

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

In the Matter of	)	
	)	File No. BLED-20130719AAO
Immaculate Conception Apostolic School	)	File No. BNPED-20071022AIX
	)	
Applications for a Construction Permit and	)	Facility ID No. 176615
Covering License for Noncommercial Educational	)	
Station DKJPT(FM) at Colfax, California	)	

**ORDER ON RECONSIDERATION**

**Adopted: March 22, 2017**

**Released: March 23, 2017**

By the Commission:

1. We have before us a Petition for Reconsideration (Petition) filed on January 17, 2017, by Immaculate Conception Apostolic School (ICAS), former permittee of noncommercial educational (NCE) Station KJPT(FM), Colfax, California (Station).<sup>1</sup> ICAS seeks reconsideration of the Commission *Order*<sup>2</sup> denying ICAS' Application for Review and upholding the Media Bureau (Bureau) decision<sup>3</sup> to dismiss the captioned application for license and cancel the Station's underlying construction permit. For the reasons stated below, we dismiss the Petition as repetitious.

2. Section 1.106(b)(2) of the FCC's rules (Rules) provides that where the Commission has denied an application for review, a petition for reconsideration will be entertained only if one or more of the following circumstances is present: (1) the petition relies on facts which relate to events which have occurred or circumstances which have changed since the last opportunity to present such matters, or (2) the petition relies on facts unknown to petitioner until after his last opportunity to present such matters which could not -- through the exercise of ordinary diligence -- have been learned prior to such opportunity.<sup>4</sup> In the Petition, ICAS fails to advance any substantive reason why the *Order* was in error.<sup>5</sup> Instead, it requests that the "new management" at the Commission reconsider the *Order* from the perspective of religious liberty and the rights of Roman Catholics.<sup>6</sup> In the *Order*, we rejected this

<sup>1</sup> We also have before us: an Opposition to the Petition filed by William Battles on February 6, 2017 (Battles Opposition); a Motion to Strike the Battles Opposition filed by ICAS on February 16, 2017 (ICAS Motion); and the Informal Objection to the Petition filed by Continental Media Group, LLC, on February 16, 2017 (Continental Opposition), which we will treat as an opposition to the Petition. The Battles Opposition and the Continental Opposition are both untimely and we dismiss them as such. See 47 CFR § 1.106(g). The ICAS Motion is an unauthorized pleading and we also dismiss it. See 47 CFR § 1.45.

<sup>2</sup> *Immaculate Conception Apostolic School*, Memorandum Opinion and Order, 31 FCC Rcd 13754 (2016) (*Order*).

<sup>3</sup> See *Letter to Jerrold Miller, Esq., and Dennis J. Kelly, Esq.*, Ref. 1800B3 (MB rel. Mar. 6, 2015), *reconsideration denied*, *Letter to Jerrold Miller, Esq., and Dennis J. Kelly, Esq.*, Ref. 1800B3 (MB rel. Feb. 3, 2016); *second reconsideration petition dismissed*, *Letter to Jerrold Miller, Esq., and Dennis J. Kelly, Esq.*, Ref. 1800B3 (MB rel. Jul. 25, 2016).

<sup>4</sup> 47 CFR § 1.106(b)(2). See *Fireside Media and Jet Fuel Broadcasting*, Memorandum Opinion and Order, 27 FCC Rcd 10694, 10696, para 4 (2012).

<sup>5</sup> See *Order*, 31 FCC Rcd at 13757, paras. 10-11.

<sup>6</sup> Petition at 2-3.

contention by ICAS of agency religious bias.<sup>7</sup> ICAS neither proffers new facts nor alleges changed circumstances to warrant reconsideration. Having chosen only to restate its unsupported prior contention, rejected by the Commission, that the agency's action was the result of religious bias, ICAS provides no basis for reconsideration. "It is settled Commission policy that petitions for reconsideration are not to be used for the mere reargument of points previously advanced and rejected."<sup>8</sup> Therefore, we dismiss ICAS' Petition.

3. Accordingly, IT IS ORDERED that pursuant to Sections 4(i) and 405(a) of the Communications Act of 1934, as amended,<sup>9</sup> and Section 1.106(b)(2) of the Commission's Rules,<sup>10</sup> the petition for reconsideration filed by Immaculate Conception Apostolic School IS DISMISSED as repetitious.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>7</sup> Order, 31 FCC Rcd at 13757, para. 11.

<sup>8</sup> See *Romar Communications, Inc. and KM Communications, Inc.*, Memorandum Opinion and Order on Reconsideration, 23 FCC Rcd 2512, 2514, para. 5 (2008), quoting *S&L Teen Hospital Shuttle*, Order on Reconsideration, 17 FCC Rcd 7899, 7900, para. 3 (2002). See also *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685 (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), *petition for rehearing denied*, 384 U.S. 947 (1966).

<sup>9</sup> 47 U.S.C. §§ 154(i) and 405(a).

<sup>10</sup> 47 CFR § 1.106(b)(2).