

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

In the Matter of
Applications of Powell Meredith Communications Co. and Community Translator Network, LLC for Consent to Assign Construction Permits
K262CM, Needles, California
K283CB, Ruidoso, New Mexico
K227CO, Logan, Utah
K294CP, Roseburg, Oregon
K227CP, Cheyenne, Wyoming
File No. BAPFT-20140113ABD
Facility ID No. 142491
File No. BAPFT-20140113ABE
Facility ID No. 142745
File No. BAPFT-20140113ABF
Facility ID No. 143532
File No. BAPFT-20140113ABG
Facility ID No. 142743
File No. BAPFT-20140113ABH
Facility ID No. 143430

MEMORANDUM OPINION AND ORDER

Adopted: March 30, 2016

Released: March 30, 2016

By the Commission:

1. We have before us an Application for Review ("AFR") filed by Amy Meredith ("Meredith"), the President of Powell Meredith Communications Company ("PMCC"), on December 23, 2014. Meredith seeks review of a letter issued by the Media Bureau ("Bureau"). Therein, the Bureau dismissed as untimely a Petition for Reconsideration ("Petition") filed by Meredith, which challenged our grant of applications ("Applications") for consent to the assignment of the construction permits for five FM translator stations from PMCC to Community Translator Network, LLC. The Bureau found that Meredith had failed to object to the applications prior to their grant and had not shown good cause for her failure to participate earlier as required by Section 1.106(b)(1) of the Commission's Rules ("Rules").

2. Meredith first argues that she did object to the applications prior to their grant. She attaches to the AFR a letter that is dated January 24, 2014. The letter appears to be a cover letter for an objection. Meredith does not include the objection that is referenced in the letter. Nor does she include a date-stamped copy of the letter. Meredith has not produced any evidence to support her allegation that the Commission received the letter or the objection prior to acting upon the Applications. In addition, we can find no record of the letter or the objection in the Commission's electronic consolidated database and we cannot locate a copy of the filing in the Commission's Reference Information Center. Thus, we find

1 Community Translator Network opposed the AFR on January 13, 2015. Meredith replied on January 16, 2015. Community Translator Network then filed an additional pleading on January 27, 2015. This pleading, however, is unauthorized. See 47 CFR § 1.115(d) (providing only for the filing of applications for review, oppositions to applications for review and replies to oppositions). Accordingly, we do not consider it.

2 Powell Meredith Communications Co., Letter (MB dated Dec. 15, 2014).

3 Moreover, Meredith admits that she did not object, prior to the grant, to three of the five Applications. AFR at 4-5 (stating that the objection allegedly filed in January 2014 sought to rescind only two of the five Applications and

(continued....)

that Meredith has not demonstrated that she participated in this proceeding prior to grant of the Applications.<sup>4</sup>

3. In the alternative, Meredith appears to argue that she did, in fact, have good cause for failing to participate earlier. She argues that CTN engaged in fraud and identity theft in filing the Applications and consummating the assignment of the five construction permits from PMCC to CTN.<sup>5</sup> However, she at no point claims that the alleged fraud and identity theft caused her to be unaware of the filing of the Applications prior to their grant.<sup>6</sup> Further, while Meredith asserts that she never received “any sort of notification by mail or email from the [Commission],”<sup>7</sup> she indicates that she found out about the Applications in January 2014, over a month before the applications were granted, through “a trade journal.”<sup>8</sup> In any event, we note that the Bureau gave public notice of its acceptance of the Applications.<sup>9</sup> It is well-established that a “would-be petitioner’s lack of actual notice of the pendency of a proceeding does not establish good cause for its failure to participate.”<sup>10</sup> Accordingly, we find Meredith has not demonstrated good cause for her failure to object to the Applications prior to their grant. We affirm the Bureau’s dismissal of her Petition on procedural grounds.

4. Finally, Meredith relies on two new arguments, which are impermissible under our procedural rules because she did not raise these arguments before the Bureau.<sup>11</sup> Thus, we dismiss these portions of the Application for Review.

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asserting that PMCC submitted this filing after reaching an agreement with CTN that three of the translators should be assigned to CTN).

<sup>4</sup> See, e.g., *Green Valley Broadcasters, Inc.*, Memorandum Opinion and Order, 19 FCC Rcd 13341, 13344 para. 7 (2004) (finding a subjective belief that a document was submitted to be immaterial and noting that, where the Commission has no record of the document, it generally requires submission of a date-stamped copy of before it will conclude that the document was received); *WMCB-LP, Green field, MA*, Letter, 25 FCC Rcd 14172, 14173 n.13 (MB 2010) (refusing to consider an objection that objector claimed was filed on a particular date where the Commission’s electronic database had “no record of the filing” and the staff could not “locate a date-stamped copy of [the] filing in the Commission’s Reference Information Center”).

<sup>5</sup> AFR at 3.

<sup>6</sup> Meredith also argues that, given the alleged fraud, she “should have been given a longer time to file a petition to deny.” AFR at 4. Had Meredith wished to make such an argument, she should have made it in a motion for extension of time and should have done so prior to the deadline for filing petitions to deny the Applications. See 47 CFR § 1.46.

<sup>7</sup> AFR at 11.

<sup>8</sup> AFR at 4.

<sup>9</sup> *Broadcast Applications*, Public Notice, Report No. 28157 (MB Jan 16, 2014).

<sup>10</sup> See *Pamplin Broadcasting, Inc.*, Memorandum Opinion and Order, 23 FCC Rcd 649, 654 para. 12 (2008). See also *Northwest Broadcasting, Inc.*, Memorandum Opinion and Order, 12 FCC Rcd 3289, 3291 para. 6 (1997) (noting that staff action on the applications at issue was “preceded by public notice” and finding therefore that staff “was correct to dismiss procedurally a request for reconsideration from a non-participant”), *aff’d sub nom. Montierth v. FCC*, 159 F.3d 636 (D.C. Cir. 1998) (unpublished).

<sup>11</sup> 47 CFR § 1.115(c). Meredith alleges that (1) staff’s actions in this matter were based on gender discrimination and (2) PMCC’s account with the Commission was in red light status due to unpaid filing fees, and the applications therefore should not have been processed. AFR at 6, 8.

5. ACCORDINGLY, IT IS ORDERED that, pursuant to Section 5(c)(5) of the Communications Act of 1934, as amended,<sup>12</sup> and Section 1.115(c), (g) of the Commission's Rules,<sup>13</sup> the Application for Review filed by Amy Meredith on December 23, 2014, IS DISMISSED to the extent discussed in paragraph 4 above and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>12</sup> 47 U.S.C. § 155(c)(5).

<sup>13</sup> 47 CFR § 1.115(c), (g).