

Before the
Federal Communications Commission
Washington, DC 20554

RECEIPT

In the Matter of

Guenter Marksteiner

)
)
) FCC File Nos. BLTTA-20011208AEW
) BDCCDTL-20120629ACO
)

)
) Licensee of Class A Television Station
) WHDN-CA, Naples, FL (FIN: 25538)
) And Digital Companion Channel Station
) WHDN-LD, Naples, FL (FIN: 190680)
)

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MAR 12 2015

To: Chief, Media Bureau

Federal Communications Commission
Bureau / Office

PETITION FOR RECONSIDERATION

Guenter Marksteiner, licensee of analog Class A television station WHDN-CA, Naples, Florida, and permittee of its digital companion channel station, pursuant to Section 1.106 of the Commission's rules, hereby petitions for reconsideration of the Media Bureau's action in cancelling the stations' authorizations. By letters dated February 11, 2015, the Media Bureau cancelled the authorizations on the basis that the analog station had not operated since January 2014. However, as demonstrated in the attached Declaration Under Oath, the station last operated in June 2014 and is therefore not subject to automatic forfeiture under 47 U.S.C. § 312(g).¹

As the Commission is aware, Guenter Marksteiner built and placed into operation the nation's first digital-only TV station. Each of Marksteiner's other stations has already completed or is scheduled to complete its transition to digital operation this summer. In the case of WHDN-

¹ The instant Petition for Reconsideration is timely filed within 30 days of the February 11, 2015 action.

CA, Naples, Florida, Marksteiner filed an application for displacement specifying operation on digital channel 26 because digital operation on its analog channel, channel 32, was prevented by the need to protect station WGUC(TV) operating on first adjacent channel 31 at Fort Myers, Florida.² Thereafter, after discussion with the FCC's staff, Marksteiner sought and was granted a digital companion channel construction permit on channel 26.³

As Marksteiner's planning for WHDN-CA's digital transition progressed, the station's analog transmitter became difficult to maintain, experiencing episodes of overheating that made it difficult to maintain operations within parameters without near constant on-site intervention. Marksteiner made numerous attempts at diagnosing and repairing the transmitter, without success. Ultimately, in January 2014, with further repairs appearing to be futile and in the expectation that the station's transition to digital operation would be completed imminently, Marksteiner turned the analog transmitter off.

In May 2014, Marksteiner made an additional attempt to repair the transmitter's water cooling system to be able to operate in analog at reduced power while awaiting delivery of the station's DTV mask filter. During this time, Marksteiner operated the station from May 31, 2014 to June 1, 2014. Ultimately, Marksteiner's efforts at repairing the analog transmitter were unsuccessful. Accordingly, Marksteiner removed the analog transmitter and its water cooling system to make room in the transmitter room for the new, larger air-cooled digital transmitter ordered for the station's digital operation. As the operation lasted for less than ten days, an additional request for silent operation was not filed.

² See FCC File No. BDISDTA-20120606ACB. It is noted that the call sign of the station was previously WYDT-CA, which is reflected in the cited application.

³ See FCC File No. BDCCDTL-20120629ACO.

At this time, the station's digital transmitter is on-hand. Installation can commence upon delivery of the station's mask filter, which is expected during the month of April. Accordingly, it is expected that construction of the station's digital facilities will be complete well in advance of June 1, 2015, the date that it is one year from the station's last operation. Moreover, Marksteiner has provided programming to the public over the air via the facilities of stations WXDT-LP and WZDT-LP, which rebroadcast the programming of WHDN-CA in portions of the station's coverage area.

For all these reasons, Marksteiner respectfully requests that the February 11, 2015 decision of the Media Bureau be set aside and the license and companion channel construction permit relating to station WHDN-CA be reinstated.

Respectfully submitted,

GUENTER MARKSTEINER

By: 

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1200 Seventeenth Street, NW

Washington, DC 20036

His counsel

Dated: March 12, 2015

DECLARATION

I, Guenter Marksteiner, hereby declare as follows:

1. I am the licensee of station WHDN-CA, Naples, Florida. I have constructed and put into operation several analog and digital facilities, including the nation's first digital-only TV station, WHDT, Stuart, Florida. I have designed and implemented or am implementing digital facilities for each of the other stations of which I am the licensee, with the expectation of transitioning all remaining analog facilities to digital operation in the summer of 2015.

2. As my planning for WHDN-CA's digital transition progressed, the station's analog transmitter became difficult to maintain, experiencing episodes of overheating that made it difficult to maintain operations within parameters without near constant on-site intervention. I made numerous attempts at diagnosing and repairing the transmitter, without success. Ultimately, in January 2014, with further repairs appearing to be futile and in the expectation that the station's transition to digital operation would be completed imminently, I turned the analog transmitter off.

3. In May 2014, I made an additional attempt to repair the transmitter's water cooling system to be able to operate in analog at reduced power while awaiting delivery of the station's DTV mask filter. During this time, I placed the station into operation from May 31, 2014 to June 1, 2014. Ultimately, I was unable to make reasonable repairs to the analog transmitter and removed it and its water cooling system to make room in the transmitter room for the new, larger air-cooled digital transmitter ordered for the station's

digital operation. As the operation lasted for less than ten days, I did not request a new Special Temporary Authority to remain silent.

4. At this point in time, the station's digital transmitter is on-hand. Installation can commence upon delivery of the station's mask filter, which is expected during the month of April. Accordingly, it is expected that construction of the station's digital facilities will be complete well in advance of June 1, 2015, the date that it is one year from the station's last operation.

5. Finally, it is noted that WHDN-CA's programming has been available to the public over the air via the facilities of stations WXDT-LP and WZDT-LP, which rebroadcast the programming of WHDN-CA in portions of the station's overage area.

The foregoing is true and correct to the best of my personal knowledge, information and belief.

Respectfully submitted,


Guenter Marksteiner

Dated: March 11, 2015