



Federal Communications Commission
Washington, D.C. 20554

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In Reply Refer to:
1800B3-ATS

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In re: **El Sembrador Ministries**
K266AD, Los Angeles, CA
File No. BMPFT-20160729ACV
Facility ID No. 144884

Petition for Reconsideration

Dear Counsel:

We have before us the Petition for Reconsideration filed by Los Angeles Academy of Arts and Enterprise (Academy),¹ seeking reconsideration of the grant of the application (Application) of El Sembrador Ministries (Sembrador), to modify its permit (Permit) to construct new FM Translator Station K266AD, Los Angeles, California (Translator).² For the reasons discussed below, we dismiss the Petition.

Background. Sembrador filed the Application on July 29, 2016, proposing to modify the Permit by specifying a new channel and new transmitter site. On August 1, 2016, the Bureau gave public notice that the Application had been accepted for filing.³ No objection was filed, and the Bureau granted the Application on August 18, 2016.

On September 19, 2016, Academy filed the Petition, explaining that it did not participate earlier in the proceeding because there is no period of time in which to file a petition to deny a modification application such as the subject Application.⁴ Academy argues that the Translator's contour as modified by the Permit is "absolutely nudged up against" that of KZKA-LP, and states that Sembrador should be required to provide information about its proposed directional antennas so that Academy and the Bureau can determine if Sembrador's proposed directional pattern can be achieved without causing interference to KZKA-LP.⁵

¹ At the time Academy filed the Petition, it held a construction permit for a new LPFM station at Los Angeles, California. See File No. BNPL-20131114BQB. The station, KZKA-LP, is now licensed. See File No. BLL-20161213ACH.

² Academy filed the Petition on September 19, 2016. Sembrador filed an Opposition on September 29, 2016. Academy filed a Reply on October 12, 2016.

³ *Broadcast Applications*, Public Notice, Report No. 28790 (MB Aug. 1, 2016) (Application Public Notice).

⁴ Petition at 2.

⁵ *Id.* at 2-3.

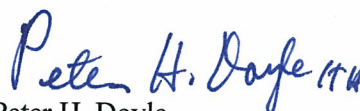
In the Opposition, Sembrador argues that Academy lacks standing to file the Petition because it did not participate earlier in the proceeding before the Bureau granted the Application.⁶ Sembrador also argues that Academy provides no support, such as an affidavit or an engineering exhibit, for its claim of potential interference, and notes that the Application complies with the FCC's Rules (Rules).⁷ Finally, Sembrador states that if the Translator does cause actual interference to KZKA-LP, Academy can seek relief under Section 74.1203(a) of the Rules.⁸ In the Reply, Academy reiterates that without a formal petition to deny period, it could not have participated previously and that without further technical information, the Bureau is unable to determine whether the Translator will cause interference to KZKA-LP.

Discussion. Section 1.106(e) of the Rules provides that "[w]here a petition for reconsideration is based upon a claim of electrical interference . . . to an existing station or a station for which a construction permit is outstanding, such petition, in addition to meeting the other requirements of this section, *must* be accompanied by an affidavit of a qualified radio engineer."⁹ The Petition was not supported by such an affidavit and we will therefore dismiss it.¹⁰

Finally, were we to consider the merits of the Petition, we would deny it. The Commission will consider a petition for reconsideration only when the petitioner shows either a material error in the Commission's original order or raises new facts or changed circumstances not known or existing at the time of the petitioner's last opportunity to present such matters.¹¹ Academy has not met this burden. The Translator met the protection requirements of Section 74.1204 of the Rules.¹² Academy has not demonstrated that the Application violated any Rules, and the Bureau properly determined that the Application was rule-compliant. We would therefore deny the Petition.

Conclusion/Actions. For the reasons set forth above, IT IS ORDERED, that the Petition for Reconsideration filed by Los Angeles Academy of Arts and Enterprise on September 19, 2016, IS DISMISSED.

Sincerely,



Peter H. Doyle
Chief, Audio Division
Media Bureau

⁶ Opposition at 2.

⁷ *Id.* at 2-3.

⁸ *Id.* at 3 (citing 47 CFR § 74.1203(a)).

⁹ 47 CFR § 1.106(e) (emphasis added).

¹⁰ See *C.L. Tadlock*, Memorandum Opinion and Order, 8 FCC 2d 197 (1967) (finding a petition defective because "[p]aragraph (e) of section 1.106 requires that a claim of electrical interference in support of a petition for reconsideration be accompanied by an affidavit of a qualified radio engineer showing [...] that such interference will be caused to petitioner's station within its normally protected contour."); *Calvary Chapel Redlands*, Letter Order, 31 FCC Rcd 12694, 12695 (MB 2016) (dismissing petition for reconsideration claiming interference where it was not supported by the affidavit of a qualified radio engineer).

¹¹ 47 CFR § 1.106(c); *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686, para. 2 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 397 U.S. 967 (1966); *Board of Trustees, Davis & Elkins College*, Memorandum and Order, 26 FCC Rcd 15555, 15556, para. 5 (MB 2011).

¹² 47 CFR § 74.1204.