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Washington, D.C. 20554

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In Reply Refer To:

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In re: **Kalamazoo Broadcasting Company,
Inc.**
DWKPR(AM), Kalamazoo, Michigan
Facility ID No. 33280
Application File No. BL-20181105ACL

**Cancellation of License
Petition for Reconsideration**

Dear Counsel and Petitioner,

We have before us a Petition for Reconsideration (Petition)¹ filed by Michael Lueck (Lueck), seeking reconsideration of the cancellation of the license for Station DWKPR(AM), Kalamazoo, Michigan (Station), formerly licensed to Kalamazoo Broadcasting Company, Inc. (KBC). For the reasons set forth below, we dismiss the Petition because Lueck lacks standing.

Background. On January 10, 2023, KBC submitted a letter notifying the Media Bureau (Bureau) that KBC had discontinued Station operations and, pursuant to section 73.1750 of the Commission's rules (Rules), therefore surrendered the Station's license for immediate cancellation.² On January 13, 2023, the Bureau issued a public notice stating that the Station's license was cancelled and its callsign deleted, per licensee's request.³ On February 13, 2023, Lueck filed the Petition seeking reconsideration of cancellation of the Station license.

In the Petition, Lueck argues that as a listener of the Station and resident of Kalamazoo, Michigan, he has standing to file a petition for reconsideration under the Rules.⁴ Substantively, Lueck

¹ Pleading File No. 0000210712 (filed Feb. 13, 2023).

² See Letter from Aaron P. Shainis, Esq., to Marlene H. Dortch, Secretary, FCC (Jan. 10, 2023) (Cancellation Request); see also 47 CFR § 73.1750.

³ See *Broadcast Actions*, Public Notice, Report No. 50406 (MB Jan. 13, 2023).

⁴ Petition at 1.

maintains that: 1) KBC's surrender of the Station's license is invalid because it was signed by KBC's attorney, without a certification from KBC, which is only acceptable under special circumstances; 2) KBC should have included its reasons for discontinuing operations; and 3) KBC should have given listeners notice of its intent to discontinue operation, to afford opportunity for assignment of the license, in light of what Lueck characterizes as "a freeze on AM applications."⁵

Discussion. Section 405(a) of the Communications Act of 1934, as amended (the "Act"), states that any party to an order, decision, report, or action, or any other person aggrieved or whose interests are adversely affected, may petition for reconsideration.⁶ In order to show standing, a petitioner who is not a party to the proceeding must: (1) state with particularity the manner in which its interests are adversely affected by the action taken, and (2) show good reason why it was not possible to participate in the earlier stages of the proceeding.⁷ To determine if a party's interests have been adversely affected, a party must establish: (1) a distinct and palpable injury-in-fact that is (2) traceable to the respondent's conduct and (3) redressable by the relief requested.⁸

A petitioner claiming its interest is adversely affected must demonstrate a direct causal link between the challenged action and its alleged injury, and show that the injury would be prevented or redressed by the relief requested.⁹ In the broadcast regulatory context, a non-party attempting to establish standing as someone 'aggrieved' or whose interests were 'adversely affected' generally must show it in one of three ways: '(1) as a competitor in the market subject to signal interference; (2) as a competitor in the market subject to economic harm; or (3) as a resident of the station's service area or regular listener of the station.'¹⁰ Although Lueck is a regular listener of the Station and resident of the Station's service area,¹¹ the Bureau cannot afford Lueck the requested redress. The Bureau cannot require KBC to resume broadcasting,¹² nor can it require KBC to seek out and enter into an agreement with another party to assign the Station.¹³ Accordingly, absent feasible redress, we dismiss the Petition for lack of standing.¹⁴

⁵ *Id.* at 2.

⁶ 47 CFR § 405(a).

⁷ 47 CFR § 1.106(b)(1).

⁸ *Susquehanna Radio Corp.*, Letter Order, 29 FCC Rcd 1905, 1908 (MB 2014) (*Susquehanna Letter Decision*).

⁹ *Susquehanna Radio Corp.*, Memorandum Opinion and Order, 29 FCC Rcd 13276, 13277, para. 3 (2014) (*Susquehanna MO&O*), *recon. denied*, Memorandum Opinion and Order, 30 FCC Rcd 13978 (2015).

¹⁰ See *Punjabi American Media, LLC*, Memorandum Opinion and Order, 35 FCC Rcd 6869, 6872, n.26 (2020) (citing *Tribune Media Co.*, Memorandum Opinion and Order, 34 FCC Rcd 8436, 8448, para. 23 (2019)).

¹¹ Petition at 1.

¹² *Susquehanna Letter Decision*, 29 FCC Rcd at 1908 ("The Commission has no authority to require any party to hold or, as is the case here, to reacquire a license and to accept the corresponding duties and responsibilities of a licensee."); see also *New Jersey Public Broadcasting Authority*, Letter Order, 24 FCC Rcd 9064 (MB 2009) ("the Commission cannot force a license upon a party. . . .").

¹³ See *Urbanmedia One*, Order on Reconsideration, 32 FCC Rcd 5264, 5265-66 (2017) (the Commission held that rescinding grant of an application would not provide petitioner redress because, in addition to other limitations in the Rules, a third party could not be required to enter into a time share agreement with petitioner).

¹⁴ See also *Susquehanna MO&O*, 29 FCC Rcd at 13277-78 (dismissing petition for reconsideration of a license cancellation based on petitioners' lack of standing).

We also reject Lueck's claims that KBC's Cancellation Request is invalid because it was signed by KBC's attorney. Lueck does not cite to any Rule that prohibits a licensee's attorney from signing a letter on its behalf, notifying the Bureau of the Station's discontinuance of operation.¹⁵ Lueck likewise cites no requirement that the Cancellation Request should have included a reason for ceasing operations, or notified listeners prior to surrendering the Station's license.¹⁶ Accordingly, we dismiss the Petition.

Conclusion/Actions. For the reasons stated above, **IT IS ORDERED** that the Petition for Reconsideration filed by Michael Lueck on February 13, 2023 (Pleading File No. 0000210712), **IS DISMISSED.**

Sincerely,

Albert Shuldiner
Chief, Audio Division
Media Bureau

¹⁵ Lueck appears to be referencing section 73.3513(b) of the Rules. 47 CFR § 73.3513(b) (“[a]pplications, amendments thereto, and related statements of fact required by the FCC may be signed by the applicant's attorney in case of the applicant's physical disability or of his absence from the United States.”). However, a letter notifying the Bureau of discontinuance of operations is not an application or statement of fact and therefore need not adhere to the requirements of this section.

¹⁶ Section 73.1750 requires a licensee to notify the FCC by letter of its permanent discontinuance of operation; it does not require any explanation of the discontinuance. 47 CFR § 73.1750. Section 73.3580 sets out requirements for the local public notice of filing of broadcast applications; since the Cancellation Request is not an application, notice of its filing is not required by this section. 47 CFR § 73.3580.