



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

September 9, 2014

*In Reply Refer to:*  
1800B3- ATS

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E-String Wireless, LTD  
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In re: **E-String Wireless, LTD**  
K246CF, Beaumont, Texas  
File No. BMPFT-20140313ADN  
Facility ID No. 156318

**Petition for Reconsideration**

Dear Counsel:

We have before us the Petition for Reconsideration filed on May 2, 2014, by Cox Radio, Inc. ("Cox"), seeking reconsideration of the grant of the above-referenced application ("Mod Application") of E-String Wireless, LTD ("E-String"), to modify its construction permit for a new FM Translator Station at Beaumont, Texas ("Translator"). For the reasons discussed below, we find Cox lacks standing to challenge the grant of the Mod Application and we dismiss the Petition.

**Background.** E-String filed a short-form application for a new FM translator as part of the Auction 83 filing window.<sup>1</sup> On July 31, 2013, the Media Bureau ("Bureau") opened a filing window for certain Auction 83 applicants – including E-String – to file FCC Form 349 for their respective applications.<sup>2</sup> E-String filed its long-form application on August 30, 2013, and it was granted on January 16, 2014.<sup>3</sup> E-String then filed the Mod Application on March 13, 2014, and the Bureau announced it had been accepted for filing by Public Notice on March 18, 2014.<sup>4</sup> No petition to deny was filed against it, and the staff granted the Mod Application on April 21, 2014.<sup>5</sup>

Cox filed the Petition on May 2, 2014. Cox argues that because the Station will operate on the same channel as its own full-service station, KTHT(FM), Cleveland, Texas, it will cause interference to KTHT in violation of Section 74.1204(f) of the Commission's Rules.<sup>6</sup> Cox includes statements from eleven listeners of KTHT, along with contour maps that identify the locations of these listeners, and calculations of the undesired-to-desired signal strength ratios at these locations with respect to the facilities proposed in the Mod Application.<sup>7</sup> Cox requests that we rescind the grant of the Mod Application and dismiss it.

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<sup>1</sup> File No. BNPFT-20030317HRU.

<sup>2</sup> *Media Bureau Announces FM Translator Auction 84 Filing Window and Filing Procedures*, Public Notice, 28 FCC Rcd 11098 (MB 2013).

<sup>3</sup> File No. BNPFT-20130830ASR. *Broadcast Actions*, Public Notice, Report No. 48160 (MB Jan. 22, 2014).

<sup>4</sup> *Broadcast Applications*, Public Notice, Report No. 28198 (MB Mar. 18, 2014).

<sup>5</sup> *Broadcast Actions*, Public Notice, Report No. 48225 (MB Apr. 24, 2014).

<sup>6</sup> Petition at 3, *citing* 47 C.F.R. § 74.1204(f).

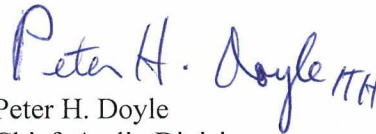
<sup>7</sup> Petition at Exhibits A and B.

**Discussion.** 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 additional facts, not known or existing at the time of the petitioner's last opportunity to present such matters.<sup>8</sup> A petitioner who is not a party to the proceeding also must state with particularity the manner in which its interests are adversely affected by the action taken, and show good reason why it was not possible to participate in the earlier stages of the proceeding.<sup>9</sup> Cox has not met this threshold requirement.

Cox states that it did not object to the Mod Application prior to its grant because "the Commission granted the [Mod] Application while Cox was still gathering and analyzing declarations from listeners who are predicted to receive interference from the Translator."<sup>10</sup> While the Commission has accorded standing to petitioners for reconsideration who failed to file pre-grant objections when prompt staff action "effectively precludes participation during the initial consideration of an application,"<sup>11</sup> we will not award Cox such standing here. Cox had more than 30 days to object to the Mod Application but failed to do so. The staff may dismiss a petition for reconsideration seeking to overturn the grant of an application where the petitioner did not show good cause for failing to participate earlier in the proceeding.<sup>12</sup> Accordingly, we will dismiss the Petition.

**Conclusion/Actions.** For the reasons set forth above, IT IS ORDERED, that the Petition for Reconsideration filed by Cox Radio, Inc., on May 2, 2014, IS DISMISSED.

Sincerely,

The image shows a handwritten signature in blue ink that reads "Peter H. Doyle" followed by the initials "TH".

Peter H. Doyle  
Chief, Audio Division  
Media Bureau

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<sup>8</sup> See 47 C.F.R. § 1.106(c), (d); see also *WWIZ, Inc.*, Memorandum Opinion and Order, 37 FCC 685, 686 (1964), *aff'd sub nom. Lorain Journal Co. v. FCC*, 351 F.2d 824 (D.C. Cir. 1965), *cert. denied*, 387 U.S. 967 (1966).

<sup>9</sup> 47 C.F.R. § 1.106(b)(1).

<sup>10</sup> Petition at 1.

<sup>11</sup> See, e.g., *Aspen FM, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 17852, 17854 (1997) (standing awarded to file petition for reconsideration without pre-grant objection when application was granted five days after Public Notice of its acceptance); *Ted and Jana Tucker*, Memorandum Opinion and Order, 4 FCC Rcd 2816 (1989) (standing to file petition for reconsideration without pre-grant objection when application was granted four days after Public Notice of its acceptance).

<sup>12</sup> Cox asserts that the Bureau has rescinded grants of FM translator construction permits on Section 74.1204(f) grounds, despite the absence of a petition to deny. See Petition at 1 n.1, citing *Hope Christian Church of Marlton, Inc.*, Letter, File No. BPFT-20110711AAP (MB June 8, 2012); *Jacobs Radio Programming, LLC*, Letter, File Nos. BPFT-20111219AAF and BLFT-20120208AEA (MB Mar. 7, 2012); *Edgewater Broadcasting, Inc.*, Letter, File Nos. BPFT-20091116ADB and BMPFT-20091229AER (MB Feb. 26, 2010). We disagree. See *The Association for Community Education, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 12682 (2004) (refusing to treat an untimely informal objection to an FM translator application on Section 74.1204(f) grounds as a petition for reconsideration because the objector had failed to participate earlier and had not shown good reason for its failure to participate); *Revival Christian Ministries*, Letter, 28 FCC Rcd 2041 (MB 2014) (dismissing petition for reconsideration that argued translator modification would cause interference in violation of Section 74.1204(f) because petitioner had failed to file an objection to the application prior to its grant). We note that the cases Cox cites to support its claim were unpublished and thus lack any precedential value. See 47 C.F.R. § 0.445(e).