Federal Communications Commission

Washington, D.C. 20554

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| In the Matter ofOne Ministries, Inc. For Modification of the Television Market of Station KQSL, Fort Bragg, California  | **)****)****)****)****)****)** | MB Docket No. 23-4CSR 9006-A |

 order ON RECONSIDERATION

**Adopted: April 2, 2024 Released: April 3, 2024**

By the Chief, Media Bureau:

# INTRODUCTION

1. One Ministries, Inc., (One Ministries or Petitioner), licensee of commercial television station KQSL(DT), Fort Bragg, California (Facility ID No. 8378) (KQSL or Station), filed a Petition for Reconsideration (PFR)[[1]](#footnote-3) pursuant to section 1.106 of the Commission’s rules[[2]](#footnote-4) requesting that the Media Bureau (Bureau) reconsider its Memorandum Opinion and Order (Bureau Order)[[3]](#footnote-5) denying One Ministries’ Petition[[4]](#footnote-6) requesting modification of the Station’s television market to include communities in Santa Rosa, California (Communities or Santa Rosa Communities)[[5]](#footnote-7) served by the relevant Comcast cable system in the area.[[6]](#footnote-8) The PFR is opposed by Comcast.[[7]](#footnote-9) One Ministries filed a Reply.[[8]](#footnote-10) For the reasons stated below, the PFR is denied.

# background

## The Bureau Order

1. One Ministries filed its Petition in 2022 to modify KQSL’s television market to include the Santa Rosa Communities served by Comcast on which KQSL was not being carried on a mandatory basis.[[9]](#footnote-11) The Petitioner stated that Santa Rosa was located in the San Francisco-Oakland-San Jose Designated Market Area (DMA) and was, therefore, presumptively part of KQSL’s market.[[10]](#footnote-12) Comcast opposed the Petition.[[11]](#footnote-13) KQSL is licensed to Fort Bragg, California[[12]](#footnote-14) and its primary broadcast location is a site on top of Cahto Peak, near Laytonville, California.[[13]](#footnote-15) It constructed a distributed transmission system (DTS) that supplemented KQSL’s original transmitter with one in Geyserville, California.[[14]](#footnote-16) The Petitioner asserted that, as a result, KQSL extended its signal further south, therefore allowing broader coverage across Sonoma County.[[15]](#footnote-17) The Petitioner particularly noted that the DTS transmitter site was now located 23 miles from Santa Rosa, thus claiming further support for its inclusion in the Station’s market, while yet acknowledging that the Stations’ 41 dBu noise limited service contour (NLSC) did not reach Santa Rosa.[[16]](#footnote-18) One Ministries has described itself as an independent, Christian television station that invested in delivering programming about Santa Rosa that is originating from the Station’s main studio located there in order to better serve the Communities, which it asserted were not well served by other stations in the DMA.[[17]](#footnote-19) The Petitioner further contended that this was reflected in KQSL’s viewership in Sonoma County, which demonstrated a strong connection between the Station and the Communities.[[18]](#footnote-20)
2. The Bureau considered the Petition pursuant to the statutory directive to “afford particular attention to the value of localism” by evaluating certain factors.[[19]](#footnote-21) The Bureau evaluated the information the Petition presented with respect to each of the five market modification factors described in the statute and did not find sufficient support to modify KQSL’s market to add the Santa Rosa Communities. Regarding the first statutory factor, historical carriage, the Bureau found that this factor weighed only slightly in favor of the modification because the Station was carried in Santa Rosa by one MVPD, U-Verse, for slightly over a decade and was at that time carried on an adjacent Comcast system for fewer than two years.[[20]](#footnote-22) The Bureau found that the second statutory factor, local service, weighed firmly against modification. Specifically, the Station’s NLSC did not cover the Santa Rosa Communities despite expansion of its DTS, and the Bureau also noted that relying on translator coverage could not compensate for the lack of over-the-air coverage by the primary signal.[[21]](#footnote-23) Regarding geographic proximity, the Bureau determined that the Petitioner incorrectly emphasized the distances between the Santa Rosa Communities and its secondary DTS transmitter in Geyserville, rather than the greater distance between Santa Rosa and KQSL’s primary transmitter located in Fort Bragg, the Station’s Community of License.[[22]](#footnote-24) Additionally, the Bureau found that the Petitioner failed to show meaningful economic connections between Fort Bragg and the Santa Rosa Communities.[[23]](#footnote-25) The Bureau did recognize that KQSL was airing more locally-produced and locally-focused programming, but found that “standing alone,” this was not sufficient to demonstrate that the Station “‘provided coverage or other local service’” to the Santa Rosa Communities.[[24]](#footnote-26) With regard to the third statutory factor, promoting consumer access to in-state stations, the Bureau found that this factor weighed in favor of the modification, but did not find sufficient evidence to give this factor increased weight.[[25]](#footnote-27) As to the fourth factor, carriage of other eligible stations, the Bureau found that Comcast already carried a large number of stations that served the Santa Rosa Communities and, consistent with precedent, assigned no weight to this factor.[[26]](#footnote-28) Regarding the fifth factor, viewing patterns, the Bureau found that Petitioner’s evidentiary submission was not indicative of significant viewership and found that this factor weighed against the market modification.[[27]](#footnote-29) Based on the overall evaluation of the facts, the Bureau denied the Petition.[[28]](#footnote-30)

## The PFR and Related Pleadings

1. One Ministries asserts in its PFR that the *Bureau Order* failed to consider the effect of excluding Santa Rosa from KQSL’s market on localism, which it states is the essential component of the market determination process.[[29]](#footnote-31) The Petitioner states that while the Commission may include additional communities within or exclude communities from a station’s television market, Congress instructed the Commission when considering such requests, to ‘“afford particular attention to the value of localism.”’[[30]](#footnote-32) The Petitioner notes the five factors that the Commission may consider in this regard, but notes that these factors are not exhaustive and should not be applied in a formulaic fashion, which it asserts was the case in this matter.[[31]](#footnote-33)
2. The Petitioner argues that the Bureau incorrectly discounted KQSL’s historical carriage, while acknowledging the Bureau’s recognition of the carriage of KQSL on U-Verse and the carriage of the Station on an adjacent Comcast system for a short period of time.[[32]](#footnote-34) The Petitioner provides no new information regarding this issue that may not have been available at the time. The Petitioner disagrees with the Bureau’s weighing of this first statutory factor as only slightly in favor of the modification and argues that it should have weighed strongly in favor of the request.[[33]](#footnote-35)
3. The Petitioner also asserts that the Bureau incorrectly applied the second statutory factor in finding that KQSL fails to provide local service to the Santa Rosa Communities.[[34]](#footnote-36) According to One Ministries, the Bureau improperly elevated predicted coverage and geographic factors over the actual service that it contends KQSL provides to Santa Rosa.[[35]](#footnote-37) The Petitioner asserts that the Bureau failed to give proper weight to what it terms as the significant amount of programming on KQSL that is produced in and directed at Santa Rosa.[[36]](#footnote-38) Additionally, the Petitioner states that the Bureau failed to account for what it again terms as significant support for carriage of the Station from Santa Rosa residents and businesses.[[37]](#footnote-39) The Petitioner also claims that the Bureau ignored evidence that KQSL’s signal is available over the air in Santa Rosa, notwithstanding its lack of predicted coverage.[[38]](#footnote-40)
4. The Petitioner also argues that the Bureau incorrectly applied the fourth statutory factor in finding that other stations carried by Comcast adequately serve the Santa Rosa Communities and improperly afforded no weight to this factor.[[39]](#footnote-41) Finally, the Petitioner asserts that the Bureau incorrectly concluded that the fifth factor weighs against the Station.[[40]](#footnote-42)
5. In opposition, Comcast argues that One Ministries once again renews its failed arguments in its PFR seeking to use DTS to shift the service of KQSL from its community of license in Fort Bragg toward the geographically distant Santa Rosa Communities.[[41]](#footnote-43) Comcast asserts that the Petitioner merely restates arguments already fully presented and considered by the Bureau.[[42]](#footnote-44) Comcast argues that because One Ministries’ PFR “fails to identify any material error in the Bureau Order,” the Petitioner’s request should be denied.[[43]](#footnote-45)
6. In reply, the Petitioner argues that Comcast wants to portray KQSL as just another station seeking to add a community in the same DMA to which the station provides no local service.[[44]](#footnote-46) The Petitioner contends that KQSL is not just another station and Comcast amplifies what it asserts are the material errors in the Bureau Order by not acknowledging the unique and local service that KQSL provides to Santa Rosa.[[45]](#footnote-47) The Petitioner argues that its PFR provides a valid basis for reconsideration and it has demonstrated so by its analysis of the statutory factors.[[46]](#footnote-48)

# Discussion

1. Petitions for Reconsideration of decisions made pursuant to delegated authority are generally acted on by the same designated authority, and thus may be dismissed or denied by that authority when procedurally defective.[[47]](#footnote-49) The Commission’s rules explain that such a petition will “plainly not warrant consideration” if, among other possible reasons, it fails “to identify any material error, omission, or reason warranting reconsideration” or relies “on arguments that have been fully considered and rejected by the Commission within the same proceeding.”[[48]](#footnote-50) Even under those circumstances, a petition may be considered if it relies upon changed circumstances or facts or arguments not previously known by the petitioner.[[49]](#footnote-51) Though a Petitioner may disagree with the Bureau’s findings in a particular case, we will not grant reconsideration merely for the purpose of again debating matters on which we have deliberated upon and fully addressed.[[50]](#footnote-52)
2. The Petitioner has not shown any material error or omission in the *Bureau Order* or raised facts not known or not existing at the time its Petition was filed. The Petitioner simply disagrees with the weight the Bureau afforded the evidence presented. The Bureau considered all of the evidence submitted and arguments presented by the Petitioner in the underlying proceeding and analyzed them in conjunction with the statutory market modification criteria, paying particular attention to the value of localism.[[51]](#footnote-53) In the PFR, the Petitioner merely restates its version of the facts previously presented to the Bureau, and reiterates arguments previously considered and rejected in the *Bureau Order*. Nothing in the PFR alters the conclusion made in the *Bureau Order* that the facts do not support the grant of the underlying Petition to modify the market of KQSL, Fort Bragg, California, to include the Santa Rosa Communities served by Comcast.

# ORDERING CLAUSES

1. Accordingly, **IT IS ORDERED,** pursuant to section 614(h) of the Communications Act of 1934, as amended, 47 U.S.C. § 534, and section 1.106 of the Commission’s rules, 47 CFR § 1.106, that the captioned Petition for Reconsideration (MB Docket No. 23-4, CSR 9006-A) filed by One Ministries, Inc., LLC **IS DENIED**.
2. This action is taken pursuant to authority delegated by section 0.283 of the Commission’s rules.[[52]](#footnote-54)

 FEDERAL COMMUNICATIONS COMMISSION

 Holly Saurer

 Chief,

 Media Bureau

1. One Ministries, Inc. Petition for Reconsideration for Modification of the Television Market of Station KQSL, Fort Bragg, California, MB Docket No. 23-4, CSR 9006-A (filed May 26, 2023).  [↑](#footnote-ref-3)
2. 47 CFR § 1.106. [↑](#footnote-ref-4)
3. *One Ministries, Inc., For Modification of the Television Market of Station KQSL. Fort Bragg, California*, Memorandum Opinion and Order, DA 23-361, (rel. April 28, 2023), 2023 WL 3433758 (*Bureau Order*). [↑](#footnote-ref-5)
4. One Ministries, Inc. Petition for Special Relief for Modification of the Television Market of Station KQSL, Fort Bragg, California, MB Docket No. 23-4 (filed Dec. 19, 2022), (KQSL Petition or Petition). [↑](#footnote-ref-6)
5. The Communities are Santa Rosa (CA0658) and Santa Rosa (CA0255). *Bureau Order* at 2023 WL 3433758, at \*11, n.3. [↑](#footnote-ref-7)
6. The Petitioner has stated that according to the Commission’s Cable Operations and Licensing Systems (COALS) database, Comcast does business in the communities at issue herein under the name “Comcast of California/Connecticut/Michigan.” *Bureau* Order at n.2. For ease of reference, we will refer to the relevant cable system as “Comcast” throughout this proceeding. [↑](#footnote-ref-8)
7. Opposition to Petition for Reconsideration of One Ministries, Inc. for Modification of the Television Market of Station KQSL, Fort Bragg, California, MB Docket No. 23-4, CSR 9006-A (filed June 8, 2023) (Comcast Opposition). [↑](#footnote-ref-9)
8. Reply in Support of Petition Reconsideration of One Ministries, Inc. for Modification of the Television Market of Station KQSL, Fort Bragg, California, MB Docket No. 23-4, CSR-9006-A (filed June 15, 2023) (Reply). [↑](#footnote-ref-10)
9. *See supra* n.4 and *Bureau Order*, 2023 WL 3433758, at \*1, para. 1. [↑](#footnote-ref-11)
10. *Bureau Order* at \*1, para. 1. [↑](#footnote-ref-12)
11. *Id.* [↑](#footnote-ref-13)
12. *Id.* at \*2, para. 5. KQSL’s main studio is located at 2240 Professional Drive in Santa Rosa. *Id.* at n.14. [↑](#footnote-ref-14)
13. *Bureau* Order at \*2, para. 5. *See also* FCC File No. BLCDT-20090610AAS. [↑](#footnote-ref-15)
14. *Bureau* Order at \*3, para. 6. *See also* LMS File Nos. 0000058621 and 0000187371. [↑](#footnote-ref-16)
15. *Bureau Order* at \*3, para. 6. [↑](#footnote-ref-17)
16. *Id*.at \*3, para. 6, 8, and \*6, para. 17. [↑](#footnote-ref-18)
17. *Id*. at \*3, para. 6. [↑](#footnote-ref-19)
18. *Id.* [↑](#footnote-ref-20)
19. 47 U.S.C. § 534(h)(1)(C)(ii)(I)-(V). [↑](#footnote-ref-21)
20. *Bureau Order* at \*5, para. 15. [↑](#footnote-ref-22)
21. *Id*.at \*8, para. 25. [↑](#footnote-ref-23)
22. *Id.* [↑](#footnote-ref-24)
23. *Id.* [↑](#footnote-ref-25)
24. *Id.* [↑](#footnote-ref-26)
25. *Id*. at \*9, para. 27. [↑](#footnote-ref-27)
26. *Id*. at \*10, para. 32. [↑](#footnote-ref-28)
27. *Id*. at \*11, para. 37. [↑](#footnote-ref-29)
28. *Id.* at \*11, para. 38. [↑](#footnote-ref-30)
29. PFR at 2. [↑](#footnote-ref-31)
30. *Id.*; *see* 47 U.S.C. § 534(h)(1)(i) & (ii). [↑](#footnote-ref-32)
31. *Id.* at 2-3. [↑](#footnote-ref-33)
32. *Id.* at 4-5. [↑](#footnote-ref-34)
33. *Id.* at 5. [↑](#footnote-ref-35)
34. *Id.* [↑](#footnote-ref-36)
35. *Id.* at 6. One Ministries also argues that the Bureau improperly disregards the 23 mile proximity of Santa Rosa to the Station’s Geyserville DTS transmitter in its analysis of the geographic proximity prong of the second statutory factor. *Id.* at 12. The Bureau’s determination regarding this issue is discussed above, *supra* para. 3. [↑](#footnote-ref-37)
36. *Id.* at 7. The Petitioner disagrees with the Bureau’s analysis and conclusion regarding the local programming offered by KQSL, but does not identify a material error regarding the Bureau’s ultimate finding. [↑](#footnote-ref-38)
37. *Id.* at 10. The Petitioner offered several dozen supportive comments in this proceeding as recognized by the Bureau Order. *See Bureau Order* at \*7, para. 23, n. 92. Compared to the entire population of Santa Rosa, the number of comments received would be considered miniscule by comparison to the entire population, yet were fully considered by the Bureau. [↑](#footnote-ref-39)
38. *Id.* at 11. The Petitioner first noted the anecdotal evidence of off-air reception in Santa Rosa via measuring signal strength from a signal strength meter on the roof of the KQSL Santa Rosa studio in its Reply pleading in the underlying proceeding. *See* Reply at 8-9, n.27. The Bureau considered this submission, despite Comcast’s inability to reply as this was a new matter raised in a responsive pleading, and determined that it was irrelevant, just as with translator coverage, because of KQSL’s failure to place a NLSC over the Santa Rosa Communities. [↑](#footnote-ref-40)
39. *Id.* at 16. As the Bureau has noted with regard to this factor, it is generally interpreted as enhancing a station’s market modification petition if other stations do not sufficiently serve the communities at issue; however, other stations’ service to the communities rarely has counted against a petition. *Bureau Order* at \*9, para. 28. No further evidence has been provided by One Ministries to challenge the Bureau’s determination and weighing of this factor, and the Petitioner merely reiterates its previous claims. [↑](#footnote-ref-41)
40. *Id.* at 17. The Bureau considered the Petitioner’s evidentiary submission with regard to this factor and found it lacking to indicate significant viewership. *Bureau Order* at \*11, para. 37. The Petitioner again reiterates its claims, and disagrees with the Bureau’s weighing of the factor. According to the Petitioner, even if significant viewing could not be found, the Bureau should have accounted for KQSL’s status as a specialty station by effectively disregarding this factor, thereby not affording it the same weight as other factors. *Id.* at 18. [↑](#footnote-ref-42)
41. Comcast Opposition at i. [↑](#footnote-ref-43)
42. *Id.* While Comcast does address each of the Petitioner’s arguments, we need not restate them here. [↑](#footnote-ref-44)
43. Comcast Opposition at 2. [↑](#footnote-ref-45)
44. Reply at 1. [↑](#footnote-ref-46)
45. *Id.* at 1-2. [↑](#footnote-ref-47)
46. *Id.* at 2. [↑](#footnote-ref-48)
47. 47 CFR. § 1.106(a)(1) ("Petitions requesting reconsideration of other final actions taken pursuant to delegated authority will be acted on by the designated authority or referred by such authority to the Commission.”). [↑](#footnote-ref-49)
48. 47 CFR § 1.106(p)(1),(3), adopted in *Amendment of Certain of the Commission’s Part 1 Rules of Practice and Procedure and Part 0 Rules of Commission Organization*, Report and Order, 26 FCC Rcd 1594, 1606, para. 27 (2011) (“[f]or a similarly procedurally defective or repetitive petition directed to a bureau or office (rather than the full Commission) seeking reconsideration of a staff-level decision, we delegate authority to the relevant bureau or office to dismiss or deny the petition.”). [↑](#footnote-ref-50)
49. 47 CFR. § 1.106(b)(2), (c). [↑](#footnote-ref-51)
50. *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff’d sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 383 U.S. 967 (1966) (*WWIZ*). *See also* *Bennett Gilbert Gaines and WCBM Maryland, Inc.*, 8 FCC Rcd 3986 (Rev. Bd. 1993) (“To be successful, a petition for reconsideration must rely on new facts, changed circumstances, or material errors or omissions in the underlying opinion. A petition which simply reiterates arguments previously considered and rejected will be denied.” [*internal citations omitted]*); *Warren C. Havens Environmental LLC Petition for Reconsideration*, Order on Reconsideration, 30 FCC Rcd 2635, 2640 (2015) (“a Petition for Reconsideration that simply reiterates arguments previously considered and rejected will be denied”); *Capstar TX, LLC for a New FM Translator Station at Modesto, CA*, Memorandum Opinion and Order, 37 FCC Rcd 11073, 11075 (2022) **(**“[m]ere disagreement with the Bureau’s findings does not provide a valid basis for reconsideration”). [↑](#footnote-ref-52)
51. 47 U.S.C. § 534(h)(1)(C)(ii)(I)-(V). [↑](#footnote-ref-53)
52. 47 CFR § 0.283. [↑](#footnote-ref-54)