. 111-371, 124 Stat. 4072 (2011) (LCRA). See Objections at 8-13.

inconsistent with the public interest.⁵ Alternatively, the Bureau denied the Objections on various substantive grounds.⁶

Discussion. We dismiss all but one of the 328 Petitions. Objectors are bound by the fact that they initiated this proceeding through informal objections, rather than by filing petitions to deny each application.⁷ By filing informal objections, Objectors initially avoided the obligation to demonstrate standing or provide proper service.⁸

A petition for reconsideration, however, may only be filed by “any party to the proceeding, or any other person whose interests are adversely affected by any action taken by the Commission or by the designated authority”⁹ It is well established that participation in a proceeding as an informal objector does not confer standing to file a later petition for reconsideration.¹⁰ Objectors are therefore not “parties to the proceeding” under Section 1.106(b), and they provide no evidence that they fall within any exception to this rule.

A petition for reconsideration may still be filed by a person not a party to the proceeding, but in such an instance the petition “shall state with particularity the manner in which the person's interests are adversely affected by the action taken, and shall show good reason why it was not possible for him to participate in the earlier stages of the proceeding.”¹¹ Only one party has established such an adverse effect, and that pertains to only one application. Paul Bame, who signed the Objections and Petitions on behalf of Prometheus Radio Project, affirmed in the Objections that he is a listener of LPFM station WPPM-LP, Philadelphia, Pennsylvania, claiming that that station is short-spaced to the application for a new FM translator at Camden, New Jersey, filed by Mega-Philadelphia LLC.¹² Bame states that the alleged short spacing could inhibit WPPM-LP’s ability to relocate to the northwest, and that this situation “may harm” WPPM-LP and Bame as a listener.¹³ This suffices to establish standing for Bame and Prometheus, but only as to the Camden Application. We reject the attempt of Todd Urick, signator for Objector Common Frequency, Inc., to establish standing. First, while he states that he is within the coverage area of the FM translator applied for by Immaculate Heart Media, Inc., at Rocklin, California,¹⁴ he does not state whether or how he would be adversely affected by grant of the Rocklin Application. Second, Urick does not explain why he could not have participated in the earlier stage of the proceeding, given that the Rocklin Application was filed one day before the Camden Application, and before the

⁵ *Letter Decision* at 2-3.

⁶ *Id.* at 3-6.

⁷ *See* 47 U.S.C. § 309(d); 47 CFR §§ 73.3584(a), 73.5006(a)-(b), 74.1233(d).

⁸ A petition to deny must be served in paper form as prescribed in 47 CFR § 1.47(d). *See* 47 U.S.C. § 309(d)(1); 47 CFR §§ 1.45(a), 1.939(c). The Objections were not served in paper form; rather, “courtesy copies” were served by electronic mail. Objections at 14.

⁹ 47 CFR § 1.106(b)(1).

¹⁰ *See, e.g., Regionet Wireless License, LLC*, Memorandum Opinion and Order, 17 FCC Rcd 21269, 21271 n.23 (2002) (citing *Redwood Microwave Association, Inc.*, Memorandum Opinion and Order, 61 F.C.C.2d 442, 443, para. 3 (1976)). *See also, e.g., Dennis J. Kelly, Esq., et al.*, Letter Decision, 32 FCC Rcd 6880, 6883 (MB 2017) (citing *Montgomery County Broad. Corp.*, Memorandum Opinion and Order, 65 F.C.C.2d 876, 877 n.2 (1977)).

¹¹ 47 CFR § 1.106(b)(1).

¹² File No. BNPFT-20180508ABL (Camden Application).

¹³ Objections at 14.

¹⁴ File No. BNPFT-20180507ADL (Rocklin Application).

Objections were filed on May 16, 2018. We thus find that Urick and Common Frequency, Inc., have not established standing to file a petition for reconsideration as to the Rocklin Application or any other application. Likewise, neither the Center for International Media Action nor any principal thereof has stated the manner in which their interests are adversely affected by the action taken in the *Letter Decision*, and we therefore find that the Center for International Media Action lacks standing to file the Petitions.

Conclusion. For the foregoing reasons, Objectors' Petitions for Reconsideration ARE DISMISSED, except for Prometheus Radio Project's Petition for Reconsideration with regard to the Camden Application, File No. BNPFT-20180508ABL. We will address the merits of the Petition for Reconsideration as to that application at a future date.

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau