

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

In re Application of)	
)	
EDGEWATER BROADCASTING, INC.,)	File No. BALFT-20150511AAH
Assignor)	
)	
and)	
)	
EASY MEDIA, INC., Assignee)	
)	
For Assignment of License of)	
W266AL, Pensacola, Florida)	
Facility ID No. 150820)	

To: The Media Bureau, Audio Division

OPPOSITION TO
PETITION TO DENY

Easy Media, Inc. ("Easy Media"), proposed assignee of the above referenced facilities, by counsel herewith opposes the Petition to Deny, filed June 12, 2015, by Wolff Broadcasting Corporation ("Wolff"). In support whereof the following is shown:

1. Although Wolff asserts standing to file its Petition on the basis of actual interference, it has failed to demonstrate the existence of any actual interference and, thus, the Petition may be dismissed or denied without further consideration, due to lack of standing. If considered as an informal objection, the Petition remains unsupported and without merit, inasmuch as it lacks any argument, much less evidence, demonstrating how the grant of the above application, which seeks consent to an assignment of license, would be contrary the public interest. As such, it should be denied as utterly without merit and frivolous.

I. Wolff lacked standing to file its Petition to Deny.

2. While standing to file a Petition to Deny may be found to exist on the basis of actual interference, Wolff has presented no evidence of actual interference. Instead, Wolff relies solely upon the false representation that, as of June 12, 2015, W266AL, Pensacola, Florida, Facility ID No. 150820 (“W266AL”) was causing interference to WPPG(FM), Repton, Alabama, Facility ID No. 40901 (“WPPG”). Neither Wolff’s May 27, 2015, Interference Complaint (a copy of which is appended to Wolff’s Petition) nor its Petition were supported by any technical showing or any other evidence provided by any person having technical expertise. Instead, Wolff’s Petition is supported only by a Declaration, given under penalty of perjury, of Pete Wolff, III., indicating simply that the interference alleged in Wolff’s Interference Complaint was ongoing, as of June 12, 2015.

3. However, as reflected in the attached Declaration of Chris Wiggins, a local engineering consultant retained to investigate the interference claims advanced in Wolff’s Interference Complaint, any interference which may have existed to WPPG from the operation of W266AL prior to June 4, 2015, had been eliminated as of that date, which was eight days prior to the date of Wolff’s Petition and the supporting Declaration. As more fully discussed in the attached Declaration, on May 4, 2015, Mr. Wiggins requested that the General Manager of WBSR(AM), the primary station rebroadcast by W266AL and in whose transmitter building the W266AL transmitter is located, make certain adjustments to the W266AL transmitter under Mr. Wiggins’ direction. Mr. Wiggins was able to determine, based on information reported back to him same date, that the W266AL transmitter was operating in accordance with its licensed parameters. He subsequently confirmed this fact by personal inspection on June 11, 2015. Therefore, as reflected in the attached Declaration, at least as of June 4, 2015, and since that date,

W266AL has been operating in accordance with its licensed parameters and, given the distance between the transmitter sites of WPPG(FM) and W266AL (113.2 km) and their authorized effective radiated powers (3.0kw and 0.140kw) , it is not physically possible for the respective signals of WPPG and W266AL to cause destructive interference to that of the other, when each is operating in accordance with its authorized parameters.

4. In light of these facts it is clear that no interference attributable to the operation of W266AL exists and that none did exist, as of June 12, 2015, the date that the Petition was filed and the supporting declaration of Pete Wolff III was executed, and that Wolff's contentions to the contrary are false.¹ Therefore, Wolff lacked standing to file a Petition to Deny the above Application and the Petition should be denied on that basis, alone. If considered as an informal objection, the Petition is unsupported and entirely without merit, as discussed below.

¹Wolff's Interference Complaint, likewise, failed to provide evidence of actual interference, much less demonstrate that such interference was being caused by W266AL. The Interference Complaint was not supported by any technical showing, any sworn declaration or by any other evidence provided by anyone having any technical expertise. There also was no evidence that any investigation had been undertaken to assure that any alleged interference was not being caused by a source other than W266AL or that such possibility had even been considered. This is especially problematic, given that many of the unsworn allegations of interference appear to have originated from locations well beyond WPPG's 60dbu contour, and in several cases beyond the 50dbu and even the 40dbu contours. Furthermore, the Interference Complaint failed to provide sufficient information to determine precisely where the interference was alleged to occur, making it impossible for the licensee of W266AL to undertake those remediation efforts explicitly authorized by Section 74.1203(b) . Where the licensee is denied the opportunity to resolve a specific complaint of interference, Section 74.1203(b) provides that the licensee "is absolved of further responsibility for that complaint."

II. Wolff's Petition to Deny fails to offer any public interest basis for denying the above referenced application.

5. Even if the existence of actual interference had been demonstrated (and it has not), Wolff's Petition would remain unsupported and without merit. Incredibly, Wolff does not even attempt to explain how the grant of the above referenced Application and consummation of the proposed assignment of license would adversely impact the public interest. The Petition raises no issue of public importance, as it is not at all apparent, even in a case of actual interference, that an assignment of license would have any adverse impact, whatsoever, on the resolution of an interference matter. Wolff has failed even to argue, much less demonstrate, that either it or the public would suffer any harm, whatsoever, as a result of the grant of the above referenced application and consummation of the proposed assignment of license. Instead, Wolff has simply ignored the nature of the above referenced application and the approval sought thereunder, and sought to interfere improperly in a matter which is entirely unrelated to its interference claims. As such, being premised upon matters entirely unrelated to the issues presented by the above referenced Application, it can only be concluded that Wolff's Petition was filed for an improper purpose and constitutes an abuse of the Commission's processes. Having failed to advance any argument demonstrating that the grant of the pending Application would be contrary to the public interest, the Petition is defective on its face and should be rejected.

6. Wolff has failed to demonstrate the existence actual interference and, thus, lacks standing to file its Petition. Likewise, Wolff has failed advance any showing that the grant of the above Application and consummation of the proposed assignment would be contrary to the public interest and, thus, even if considered as an informal objection, its Petition must be dismissed or denied as frivolous and without merit. Finally, it is well established that

deficiencies of this nature may not be cured by means a reply pleading.

WHEREFORE, premises considered, the Petition to Deny, filed June 12, 2015, by Wolff Broadcasting Corporation should be DISMISSED or DENIED.

Respectfully Submitted

EASY MEDIA, INC.

By: 

Timothy K. Brady
Its Attorney

P.O. Box 930
Johnson City, TN 37605-0930
423-477-7619

June 24, 2015

DECLARATION

I, Chris Wiggins, hereby certify under penalty of perjury that:

1. I have been an engineering consultant in the broadcast industry for the past 14 years.
2. At the time I was advised of the filing of the Interference Complaint regarding W266AL, I was involved with prior commitments and unable to conduct an investigation, personally, until June 11, 2015.
3. On June 4, 2015, I asked Amber Hutchinson, General Manager of WBSR(AM), to obtain certain information concerning the current operating parameters of the W266AL transmission system. Based upon the information she reported back to me, I determined that the transmitter output power appeared to be higher than appropriate. I directed her to undertake certain adjustments and then make new readings based upon the adjustments she had made at my direction. Later the same day I received confirmation from her that she had done so and, based upon the updated readings she provided at that time, I determined that the transmitter was again operating with the authorized power level.
4. On June 11, 2015, I personally inspected the W266AL transmission system. I found the transmitter operating correctly and at the authorized power level.
5. I do not know how the W266AL transmitter recently came to operate with an excessive transmitter output power. However, any interference that may have resulted would have ended no later than June 4, 2015, the date that the transmitter output power was corrected under my direction. Given the distance between the transmitter sites of WPPG(FM) and W266AL (113.2 km) and their respective authorized effective radiated powers (3.0kw and 0.140kw), it is physically impossible for either to cause destructive interference to the other, provided that each is operating within its authorized parameters.

Signed and dated this 16 day of June, 2015.

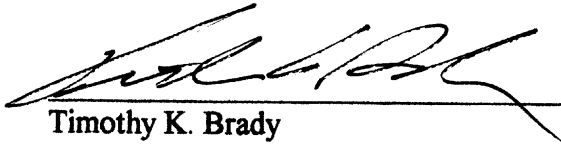

CHRIS WIGGINS

CERTIFICATE OF SERVICE

I hereby certify that I have this 24th day of June, 2015, served a copy of the foregoing Opposition to Petition to Deny upon the following by first class US Mail, postage prepaid:

Dennis J. Kelly, Esq.
P. O. Box 41177
Washington, DC 20018
(Counsel for Wolff Broadcasting Corporation)

Clark Parrish
Edgewater Broadcasting, Inc.
160 Gooding Street, West Suite A
Twin Falls, ID 83301



Timothy K. Brady