

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

In the Matter of)	
)	
Entercom Sacramento License, LLC)	
Applications for Renewals of Licenses for)	
)	
KUDL(FM), Sacramento, CA	)	File No. BRH-20050728ATP
	)	File No. BRH-20130730ANC
	)	Facility ID No. 57889
)	
KRXQ(FM), Sacramento, CA	)	File No. BRH-20050728AUQ
	)	File No. BRH-20130730ANI
	)	Facility ID No. 20354
)	
KSEG(FM), Sacramento, CA	)	File No. BRH-20050728ATX
	)	File No. BRH-20130730ANK
	)	Facility ID No. 11281
)	
KKDO(FM), Fair Oaks, CA	)	File No. BRH-20130730AND
	)	Facility ID No. 6810
)	
KIFM(AM), Sacramento, CA	)	File No. BR-20130730ANG
	)	Facility ID No. 67848

ORDER ON RECONSIDERATION

Adopted: October 24, 2018

Released: October 25, 2018

By the Commission:

1. We have before us a Petition for Reconsideration (Petition) filed by Edward R. Stolz II (Stolz) seeking reconsideration of our decision denying his Application for Review in this proceeding.¹ Stolz again seeks the designation for hearing of the captioned license renewal applications (Renewal Applications) filed by a subsidiary of Entercom Communications Corporation (Entercom) for five radio stations in the Sacramento market. We dismiss the Petition due to lack of standing.

2. In the *AFR Order*, the Commission affirmed the Media Bureau’s (Bureau) determination that: 1) Stolz lacks standing in this proceeding;² and 2) Section 309(k) of the Communications Act of 1934, as amended (Act), precludes designating the Renewal Applications for hearing based on conduct at a separate station formerly licensed to another subsidiary of Entercom, Station KDND(FM), Sacramento, California.³ The Petition does not address the Commission’s or the Bureau’s determination that Stolz

¹ *Entercom Sacramento License, LLC*, Memorandum Opinion and Order, FCC 18-83 (June 26, 2018) (*AFR Order*); Letter Order, Ref 1800B3-ATS (MB Nov. 21, 2017); Letter Order, 32 FCC Rcd 6880 (MB 2017) (*Reconsideration Order*); Letter Order, Ref. 1800B3-JM (MB Jan. 18, 2017) (*Letter Order*).

² *AFR Order* at 3-4, paras. 6-9.

³ *Id.* at 4-5, para. 10; 47 § U.S.C. 309(k); *see also Entercom License, LLC*, Hearing Designation Order and Notice of Opportunity for Hearing, 31 FCC Rcd 12196 (2016) (*KDND HDO*) (designating license renewal application of KDND for hearing); Memorandum, Opinion and Order, 32 FCC Rcd 7149 (2017) (*KDND Order*) (denying Stolz’s petition for reconsideration and application for review seeking to designate Renewal Applications for hearing);

lacks standing in the proceeding, nor does the Petition challenge the Section 309(k) analysis. Instead, the Petition relies entirely on a Hearing Designation Order adopted by the Commission following the release of the *AFR Order* which designated for hearing applications filed by Sinclair Broadcast Group, Inc. (Sinclair) and Tribune Media Company (Tribune) to transfer control of Tribune subsidiaries to Sinclair (Sinclair-Tribune Applications).⁴ Stolz argues that by designating the Sinclair-Tribune Applications for hearing, but not Entercom's Renewal Applications, the Commission failed "to accord similar treatment to similarly situated parties."⁵ Accordingly, Stolz requests that the Commission designate the Renewal Applications for evidentiary hearing to determine whether Entercom possesses the character qualifications to hold a Commission license in light of Entercom's conduct at KDND.⁶

3. We dismiss the Petition on procedural grounds.⁷ Under Section 405(a), a petitioner must establish it is a "party" to the proceeding or "any other person aggrieved or whose interests are adversely affected thereby."⁸ Stolz, as an informal objector to the Renewal Applications, rather than as a filer of a valid petition to deny those applications,⁹ is not a "party" to the proceeding for purposes of Section 405(a).¹⁰ Nor is Stolz a person "aggrieved or whose interests are adversely affected." We concluded in the *AFR Order* that Stolz failed to show any direct causal connection between the Commission's grant of the applications and his alleged injury, which concerns his attempt to regain the license for station KUUDL.¹¹ The Petition does not challenge that conclusion or assert that Stolz is aggrieved or adversely affected. As a result, he is not entitled to seek reconsideration.¹² Accordingly, we dismiss the Petition.

4. Alternatively and independently, we deny the Petition on its merits. Stolz's reliance on

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Order, DA 18-472 (OGC May 8, 2018) (dismissing petition for reconsideration), *app. for review pending*. That former station is now identified in the Commission's licensing database as DKDND, but for clarity will be referred to here as KDND.

⁴ *Applications of Tribune Media Company and Sinclair Broadcast Group, Inc.*, Hearing Designation Order, FCC 18-100 (July 19, 2018) (*Sinclair-Tribune HDO*).

⁵ Petition at 4-5 (citing *Melody Music, Inc. v. FCC*, 345 F.2d 730 (D.C. Cir. 1965)).

⁶ Petition at 4-5.

⁷ See 47 U.S.C. § 405(a).

⁸ *Id.* The Commission implemented Section 405(a) through Section 1.106(b)(1) of the rules. 47 CFR § 1.106(b)(1) (a petition for reconsideration may be filed by an "party to the proceeding, or any other person whose interests are adversely affected by the action taken").

⁹ See *Reconsideration Order*, 32 FCC Rcd at 6881 n.3 and 6883.

¹⁰ 47 U.S.C. § 405(a). See *Fibertower Spectrum Holdings LLC*, Order on Reconsideration, FCC 18-87, para. 17 (July 2, 2018) ("[T]o qualify as a party in interest, a petitioner for reconsideration generally must have filed a valid petition to deny against the application") quoting *Daniel R. Goodman*, Memorandum Opinion and Order and Order on Reconsideration, 13 FCC Rcd 21944, 21962, para. 30 (1998); see also *Urbanmedia One*, Order on Reconsideration, 32 FCC Rcd 5264, 5267-68, para. 6 (2017), and *San Luis Obispo L.P.*, Memorandum Opinion and Order and Forfeiture Order, 11 FCC Rcd 9616, 9617, para. 4 (1996).

¹¹ *AFR Order* at 3-4, paras. 6-9; *KDND Order*, 32 FCC Rcd at 7152-53, paras. 11-14.

¹² See *Applications of Charter Commc'ns, Inc., Time Warner Cable Inc., & Advance/Newhouse P'ship*, Order on Reconsideration, FCC 18-127, 2018 WL 4347182, at 2-3, paras. 3,5 (Sept. 10, 2018) (in order to establish standing as a party or a person who is aggrieved or whose interests are adversely affected, petitioner for reconsideration must show that Commission action would cause direct injury that would be prevented or redressed by the requested relief; injury must be concrete and particularized, actual or imminent rather than conjectural or hypothetical, and "certainly impending"); *Sprint Nextel Corp. & Clearwire Corp.*, 27 FCC Rcd 16478, 16480-81 (2012) (petitioner is not a party or person aggrieved or whose interests are adversely affected for purposes of section 405(a) of the Act because the underlying decision did not injure the petitioner); *Applications for A and B Block Broadband PCS Licenses*, Memorandum Opinion and Order, 61 Fed. Reg. 19620-02 (May 2, 1996) (allegations based on potential future status as a licensee "are too contingent and speculative to support the required finding of a direct injury causally linked to the challenged action").

Melody Music is misplaced because Sinclair and Tribune cannot be considered “similarly situated parties” to Entercom.¹³ In the *Sinclair-Tribune HDO*, the Commission found that there were substantial and material questions of fact surrounding whether Sinclair was a real party in interest with respect to certain stations that it intended to divest in order to comply with the Commission’s broadcast ownership rules,¹⁴ a finding that required designation of the applications for hearing under Section 309(e) of the Act.¹⁵ In contrast, Stolz has not raised any real party in interest issues with respect to Entercom’s filings with the Commission. Moreover, the allegations in this proceeding concern conduct at an unrelated station (KDND), which we have concluded is outside the scope of the statutory license renewal inquiry.¹⁶ Thus, Stolz has failed to identify any substantial and material questions of fact warranting further inquiry in a hearing with respect to his claim that a contest at station KDND calls into question Entercom’s qualifications to hold broadcast licenses for the stations at issue in this proceeding. Other than the fact that both cases involve broadcast stations, we do not find any similarity, and nothing requires us to designate these applications for hearing under *Melody Music*.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 405(a) of the Communications Act of 1934, as amended, 47 U.S.C. § 405(a), and Section 1.106 of the Commission’s rules, 47 CFR § 1.106, the Petition for Reconsideration filed by Edward R. Stolz II on July 26, 2018 IS DISMISSED and in the alternative IS DENIED for the reasons stated herein.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹³ See Petition at 4; *Melody Music*, 345 F.2d at 733 (Commission “must explain its reasons [for differential treatment of similarly situated licensees] and . . . the relevance of those differences to the purposes of the [Communications Act].”).

¹⁴ *Sinclair-Tribune HDO* at 2, para. 3 (“Specifically, substantial and material questions of fact exist regarding whether: (1) Sinclair was the real party in interest to the sale of [three TV stations]; (2) if so, whether Sinclair engaged in misrepresentation and/or lack of candor in its applications with the Commission; and (3) whether consummation of the overall transaction would be in the public interest, including whether it would comply with Section 73.3555 of the Commission’s rules, the broadcast ownership rules.”).

¹⁵ 47 U.S.C. § 309(e).

¹⁶ *AFR Order* at 4-5, para. 10. As noted above, Stolz does not challenge this finding.