

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

In the Matter of)	MB Docket No. 16-357
)	
ENTERCOM LICENSE, LLC)	Facility ID No. 65483
)	
For Renewal of License for Station KDND(FM),)	File Nos. BRH-20050728AUU and
Sacramento, California)	BRH-20130730ANM

ORDER

Adopted: May 8, 2018**Released: May 8, 2018**

By the General Counsel:

1. By this order, we dismiss and deny a Petition for Reconsideration (PFR), filed October 10, 2017, by Edward R. Stolz II (Stolz).¹ Stolz seeks reconsideration of a Commission memorandum opinion and order dismissing, and on alternative and independent grounds denying, an earlier petition for reconsideration filed by Stolz.² For the reasons below, we dismiss Stolz's PFR as repetitious and otherwise deny it.

2. The Commission's *Order* upheld the portion of the hearing designation order in this proceeding that found that Stolz lacked standing to be a party. The Commission dismissed Stolz's petition for reconsideration of this ruling on the grounds that Stolz had failed to raise in a timely manner the basis on which he then asserted standing.³ As an alternative and independent basis for its decision, the Commission denied the petition for reconsideration because, even if Stolz had timely raised his additional arguments for standing, these additional arguments did not demonstrate that he had standing to be a party.⁴ Because Stolz lacked standing, the Commission dismissed as unauthorized Stolz's separate application for review of an order by the presiding judge terminating this proceeding. The Commission found that only a party to the proceeding is authorized under the Commission's rules to appeal such a termination order and that Stolz was not a party. As an alternative basis for its dismissal, the Commission concluded that Stolz could not file an application for review because he was not aggrieved by the ALJ's decision.⁵

3. In the PFR now before the Commission, Stolz does not address the denial of his earlier petition for reconsideration or the consequent dismissal of his application for review as unauthorized. Instead, he makes two purportedly new arguments for why his application for review should have been granted.⁶

¹ See also Opposition of Entercom License, LLC to Petition for Reconsideration, filed October 25, 2017.

² *Entercom License, LLC*, 32 FCC Rcd 7149 (2017) (*Order*).

³ *Id.* at 7151-52 para. 10.

⁴ *Id.* at 7152-54 paras. 11-15.

⁵ *Id.* at 7154 para. 16.

⁶ Stolz states: "[a]s FCC 17-114 *inter alia* denied an 'Application for Review,' the applicable procedural rule is 47 CFR § 1.106(b)(2)." PFR at 2. 47 CFR § 1.106(b)(2) permits the filing of petitions for reconsideration of the denial of applications for review based on new or newly discovered facts or arguments. Stolz further states: "[i]t is

4. To the extent that Stolz's PFR makes arguments that go to the merits of the Commission's denial of reconsideration of the hearing designation order, we dismiss the PFR as repetitious. Under the Commission's rules, orders on reconsideration are themselves subject to petitions for reconsideration if they reverse or modify the original order.⁷ In this regard, an order denying reconsideration of a prior order but supplementing the rationale of the prior order does not "modify" it.⁸ Petitions for reconsideration of orders that deny reconsideration of an earlier order may be dismissed by the staff as repetitious.⁹ Inasmuch as the Commission's *Order* denied reconsideration of the hearing designation order without modifying it, Stolz's PFR is repetitious and we therefore dismiss it.

5. In the *Order*, the Commission also dismissed Stolz's application for review as unauthorized because a non-party is not authorized to appeal an ALJ's termination order. Stolz's PFR does not challenge this conclusion, nor does he challenge the Commission's alternative finding that Stolz had not shown that he is aggrieved by the ALJ's termination order. Instead Stolz seems to assert allegedly new grounds for why the Commission should, on the merits, overturn the ALJ's decision to terminate the proceeding. Because he lacks standing to challenge that decision and has not shown he is aggrieved by it, we do not address these arguments. We therefore deny Stolz's PFR because it fails to state a basis for reconsideration.¹⁰

ORDERING CLAUSE

6. Accordingly, IT IS ORDERED that, pursuant to 47 CFR §§ 0.251(b)(2), 0.251(b)(4), 0.251(c), and 1.106(p), the Petition for Reconsideration, filed October 10, 2017, by Edward R. Stolz II IS DISMISSED and on independent and alternative grounds DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Thomas M. Johnson, Jr.
General Counsel

(Continued from previous page)

respectfully submitted that, pursuant to [this section], there are two arguments to be made by Stolz that were unknown to him until after FCC 17-114 was released."

⁷ 47 CFR § 1.106(k)(3).

⁸ 47 CFR § 1.106(k)(3), note ("For purposes of this section, the word 'order' refers to that portion of its action wherein the Commission announces its judgment. This should be distinguished from the 'memorandum opinion' or other material which often accompany and explain the order."). Thus, the fact that the Commission's order here amplified the reasons given in the HDO for why Stolz lacks standing, does not give Stolz a basis to seek reconsideration of the Commission's order by challenging specific statements made in the Commission's discussion.

⁹ 47 CFR § 1.106(k)(3). In the case of such petitions for reconsideration of Commission orders, they may be dismissed by the General Counsel as repetitious. 47 CFR § 0.251(b)(2).

¹⁰ See 47 CFR § 1.106(p) (giving the relevant bureau or office authority to dismiss or deny a petition for reconsideration of a Commission action that plainly does not warrant consideration by the full Commission).