

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
EZ SACRAMENTO, INC.)	File No. 98020370
)	NAL/Acct. No. 918ed012
Licensee of Station KHTK(AM))	Facility # 20352
Sacramento, California)	
)	
INFINITY BROADCASTING)	File No. 98090215
CORPORATION OF WASHINGTON, D.C.)	NAL/Acct. No. 918ed013
)	Facility # 28625
Licensee of Station WJFK-FM)	
Manassas, Virginia)	

MEMORANDUM OPINION AND ORDER

Adopted: August 10, 2001

Released: August 14, 2001

By the Commission:

1. In this Order, we dismiss a petition for reconsideration filed jointly by EZ Sacramento, Inc. (“EZ”), licensee of KHTK(AM), Sacramento, California, and Infinity Broadcasting Corporation of Washington, D.C. (“Infinity”), licensee of WJFK-FM, Manassas, Virginia (jointly, “petitioners”). Petitioners seek review of *EZ Sacramento, Inc.*, FCC 01-53 (released February 20, 2001). In that Order, we denied an application for review of the Enforcement Bureau’s decision, *EZ Sacramento, Inc.*, 15 FCC Rcd 18257 (Enforcement Bureau 2000). That decision, in turn, denied reconsideration of two forfeiture orders, *Infinity Broadcasting Corp. of Washington, D.C.*, 14 FCC Rcd 13541 (Mass Media Bureau 1999) and *EZ Sacramento, Inc.*, 14 FCC Rcd 13539 (Mass Media Bureau 1999). Each forfeiture order imposed a \$4,000 forfeiture upon the licensee for a willful violation of section 73.1206 of the Commission’s rules, 47 C.F.R. § 73.1206 (broadcast of telephone conversations).

2. Review of the petition reveals that it does not rely on new facts or changed circumstances. In this regard, we reject petitioners’ argument that “new facts” exist because the Commission recognized that the forfeitures it upheld are based on facts that “are somewhat different than most cases under 47 C.F.R. § 73.1206.” *EZ Sacramento, Inc.*, at para. 2. There are no “new facts”; petitioners merely continue to disagree with the conclusion that the rule proscribes the conduct at issue in this case in a sufficiently clear manner to warrant a forfeiture.¹ Accordingly, we dismiss the petition pursuant to 47 C.F.R. § 1.106(b)(2).

3. Accordingly, IT IS ORDERED, pursuant to authority granted by section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), and section 1.106(b)(2) of the Commission’s rules, 47 C.F.R. § 1.106(b)(2), that the petition for reconsideration filed March 22,

¹ Compare Petition for Reconsideration at pp. 6-7 (“The [February 20, 2001] MO&O imposes a penalty for Petitioners’ alleged failure to meet ... the new, novel ... interpretation of the ... Rule”) with Application for Review at pp. 8-9 “[T]he Bureau is not authorized to adopt a novel interpretation of a rule and then impose retroactive liability on a licensee ..., as it has done in this case”).

2001, by EZ Sacramento, Inc. and Infinity Broadcasting Corporation of Washington, D.C. IS
DISMISSED.

FEDERAL COMMUNICATIONS COMMISSION

Magalie Roman Salas
Secretary