

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

In the Matter of)
)
FIRESIDE MEDIA and JET FUEL)
BROADCASTING) FOIA Control No. 2011-131
)
On request for Inspection of Records and)
Review of Estimated FOIA Processing Costs)
)
)
FIRESIDE MEDIA) File No. BNP-20040130APE
) Facility ID No. 1661371
)
)
For a New AM Broadcasting Station at Larga)
Vista, Texas)
)
)
and)
)
)
For a New AM Broadcast Station at Pass)
Christian, Mississippi) File No. BNP-20040130APU
) Facility ID No. 161128
)
)
and)
)
)
JET FUEL BROADCASTING) File No. BNP-20040130AQL
) Facility No. 161328
)
)
For a New AM Broadcast Station at Winooski,)
Vermont)

MEMORANDUM OPINION AND ORDER

Adopted: January 17, 2013

Released: January 18, 2013

By the Commission:

I. INTRODUCTION

1. By this Memorandum Opinion and Order, we deny a petition¹ filed by Fireside Media and Jet Fuel Broadcasting (collectively "Fireside"),² which requests reconsideration of a Commission order

¹ See "Request for Rescinding of Illegal FCC Order 12-94, With Reinstatement Before Chairman and Commissioners for Fair Hearing, Inclusive of Allowance for Heretofore Denied Conferencing Opportunity for Appellant With the Chairman and Each Commissioner -- Given Egregious Issues of Agency Misconduct, Error and Retaliation Against Appellant that Appellant Must Be Able to Address Directly With Commissioners to Guarantee Any Semblance of a Fair Hearing," filed September 21, 2012 ("Petition").

("Consolidated Order"), which dismissed as procedurally defective Fireside's earlier attempt to seek reconsideration or review of various actions by the Commission and the Media Bureau (MB).³ These actions concern both MB's dismissal of Fireside's AM radio license applications for failure to meet filing deadlines and a Commission decision that upheld both the Office of General Counsel's (OGC's) decision denying a fee waiver and MB's decision setting fees for Fireside's Freedom of Information Act (FOIA) request.⁴

II. DISCUSSION

2. We find that Fireside's Petition gives us no reason to reconsider the Consolidated Order. It is well established that "[r]econsideration will not be granted to debate matters upon which the Commission has already deliberated and spoken."⁵ For the most part Fireside simply rehashes arguments that we have already fully considered and rejected.⁶

3. To the extent that Fireside raises matters that have not already been fully considered by the Commission, they are plainly without merit. First, Fireside contends that its principal Dave Garey should have been given an opportunity to speak to the Chairman and the Commissioners before the Commission adopted the Consolidated Order.⁷ Indeed, Fireside asserts that its FOIA request was "fast-tracked with absolutely no opportunity for a fair hearing."⁸ Fireside's arguments, however, were fully considered by the Commission, in a manner providing for their "prompt and efficient disposition."⁹ Moreover, there is no requirement that the Commission permit oral presentations on matters under consideration and indeed the Communications Act permits the Commission to conduct its procedures in such manner "as will best conduce to the proper dispatch of business and to the ends of justice."¹⁰

4. Second, Fireside contends that the Consolidated Order must be rescinded because the online description of the item on circulation did not reference the fact that it addressed licensing issues as well as FOIA issues.¹¹ We disagree. The listing of documents on circulation is not required by statute or regulation and has no official effect. Further, all the issues decided by the Commission in the Consolidated Order

² Fireside Media and Jet Fuel Broadcasting are sole proprietorships of Dave Garey. For ease of reference they are both referred to in this order as "Fireside."

³ See *Fireside Media and Jet Fuel Broadcasting*, FCC 12-94 (Aug. 22, 2012) ("Consolidated Order"), reported at 2012 WL 3612570.

⁴ The Commission has considered and rejected numerous times Fireside's arguments that it (1) should have been granted extensions for filing deadlines for its AM radio applications; (2) was unfairly burdened with penalties for withdrawing bids in FM Auction 37; and (3) should not be charged fees for processing its FOIA request. See Consolidated Order at ¶¶ 2-3 and cases cited therein.

⁵ See, e.g., *Applications for Consent to the Transfer of Control of License From Comcast Corporation and AT&T Corp. Transferors, to AT&T Comcast Corp., Transferee*, 25 FCC Rcd 3492, 3493 ¶ 2 (2010).

⁶ See *supra* note 4.

⁷ See Petition at 1-3.

⁸ See *id.* at 6.

⁹ See 47 U.S.C. § 155(a).

¹⁰ See 47 C.F.R. § 154(j). See also *SBC Communications, Inc.*, 17 FCC Rcd 7589, 7593 n.24 (2002) (Section 4(j) of the Communications Act gives the Commission broad discretion to make procedural rulings), citing *U.S. v. Schreiber*, 381 U.S. 279, 289 (1965); *FCC v. WJR*, 337 U.S. 265, 282 (1949) (deciding whether to permit oral argument is within the Commission's discretion under section 4(j) except where the statute expressly requires it).

¹¹ See Petition at 3-4.

were raised by Fireside in a single pleading.¹² The Commission properly considered these issues and Fireside did not suffer any prejudice because the document's title on the online circulation list did not reference all issues in Fireside's pleading. We therefore deny Fireside's Petition.

5. As an additional matter, we note that Fireside's pleadings have been notably repetitious and lacking in merit.¹³ We have recently imposed sanctions on a party for filing frivolous pleadings where the pleadings were "based on arguments that have been specifically rejected by the Commission" or otherwise had "no plausible basis for relief."¹⁴ If Fireside continues to file pleadings of this nature, we authorize OGC to refer matters to the Enforcement Bureau to consider whether to impose sanctions on Fireside for filing frivolous pleadings, including a possible forfeiture.

III. ORDERING CLAUSE

6. Accordingly, IT IS ORDERED, that the Petition filed by Fireside Media and Jet Fuel Broadcasting IS DENIED.

7. The officials responsible for this action are: Chairman Genachowski and Commissioners McDowell, Clyburn, Rosenworcel, and Pai.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹² See "Request for Reconsideration of FCC 11-158, Which Continues to Obstruct Vital Public Documents Detailing Reported Misconduct in the FCC's FM Spectrum Auction Process; and Request for Acceptance of Appeal of DA-11-1164, With Reinstatement of Reconsideration Before the Commission of FCC 10-108" (Nov. 25, 2011).

¹³ See *supra* note 4.

¹⁴ See *Warren C. Havens*, 26 FCC Rcd 10888, 10892 ¶ 11 (2011), *reaffirmed*, 27 FCC Rcd 2756 (2012). The Commission found that it inherent authority to impose sanctions for frivolous pleadings. See 27 FCC Rcd at 2759 ¶ 10.