

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

In the Matter of	)	
	)	
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	MM Docket No. 98-112
FM Broadcast Stations.	)	RM-9027
(Anniston and Ashland, Alabama, and College	)	RM-9268
Park, Covington, Milledgeville and	)	RM-9384
Social Circle, Georgia)	)	
	)	

**MEMORANDUM OPINION AND ORDER**  
(Proceeding Terminated)

**Adopted: July 1, 2002**

**Released: July 25, 2002**

By the Commission:

1. The Commission has before it a Petition for Reconsideration and Motion to Reopen the Record filed by Preston Small ("Small") directed to the earlier Commission Memorandum Opinion and Order in this proceeding.<sup>1</sup> WNNX LICO, Inc. filed an Opposition to Petition for Reconsideration. Small filed a Reply to Opposition to Petition for Reconsideration. We have thoroughly reviewed our *MO&O* as well as the earlier staff *Memorandum Opinion and Order* in this proceeding,<sup>2</sup> and find that there are no errors of law or new facts that would warrant reconsideration of our prior order. Accordingly, we deny the Petition for Reconsideration and Motion to Reopen the Record.

2. We reject two procedural arguments raised on reconsideration. At the earlier stage of this proceeding, Small sought reconsideration of the original staff order in this docket. That petition for reconsideration was referred to the Commission pursuant to Section 1.106(a) of the Rules. Small argues that the Commission should have granted his request to supplement the record following this referral. Contrary to Small's wholly unsupported claim, the referral of a matter to the Commission pursuant to Section 1.106(a) does not create an opportunity for the filing of an additional pleading or "supplement." Neither our rules of practice nor other policies authorize such filings. We note that our Rules permit the Commission to act on any matter<sup>3</sup> and, as here, allow the staff to refer any matter to the Commission. Applicants and petitioners cannot claim surprise or unfairness when the Commission invokes these procedures. Moreover, we reject, as frivolous, Small's contention that the discussion of a ten-year old staff decision<sup>4</sup> constitutes "new facts" or "changed circumstances." Reconsideration is not available to

<sup>1</sup> *Anniston and Ashland, Alabama, and College Park, Covington, Milledgeville and Social Circle, Georgia*, 16 FCC Rcd 19857 (2001).

<sup>2</sup> 16 FCC Rcd 3411 (M.M. Bur. 2001).

<sup>3</sup> See 47 C.F.R. § 0.5(c) (Commission may instruct the staff to refer any matter to it for action).

<sup>4</sup> *Eatonton and Sandy Springs, Georgia, and Anniston and Lineville, Alabama*, 6 FCC Rcd 6580 (M.B. Bur. 1991) (subsequent history omitted).

reargue the relevance of this case.<sup>5</sup> Having failed to demonstrate new facts or changed circumstances, reconsideration is unwarranted.<sup>6</sup>

3. Accordingly, IT IS ORDERED, That the aforementioned Petition for Reconsideration and Motion to Reopen the Record filed by Preston Small IS DENIED.

4. IT IS FURTHER ORDERED, That this proceeding IS TERMINATED.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>5</sup> See 47 C.F.R. § 1.106(k)(3) (ruling denying reconsideration may not be treated as modification of original order and therefore such ruling is not subject to further reconsideration).

<sup>6</sup> See 47 C.F.R. § 1.106(b)(3) (petition for reconsideration which fails to rely on new facts or changed circumstances may be dismissed as repetitious).