

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

In the Matter of)	
)	
Kingdom of God, Inc.)	Facility ID No. 34894
Former Licensee of Deleted Class A Television)	
Station DWKOG-LP, Indianapolis, IN)	

ORDER ON RECONSIDERATION

Adopted: April 20, 2017

Released: April 20, 2017

By the Commission:

1. In this Order on Reconsideration, we dismiss as repetitious and otherwise deny the March 2, 2017, Petition for Reconsideration (Petition) filed by Kingdom of God, Inc. (KOG),¹ the former licensee of deleted Class A television station DWKOG-LP, Indianapolis, IN (Station).² KOG seeks reconsideration of the Commission's *Order on Reconsideration*³ denying KOG's July 2016 Petition for Reconsideration⁴ of the Commission's *Memorandum Opinion and Order*⁵ dismissing KOG's Application for Review (AFR) seeking reinstatement of the Station's license.⁶

2. We dismiss the Petition as repetitious to the extent it contends that the Supreme Court decision in *McDonnell v. United States*⁷ or considerations of equity and fairness mandate reinstatement of the Station's license.⁸ The Commission has already fully considered the facts and KOG's arguments concerning these matters in the decisions dismissing KOG's AFR and denying KOG's July 2016 Petition for Reconsideration. KOG raises no new relevant facts or arguments regarding these matters and does not provide grounds for our reconsideration of them.⁹ Accordingly, we dismiss the Petition with respect to these matters as repetitious pursuant to 47 CFR § 1.106(k)(3).¹⁰

¹ Petition for Reconsideration of Kingdom of God, Inc. (filed Mar. 2, 2017) (Petition).

² 47 CFR § 1.106.

³ *Kingdom of God, Inc., former Licensee of Deleted Class A Television Station DWKOG-LP, Indianapolis, IN*, Order on Reconsideration, FCC 17-7 (Jan. 31, 2017) (*KOG Order on Recon.*).

⁴ Petition for Reconsideration of Kingdom of God, Inc. (filed July 27, 2016) (July 2016 Petition).

⁵ *Kingdom of God, Inc., former Licensee of Deleted Class A Television Station DWKOG-LP, Indianapolis, IN*, Memorandum Opinion and Order, 31 FCC Rcd 7522 (2016) (*KOG MO&O*).

⁶ Application for Review of Kingdom of God (Sept. 12, 2014) (AFR).

⁷ *McDonnell v. U.S.*, 136 S.Ct. 2355, Case No. 15-474 (2016).

⁸ See Petition at 4-6.

⁹ In the Petition, KOG argues for the first time that the refusal to reinstate its license under the equity and fairness provision of section 312(g) is inconsistent with the Commission's 2014 decision affirming the Media Bureau's renewal of the license of a radio station that broadcast allegedly indecent material. See Petition at 4-5 (citing *Emmis Radio License, LLC*, 29 FCC Rcd 2571 (2014)). Consistent with our previous decisions, we dismiss this claim because it was never raised before the Division. See *KOG Order on Recon.* at para. 9; *KOG MO&O*, 31 FCC Rcd at 7527, para. 11. On alternative and independent grounds, we deny this claim because the decision to renew a license under section 309(k) has no relevance to the issue of whether to reinstate a license that automatically cancels under section 312(g) based on considerations of equity and fairness.

¹⁰ 47 CFR § 1.106(k)(3).

3. We deny the Petition to the extent it contends that the Commission's appeal process is fundamentally unfair because a staff member who worked on this case at the Bureau level also wrote the Commission's *Order on Reconsideration*.¹¹ The Commissioners, not the staff, are the final decision makers on all action taken by the full Commission. The Commissioners review decisions prior to adoption and arrive at their own independent conclusions notwithstanding staff recommendations.¹² To the extent the Commission determines that a staff-level decision has failed to take into account material facts or law, we will not hesitate to overturn such a decision. With this decision, however, the Commission has now determined on three separate occasions that Petitioner's arguments provide no basis to overturn the staff's underlying decision.

4. We also find that dismissal of the Petition by the Media Bureau would have been appropriate under Section 1.106(p) of the Commission's rules, which permits the Bureaus to act on petitions for reconsideration that "plainly do not warrant consideration by the Commission."¹³ The Commission has decided to act on the instant Petition in order to make clear the full Commission's position and that it does not intend to entertain any further requests for reconsideration by KOG based on the arguments raised either in the Petition or in prior pleadings.¹⁴ The Commission and Media Bureau have spoken clearly and uniformly with regard to the matters raised in this proceeding by KOG and determined that reinstatement of KOG's license is not warranted as a matter of law or equity. KOG has failed to provide any evidence of material error or set forth any legal or equitable reason that the Commission should reinstate the Station's license.

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 Sections 1.106 of the Commission's rules, 47 C.F.R. § 1.106, the Petition for Reconsideration filed by Kingdom of God, Inc. IS DISMISSED to the extent indicated herein and otherwise IS DENIED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹¹ See Petition at 2-3 (referring to a conversation between KOG's counsel and an FCC staff member during the month prior to filing the Petition; claiming that "members of the FCC staff who did not take part in this matter at the Bureau level ought to be providing input to the Commissioners as to this matter, rather than the staff member who worked on it at staff level").

¹² See *Santa Isabel, Puerto Rico*, Memorandum Opinion and Order, 4 FCC Rcd 3412, para. 3 (1989) (due process right to independent Commission review is not violated when the same staff member prepares both the Bureau and the Commission decisions "because the ultimate determination remains with the Commission"), *aff'd sub nom. Amor Family Broadcasting Group et al. v. FCC*, 918 F.2d 960 (D.C. Cir. 1991). See also *Amendment of Section 1.17 of the Commission's Rules Concerning Truthful Statements to the Commission*, Memorandum Opinion and Order, 20 FCC Rcd 1250, 1252, para. 5 (2004) (practice of allowing the staff that took action under delegated authority to make a recommendation to the Commission as to the disposition of an application for review is "fair and consistent with the law because the ultimate determination as to the disposition of the application for review remains with the Commission").

¹³ 47 CFR § 1.106(p). Examples of such circumstances include failure to identify any material error, omission or reason warranting reconsideration, relying on arguments that have been fully considered and rejected by the Commission, and relying on facts or arguments not previously presented and failure to meet the requirements of Section 1.106(c) of the Rules.

¹⁴ We hereby direct the staff to dismiss summarily, citing this Order on Reconsideration, any subsequent pleadings filed by KOG with respect to reinstatement of DWKOG-LP.